



SAN DIEGO COMMUNITY COLLEGE DISTRICT

Office of the Chancellor

CITY COLLEGE – MESA COLLEGE – MIRAMAR COLLEGE – CONTINUING EDUCATION

DISTRICT GOVERNANCE COUNCIL

December 7, 2016

3:00 p.m. – Room 245

AGENDA

- *1.0 Review Minutes of November 2, 2016
- *2.0 Review of Board Agenda for December 8, 2016
- 3.0 Additional Agenda Items
- 4.0 State Budget Update Dowd
- 5.0 Business and Financial Services Policies Dowd
 - BP 6200 Budget Preparation
 - BP 6205 Final Budget – *Delete (merged into BP 6200)*
 - BP 6300 Fiscal Management
 - BP 6340 Bids and Contracts
 - BP 6400 Financial Audits
 - BP 6520 Security for District Property and Records
 - BP 6535 Use of District Equipment
- 6.0 Student Services Policies and Procedures Neault
Six Year Review
- 7.0 Accreditation Update Neault
- 8.0 Learning Management System Update Bulger
- 9.0 Strategic Plan 2017-2021 Bulger
- *10.0 MOU Process from the Academic Senates Fremland
- *11.0 Sanctuary Campuses Akers
- *12.0 DGC Meeting Schedule: January – June 2017
- 13.0 Roundtable

*Attachments

Next DGC MEETING scheduled: Wednesday, January 18, 2017 – 3:00 p.m.
District Office – Room 245

Visitors and observers are welcome. The District Governance Council (DGC) follows an open process and conducts open meetings. However, because of limited space, we ask that visitors sit in the extra chairs provided against the walls to leave room available at the table for voting DGC members. Your help is appreciated.



SAN DIEGO COMMUNITY COLLEGE DISTRICT

CITY COLLEGE – MESA COLLEGE – MIRAMAR COLLEGE – CONTINUING EDUCATION

DISTRICT GOVERNANCE COUNCIL MINUTES

November 2, 2016

Present: Akers, Beresford, Bocaya, Bulger, Dowd, Fakhrabadi, Fremland, Hsieh, Hubbard, Keyser, Kovrig, Larson, Luster, Mahler, Manis, McMahon, Neault, Payne, Perigo, Rivera-Lacey (for Cortez), Surbrook, Watkins, Weinroth, Whisenhunt, and Chairperson Chancellor Carroll

Absent: Cortez

1. APPROVAL OF MINUTES

The minutes of October 19, 2016, were approved.

2. REVIEW OF BOARD AGENDA

The agenda for the November 10, 2016, Board Meeting was opened for review by Chancellor Carroll. Each item was discussed and satisfied.

3. BOND SALES RESULTS

Executive Vice Chancellor Dowd announced that the sale of the last issuance of Proposition N bonds was completed within less than 10 years of their original issuance in 2006, which brought taxpayers a savings of \$79.1 million. She said that feedback regarding the bonds was very positive and that the District received the highest rating from both Moody's and Standard & Poor's. Dr. Dowd will present a report at the November 10th Board of Trustees meeting.

4. TECHNOLOGY MASTER PLAN

In preparation for accreditation requirements, Executive Vice Chancellor Dowd introduced a draft copy of the District Technology Master Plan, which outlines current practices throughout the District. Members were asked to review the document and share with constituent groups. Any questions or concerns should be directed to Dr. Dowd.

5. CHANCELLOR'S GOALS & OBJECTIVES

Chancellor Carroll shared her goals and objectives, highlighting goals to increase staff and faculty positions, augment programs, such as institutionalizing learning communities, and provide additional revenue for the Special Reserve for funding the increases in the employer contribution to state retirement systems CalSTRS and CalPERS. She also emphasized a new goal from the Board of Trustees to ensure support in reducing escalating textbook costs to students.

6. FREE SPEECH BROCHURES

Vice Chancellor Neault opened discussion regarding revisions to the free speech brochure indicating that "recommended areas" are available at campuses for free speech activities, but activities are not restricted to those areas. Members accepted changes and agreed that this document could move forward.

7. **SAN DIEGO PROMISE UPDATE**

Vice Chancellor Neault passed out an update for the San Diego Promise which included a timeline and structure for the program. Having learned from the first year pilot, planning for the 2017-18 year has started earlier with outreach efforts designed to assist students with required forms, orientation, and other aspects of the program. Dr. Neault will provide an update on the program at the November 10th Board of Trustees meeting.

8. **DEVELOPMENT COORDINATOR POSITION**

Chancellor Carroll introduced a position classification that was reviewed by the HAY group. The District Office-based position would work with the colleges and Continuing Education to coordinate fundraising efforts, and keep an updated database. This position would also develop forms for planned giving at the request of the institutions while not intruding on established structures. After discussion, all were in agreement to move this position forward for Board approval.

9. **STUDENT SERVICES POLICES AND PROCEDURES**

Vice Chancellor Neault brought forward Student Services Board Policies for DGC review that had minor revisions and one new policy that covered identity theft prevention in student financial transactions. Several policies were deleted in the continuing clean up recommended by the CCLC and required for accreditation. She shared the Administrative Procedure that contained the information from the deleted policies. The new policy, the revisions, and the deleted policies will go for adoption at the next Board meeting.

10. **BUSINESS AND FINANCIAL SERVICES BOARD POLICIES**

Executive Vice Chancellor Dowd also brought policies in preparation for accreditation with CCLC recommendations for legal compliance. She shared minor revisions agreed upon at the Budget Council meeting. These policies will come back for another review at the next DGC meeting.

11. **HUMAN RESOURCES BOARD POLICIES**

Vice Chancellor Surbrook brought new and revised Human Resources policies for review, indicating that revisions were minor and that he would send them out electronically for members to review. He asked that any feedback be sent to him.

12. **DISCUSSION REGARDING**

Mesa College Academic Senate President Rob Fremland opened discussion regarding the formation of a committee to compare the percentage of online class sections to on-campus sections. Chancellor Carroll indicated that there has been no increase to online sections with the districtwide average being 13%. After discussion, it was agreed that disciplines should hold meetings to discuss faculty concerns. Members were asked to follow up with Stephanie Bulger as to which programs should be addressed first. It was also suggested that faculty flex hours could possibly be used for these discussions.

Adjourned 4:37 p.m.

Chancellor's Office & Board of Trustees



**Thursday, December 8, 2016
Regular Board Meeting**

**San Diego Community College District
Public Meeting of the Board of Trustees**

**Charles W. Patrick Building
District Office
3375 Camino del Rio South
Rooms 235-255, 300
San Diego CA 92108**

This agenda includes:

**2:20 p.m. Call to Order – Room 235-255, followed by Closed Session – Room 300
4:00 p.m. Regular Business and Organizational Meeting – Room 235-255**

DISCLAIMER: If changes are necessary, the San Diego Community College District reserves the right to effect them up until 72 hours in advance of the posted Board meeting.

SUGGESTED ORDER OF BUSINESS

1. Call to Order

- 1.01 Call Meeting to Order, Room 235-255
- 1.02 Announcement of and Public Comment on Closed Session Items
- 1.03 Adjourn to Closed Session, Room 300

2. Closed Session

- 2.01 Confer with labor negotiator Will Surbrook, Vice Chancellor of Human Resources (pursuant to Government Code Section 54957.6).
Bargaining/Meet and Confer Units under Consideration:
 - a. AFT Guild Local 1931 College & Continuing Education Faculty
 - b. AFT Guild Local 1931 Classified Unit
 - c. AFT Guild Local 1931 Non-Academic Non-Classified Employees
 - d. AFT Guild Local 1931 Naval Technical Training Program (San Diego)
 - e. POA - Police Officers Association
 - f. Management Association
 - g. SPAA - Supervisory & Professional Administrators Association
 - h. ACE - Association of Confidential Employees
 - i. Technical Instructors Bargaining Organization (Corry Station, FL)
- 2.02 Employment/Public Employee Appointment/Discipline/Dismissal/Release. There is one (1) item for discussion (pursuant to Government Code Section 54957).
- 2.03 Confer with or receive advice from legal counsel (pursuant to Government Code Section 54956.9) concerning pending litigation. There is one (1) item to discuss.

3. Open Session Organizational Items

- 3.01 Reconvene Open Session, Room 235-255
- 3.02 Pledge of Allegiance
- 3.03 Report of Action in Closed Session (if applicable)
- 3.04 Administration of Oath of Office for Student Trustee Ricardo Marin by Board President Maria Nieto Senour

3. Open Session Organizational Items (Continued)

- 3.05 Administration of Oath of Office for Board Members:
1. Bernie Rhinerson by SDUSD Board Member Richard Barrera; and
 2. Mary Graham by Chancellor Constance M. Carroll

4. Approval of Minutes

- 4.01 Minutes of the November 10, 2016, Board Meeting 2:45 p.m.

5. Development of the Consent Calendar

- 5.01 Call for Removal of Items from the Agenda
5.02 Board Development of Consent Calendar
5.03 Call for Academic Senates' Agenda Items for Discussion
5.04 Adoption of Consent Calendar

6. Public Comment

- 6.01 Public Comments Guidelines

7. Collective Bargaining

- 7.01 Call For Presentations (if any) By Exclusive Agent(s) Representing Employees.
7.02 Public Response to Initial Proposal(s) of Employee Organizations.
7.03 Announcement(s) of Proposed Tentative Agreement(s) Between the District and Exclusive Agents Representing Employees.
7.04 Announcement(s) of Agreement(s) Between the District and Exclusive Agents Representing Employees.

8. Reports

- 8.01 Report on Communications/Statewide & Legislative Issues - Chancellor
8.02 Report of the Trustees
8.03 Report of the Chancellor

9. Board Policies

- 9.01 Consideration and adoption of new and revised Chapter 5 - Student Services Board Policies (First Reading 11/10/16). These revisions are part of a comprehensive six-year review to ensure currency.
- BP 0005 Accreditation - Revised
 - BP 3303 College Enrollment Fees - Delete (merged into AP 3300)
 - BP 3304 Instructional and Other Materials - Delete (merged into AP 3300)
 - BP 3305 Health Fees - Delete (merged into AP 3300)
 - BP 5800 Prevention of Identity Theft in Student Financial Transactions - New
- 9.02 Consideration and adoption of revised Chapter 6 - Business and Financial Services Board Policies (First Reading 11/10/16). The revisions are part of a comprehensive six-year review and also to ensure currency with legally required language.
- BP 6200 Budget Preparation - Revised
 - BP 6205 Final Budget - Delete (merged with BP 6200)
 - BP 6300 Fiscal Management - Revised
 - BP 6340 Bids and Contracts (formerly 4110)
 - BP 6400 Financial Audits - Revised
 - BP 6520 Security for District Property and Records - Revised
 - BP 6535 Use of District Equipment (formerly 0530)
- 9.03 Consideration and adoption of new and revised Chapter 3 - General Institution and Chapter 7 - Human Resources Board Policies (First Reading 11/10/16). These revisions are part of a comprehensive six-year review to ensure currency.
- BP 3420 Equal Employment Opportunity - New
 - BP 7110 Delegation of Authority, Human Resources - Revised
 - BP 7120 Recruitment and Hiring - Revised
 - BP 7160 Professional Development -New

10. New Business

- 10.01 Annual Organizational Meeting of the Board of Trustees, pursuant to Education Code Section 72000 (c) and Board of Trustees Policy BP 2305 – ANNUAL ORGANIZATIONAL MEETING.
1. Election of Officers: President, Executive Vice President, and Vice Presidents;
 2. Approve appointment of Chancellor as Secretary to the Board; and
 3. Discussion of matters of policy or function as determined by the Board.
- 10.02 Consideration and approval of the following appointment to the Trustee Advisory Council (TAC):
- Luis Barrios (Nominated by Trustee Bernie Rhinerson).
- Fayaz Nawabi (Nominated by Trustee Bernie Rhinerson).

11. Instructional Services

- 11.01 Consideration and approval of new or revised courses and programs.
- 11.02 In the matter of the District's Allied Health Occupations and Alcohol and Other Drug Studies programs authority is requested to enter into agreements with health care agencies for use of clinical facilities by students enrolled in District Health Occupations and Alcohol and Other Drug Studies programs during the 2016-2017 fiscal year.

12. Student Services

- 12.01 Modification of Student Fee Schedule for 2016-2017.
- 12.02 Review of the 2017 Accreditation Institutional Self-Evaluation Reports for City College, Mesa College, Miramar College, and Continuing Education.

13. Budget and Finance

- 13.01 In the matter of the District's 2015-2016 Annual audits, authority is requested to review and approve the receipt of the following audit reports:
1. Receipt of the District's 2015-2016 "Basic Financial Statements and Independent Auditors' Report" (Attachment A*) issued by Christy White Associates.
 2. Receipt of the District's 2015-2016 Proposition S Building Fund "Financial Statements, Supplemental Information and Independent Auditors' Report" (Attachment B*) issued by Christy White Associates.
 3. Receipt of the District's 2015-2016 Proposition N Building Fund "Financial Statements, Supplemental Information and Independent Auditors' Report" (Attachment C*) issued by Christy White Associates.
 4. Receipt of the San Diego Community College Auxiliary Organization's 2015-2016 "Basic Financial Statements and Independent Auditors' Report" (Attachment D*) issued by Christy White Associates.
- 13.02 In the matter of the Innovation and Effectiveness Grant from the Institutional Effectiveness Partnership Initiative (IEPI) awarded through Santa Clarita Community College District awarded to San Diego Miramar College, authority is requested to:
1. Enter into an agreement with Santa Clarita Community College District; and
 2. Accept, budget and spend \$200,000 in the 2016-2017 General Fund/Restricted Budget at San Diego Miramar College.
- 13.03 In the matter of the Federal Supplemental Education Opportunity Grants (FSEOG) program districtwide, authority is requested to accept, budget and spend \$9,271 from the U.S. Department of Education in the 2016-2017 Financial Aid Budget for City College (\$2,881), Mesa College (\$3,988), and Miramar College (\$2,402).
- 13.04 Approval of the District's Report of Participation in the San Diego County Investment Pool for the period ending September 30, 2016.
- 13.05 In the matter of the Federal Work-Study (FWS) program award, authority is requested to accept, budget and spend \$38,774.00 from the U.S. Department of Education in the 2016-2017 General Fund Restricted Budget for Mesa College (\$37,878) and Miramar College (\$896).
- 13.06 In the matter of the Federal Supplemental Education Opportunity Grant (FSEOG) program districtwide, authority is requested to accept, budget and spend \$163 from the U.S. Department of Education in the 2016-2017 Financial Aid Fund Budget for Miramar College.
- 13.07 Approval of purchase orders prepared during the period of November 1, 2016, through November 30, 2016.

14. Human Resources

- 14.01 Certification of short-term personnel service effective on or after December 9, 2016, per California Education Code Section 88003.
- 14.02 Approval of academic, classified, substitute and student personnel actions relating to appointments, assignment changes, salary changes, status changes, leaves of absence, separations and volunteerism during the period November 1, 2016, through November 30, 2016.
- 14.03 In the matter of the Strong Workforce Program Funds from the California Community Colleges Chancellor's Office (CCCCO) awarded to San Diego City College to improve the quality and increase the quantity of career technical education (CTE), effective December 9, 2016, except as noted, authority is requested to (contingent upon review by Human Resources):
1. Establish 1.0 Associate Dean position (#00120108), Range 16 (\$7,428.55-\$11,881.80) Management Unit;
 2. Establish 1.0 Administrative Technician position (#00120109), Range 22 (\$3,473.44-\$5,544.41) AFT Classified Staff, Office/Technical Unit;
 3. Establish 0.5 Instructional Lab Technician/Electronics position (#00120110), Range 23 (\$3,584.18-\$5,721.16) AFT Classified Staff, Office/Technical Unit;
 4. Establish 0.5 10-month Instructional Lab Technician/Machine Shop position (#00120111), Range 23 (\$3,584.18-\$5,721.16) AFT Classified Staff, Office/Technical Unit;
 5. Establish 0.5 Instructional Assistant/Learning Resources position (#00120112), Range 18 (\$3,113.28-\$4,969.49) AFT Classified Staff, Office/Technical Unit;
 6. Establish 0.6 10-month Instructional Lab Technician/Child Development position (#00120113), Range 23 (\$3,584.18-\$5,721.16) AFT Classified Staff, Office/Technical Unit;
 7. Establish 0.5 Instructional Assistant/Graphics position (#00120114), Range 19 (\$3,192.54-\$5,096.01) AFT Classified Staff, Office/Technical Unit; and
 8. Increase 10-month Instructional Lab Technician/Computer Science position (#011684) and incumbent to 12-month, Range 23 (\$3,584.18-\$5,721.16) AFT Classified Staff, Office/Technical Unit effective January 1, 2017.
- 14.04 In the matter of the Counseling program at San Diego Miramar College, effective January 1, 2017, authority is requested (contingent upon review by Human Resources) to establish 1.0, 11-month Counselor position (#00120098), Class 1, Step A – Class 6, Step C (\$5,658.89-\$7,625.90) AFT Faculty Unit for the San Diego Miramar College counseling program.
- 14.05 In the matter of the Strong Workforce Program Funds from the California Community Colleges Chancellor's Office (CCCCO) awarded to San Diego Miramar College to improve the quality and increase the quantity of career technical education (CTE), effective January 1, 2017, except as noted, authority is requested to (contingent upon review by Human Resources):
1. Establish 1.0 restricted Program Activity Manager position (#00120099), Range 14 (\$6,555.05-\$10,459.38) Management unit;
 2. Establish 1.0 Administrative Technician position (#00120100), Range 22 (\$3,473.44-\$5,544.41) AFT Classified Staff Office/Technical unit;
 3. Establish 2.0 Instructional Laboratory Technician/Automotive Mechanics positions (#00120101, 00120102), Range 23 (\$3,584.18-\$5,721.16) AFT Classified Staff Office/Technical unit;
 4. Establish four (4) 0.500 FTE Instructional Laboratory Technician/Trades positions (#00120103, 00120104, 00120105, 00120106), Range 23 @ .50 FTE (\$1,792.09-\$2,860.58) AFT Classified Staff Office/Technical unit; and
 5. Effective January 01, 2017, Increase 0.600 Instructional Laboratory Technician/Aviation position (#011508) and incumbent, Range 23 (\$3,584.18-\$5,721.16) AFT Classified Staff Office/Technical unit to 1.0 FTE.
- 14.06 In the matter regarding reorganization of the Office of Administrative Services at San Diego Continuing Education, effective December 9, 2016, (contingent upon review by Human Resources) authority is requested to establish 1.0 FTE Business Office Support Supervisor position (#00120107), Range 9 (\$4,549.36-\$7,595.34) Supervisory and Professional Administrators Association.

14. Human Resources (Continued)

- 14.07 In the matter of the "Humanities Collaborative" grant from the Andrew W. Mellon Foundation, awarded to the San Diego Community College District, effective December 09, 2016, (contingent upon review by Human Resources) authority is requested to establish 1.0 FTE Restricted Program Activity Manager position (#00120097), Range 14 (\$6,555.05-\$10,459.38) in the Management Unit. Continuation of this position is based upon continued funding from the Andrew W. Mellon Foundation. When the funding ends, the position and the incumbent's assignment will terminate.
- 14.08 In the matter of the District's retirement plans, authority is requested to adopt the CalPERS Safety Plan as of February 1, 2017, and adopt related Plan documents.

15. Facilities, Buildings, and Real Estate

- 15.01 Authority is requested to approve the use of Castle Manor Nursing and Rehabilitation located at 541 V Avenue, National City, CA 91950 as an Off-Campus facility as requested by Continuing Education.
- 15.02 In the matter of heating, ventilation and air conditioning (HVAC) unit replacements for Continuing Education's Mid-City Campus:
1. Conduct a **PUBLIC HEARING** on the resolution to making the finding necessary under Government Code Section 4217.12 for entering into an Energy Service Contract with Pacific Rim Mechanical Contractors, Inc. without formal competitive bidding;
 2. Adopt the resolution; and
 3. Enter into an Energy Service Contract with Pacific Rim Mechanical Contractors, Inc. The contract is subject to approval by District Counsel and available for review in Facilities Management at the District Office.
- 15.03 Authority to award a contract to Information Energy Services, Inc. (IES) to provide an energy management implementation program for the San Diego Community College District.
- 15.04 In the matter of the surplus District Property at the former site of the Centre City Continuing Education Campus, authority is requested to:
1. Terminate the long-term ground lease negotiations with Russ Boulevard Holdings LLC (Urban Discovery Academy/Ideate High Academy); and
 2. Enter into negotiations for a long-term ground lease with Starlight Development Group, Inc., the second responsive bidder.
- 15.05 In connection with the membership of the Propositions S and N Citizens' Oversight Committee, authority to appoint Bill Baber to serve a two-year term from July 1, 2016, to June 30, 2018, (nominated by Trustee Maria Nieto Senour).

16. Information Items

17. Reconvene Closed Session (if applicable)

- 17.01 Reconvene Closed Session (if applicable)
- 17.02 Announcement of Action Taken in Closed Session

18. Adjournment

- 18.01 Adjournment

All exhibits are available for inspection by the public at the Board of Trustees meeting or prior to such meeting, when reports are available. Contact the Board Office at (619) 388-6957.

PUBLIC PRESENTATIONS:

In accordance with Education Code Section 72121.5, members of the public are invited to participate in the governance system of the District by utilizing the PUBLIC COMMENT section of the Board meeting agenda.

Public comment on items listed on the Board meeting agenda shall be heard at the time the item is discussed and prior to Board action on the item. Each presentation shall be limited to five minutes (a total of twenty minutes on the same subject) unless this time limit is waived by action of the Board.

Public comment on matters not listed on the Board meeting agenda may do so during the PUBLIC COMMENTS section of the Board meeting for Regular Board meetings only; for Special Meetings and Retreats, comments are only allowed for items on the posted agenda. In accordance with Education Code Section 72121.5, the Board shall take no action on such matters, other than an action of referral. Each presentation shall be limited to five minutes (total of 20 minutes on the same subject) unless this time limit is waived by action of the Board.

If you wish to submit questions to the Board in your presentation, they should be in writing. At the Board's request, the Chancellor will provide written responses to your questions as soon as possible after the Board meeting.

In compliance with the Americans with Disabilities Act, the San Diego Community College District will make every effort to honor requests for reasonable accommodations made by individuals with disabilities. [ADA TITLE II, SEC. 202.42 USC 12132]

If you need an accommodation, please call 72 hours prior to the scheduled meeting. (619) 388-6983.

**San Diego City, Mesa and Miramar Colleges
Transfer Memorandum of Understanding (MOU) Development and Approval Process**

Background

In accordance with the Academic Senate for California Community Colleges Resolution on MOUs adopted Spring 2005, the Transfer Center Director and Articulation Officer at San Diego City College led the effort to establish a formal Transfer MOU process for San Diego Community College District (SDCCD) Colleges. The Transfer MOU Development and Approval Process was adopted by the SDCCD in April 2006 for San Diego City, Mesa and Miramar Colleges. (1.1)

The proposed revision to the SDCCD Transfer MOU Development and Approval Process intends to reflect the current practice followed by SDCCD colleges, as well as align the process with current standards.

Memorandum of Understanding Defined

Memorandum of Understanding related to transfer is an agreement between two or more institutions of higher education (typically a community college and an independent/private university) regarding the transfer process and related functions. According to the California Intersegmental Articulation Council (CIAC) "MOUs confirm agreements that students from the sending institution will receive special admission consideration or other benefits such as tuition discounts not offered to most other potential transfer students." (1.2)

The CIAC categorizes MOU development related to transfer as a function of articulation. Articulation is coordinated and facilitated by the Articulation Officer on each campus. However, the development of an MOU is a separate and distinct process from the development of an articulation agreement. (1.2, 1.3)

As also noted by the CIAC, "the obligations of a MOU are often beyond the level of authority of the sending institution's Articulation Officer and may require approval and/or a signature from a high-level administrator at the sending institution". (1.2)

References

- (1.1) Academic Senate for California Community Colleges 13.01 Resolution on MOUs adopted by Spring 2005.
- (1.2) Articulation Best Practices – Definitions rev. 3/5/10. www.ciac.csusb.edu. Refer to Resources.
- (1.3) San Diego Community College District Board Policy 5300.2.12

Suggested Elements and Guidelines for MOU Development

The purpose of an MOU related to transfer is to help facilitate a seamless transfer process for students. MOUs should include elements that are beneficial to students which extend beyond the usual transfer process.

Considerations in MOU development include:

1. Planning stage to determine what is needed.
2. Rationale.
3. Common objectives.
4. Terms (i.e. - expiration and termination).
5. Disclaimers and restrictions.
6. Use of facilities (if applicable)

Considerations by SDCCD Colleges upon initial MOU proposal review include:

1. Regional accreditation of the institution.
 - a. Special consideration may be made by each College in cases where there is **A specialized subject-area institution (such as an art school) accredited by an agency recognized by the U.S. Department of Education.**
2. The purpose.
 - a) Examples: increase transfer volume? Facilitate smooth transfer? Promote opportunities at university? Institute new transfer guarantee program?
3. The overall benefit to students.
 - a. Examples: guaranteed or preferential admission, reduced fees, scholarships, etc.
4. The relationship between the institutions. For example, is there an existing articulation agreement? Has there been participation in transfer activities at the receiving institution (i.e. – transfer fair)?
5. If the elements align with the policies, procedures and guidelines that the receiving institution adheres to.

Note: Proposals that are primarily for the advertisement and promotion of an institution or are primarily based on financial benefits (i.e. – tuition discounts and/or fee waivers) that are already offered to the general public, do not align with the overall purpose and philosophy intended for transfer MOUs and will not be considered.

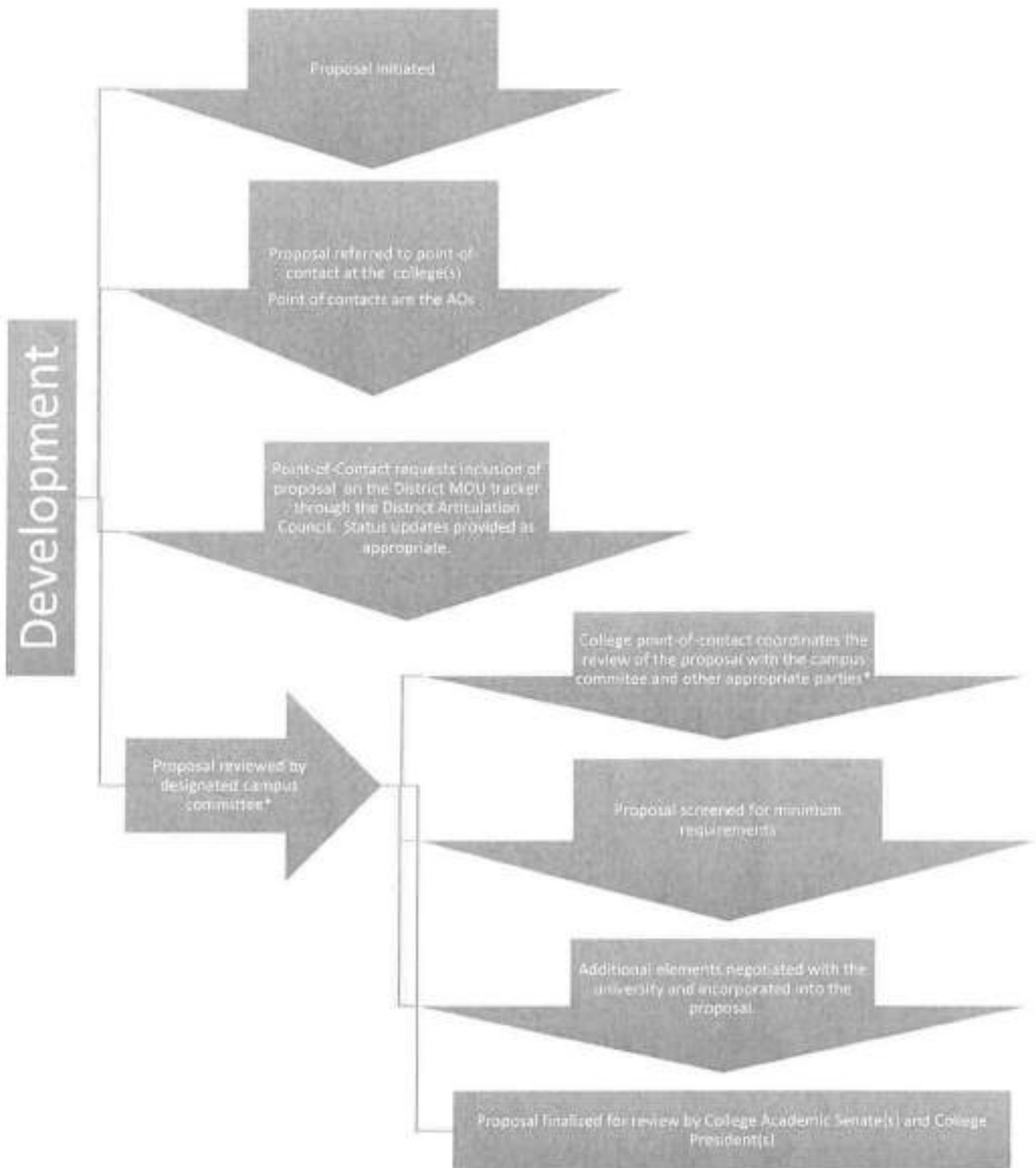
Basic MOU Elements

1. Names and addresses of participating institutions.
2. Statement of regional accreditation of the participating institutions.
3. Accreditation disclaimer. (i.e. – the MOU is immediately voided if either institution loses regional accreditation).
4. MOU review timeline (i.e. – annually).
5. MOU expiration date.
6. Terms of the MOU applicable to students upon termination (i.e. – Will students who started programs prior to the termination of an MOU, be allowed to complete their programs under the terms of the MOU?)
7. A reference to the existing articulation agreement and the required or scheduled update.
8. Financial benefits which are only available through the terms provided in the MOU.
9. Name and contact information of a person or office or department, from each participating institution, who can answer inquiries about the MOU.
10. Admissions, persistence, graduation data of transfer students specific to the SDCCD college(s) provided annually.
11. University participation in transfer activities at the SDCCD college(s), i.e. transfer university visibility on the SDCCD college(s) through attendance at Transfer Fairs and informational materials provided to the Transfer Center Library.

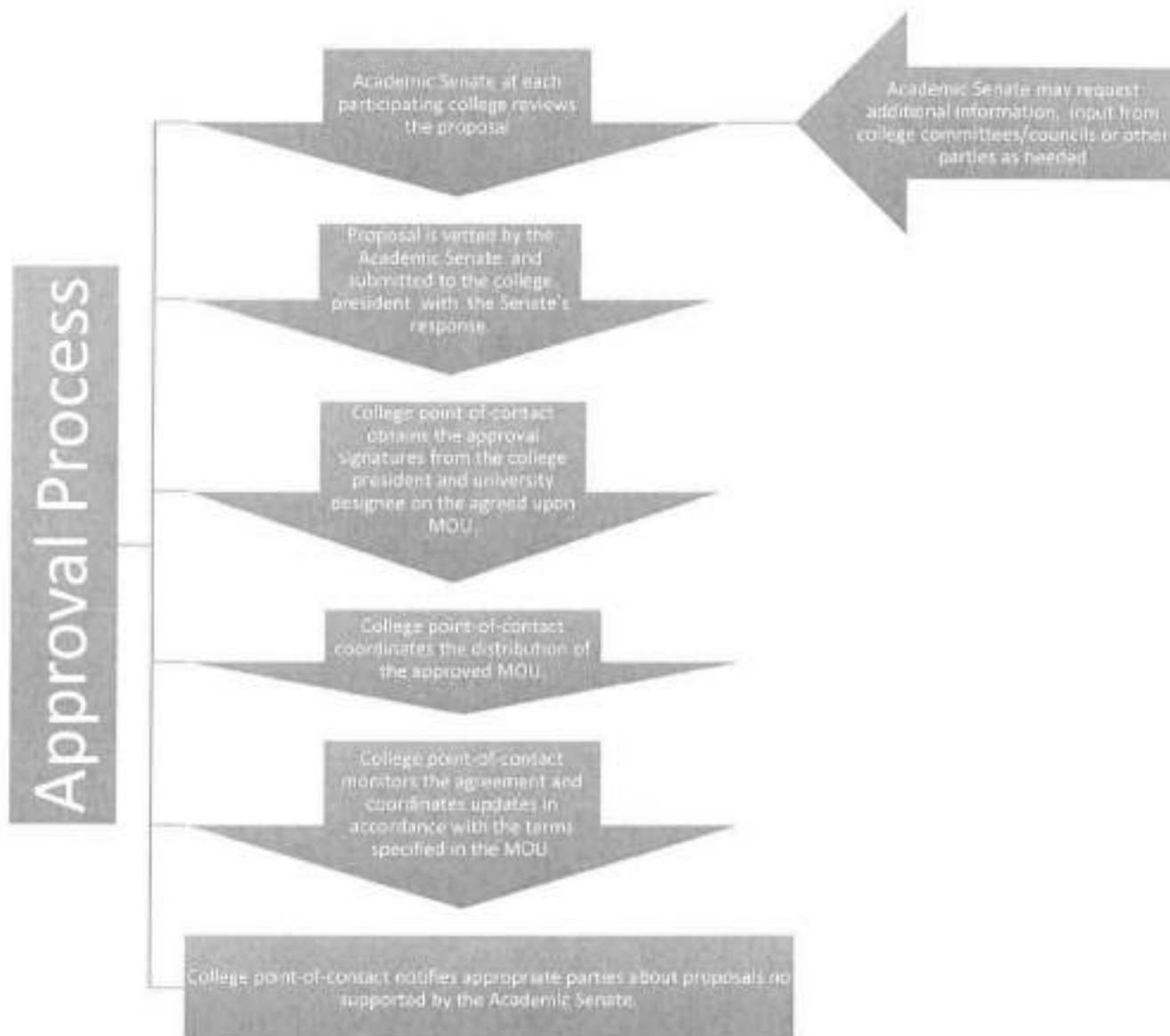
Examples of useful elements from established SDCCD MOUs:

- **Admission**
Guaranteed admission to the university was upon successful completion of specified courses. The need for portfolio submission and assessment for admission consideration to the major was eliminated.
- **Catalog Rights**
Catalog rights information provided prior to university matriculation.
- **Concurrent Enrollment**
Concurrent enrollment available after matriculation to the university.
- **Early Advising**
Academic advising by the university available to prospective transfer students.
- **Online Universities**
Information on access to student support, technical support, computer and internet requirements, exam requirements.
- **Study Abroad Opportunities/Graduation Requirements**
Study abroad program that would build cultural competency, global awareness and/or clear a graduation requirement available to prospective transfer students

MOU Development and Approval Process



MOU Development and Approval Process (Continued)



Note: The designated campus committee shall be determined by each SDCCD college and may be an existing or ad hoc committee. Recommended membership: Articulation Officer, Transfer Center Director, Counselor, Vice President of Student Services and Vice President of Instruction (or designated representatives).



Academic Senate Resolution declaring San Diego City College as a sanctuary campus # _____

November 28, 2016

1st Reading:

Mover:

Seconded:

Whereas, the Academic Senate has the responsibility to work for the general welfare of San Diego City College, its Students, Staff and Faculty;

Whereas, the president-elect of the United States and his cabinet promise to immediately deport millions of immigrants and abolish the Deferred Action for Childhood Arrival (DACA) program that provides relief from deportation for long-settled youth in the United States. These policies will break up families, devastate communities, and have lasting consequences on the civic vitality and economic growth of our city, region, state and nation;

Whereas, California has been at the forefront of sound policies centered on immigrant integration and state citizenship for undocumented people that have incorporated undocumented immigrants into our schools, workplaces, communities, civic life, and economy;

Whereas, making San Diego City College a sanctuary campus is a concrete action that the College can take to support and protect the people within our community who are living in extreme fear and uncertainty;

Whereas, U.S. Immigration and Customs Enforcement (ICE) officers are subject to restrictions based on a 2011 memo regarding places of worship, schools, and hospitals. (See <https://www.ice.gov/doclib/ero-outreach/pdf/10029.2-policy.pdf>);

Whereas, as was noted in the SDCCD Chancellor's post-election letter to the SDCCD community on November 10, 2016, "The entire San Diego Community College District remain committed to our mission of inclusion and support for the great diversity of our student population. As public institutions of higher education, we will continue our work to ensure that all students have full access to our institutions, as well as to the support needed for you to succeed in your studies";

Whereas, "The San Diego Community College District is also deeply committed to protecting the rights of our undocumented students to attend our institutions and receive state aid under the provisions of AB 540, enacted in 2001, and the California Dream Act, signed into law in 2011. These laws allow undocumented students to be exempt from non-resident tuition, and receive private scholarships and state financial aid, including community college fee waivers (BOGW), and Cal Grants. Click on this link for more information:

http://www.csac.ca.gov/pubs/forms/grnt_fm/cal_grant_dream_act_faqs.pdf"; be it, therefore,

RESOLVED, that the Academic Senate calls for the implementation of a plan to ensure that San Diego City College be designated as a sanctuary campus for all undocumented students, staff, and their family members;

Be it also resolved that the Academic Senate ask for an unequivocal, public declaration of our College's support for and protection of undocumented students, staff, and their families on our campus. We ask that San Diego City College guarantee privacy by refusing to release information regarding the immigration status of our students, staff and community members. We also ask that San Diego City College refuse to comply with immigration authorities regarding deportations or raids.

Presented to the Academic Senate:

Approved by the Academic Senate:



SAN DIEGO COMMUNITY COLLEGE DISTRICT

3375 Camino del Rio South
San Diego, California 92108-3883
619-388-6957

Office of the Chancellor

CITY COLLEGE | MESA COLLEGE | MIRAMAR COLLEGE | CONTINUING EDUCATION

SCHEDULE OF MEETINGS

DISTRICT GOVERNANCE COUNCIL (DGC)

JANUARY THROUGH JUNE 2017

DGC meetings are scheduled on the
1st and/or 3rd Wednesdays of each month, unless otherwise noted*.

The following are DGC meeting dates to be held at 3:00 p.m.
at the District Office in Room 245:

January 18

February 1
February 15

March 1
March 15

April 5
April 26*

May 17

June 7



PRESS RELEASE

December 5, 2016

Contact: Paul Feist

Office: 916.327.5353

Cell: 209.670.6240

Office E-mail: pfeist@cccco.edu

California Community Colleges Chancellor's Office Provides Guidance Related to Undocumented Students

SACRAMENTO – The California Community Colleges Chancellor's Office today provided a guiding statement of principles to the system's 113 colleges as they adjust to uncertainty over possible immigration policy changes that have the potential to affect undocumented students.

The guidance comes after incoming Chancellor Eloy Ortiz Oakley joined with leaders of the University of California and the California State University to formally request that President-elect Donald J. Trump preserve the Deferred Action for Childhood Arrivals (DACA) program, which allows children of undocumented immigrants to pursue higher education in the United States.

"It is vital that these students, who were brought to this country as children, have the ability to learn without fear of being deported," Oakley said. "The California community colleges stand with these students because they represent some of the best qualities that our state and nation have to offer."

The Chancellor's Office guidance provided to colleges reaffirms the following principles:

- The California Community Colleges are open to all students who meet the minimum requirements for admission, regardless of immigration status.
- The Chancellor's Office will not release any personally identifiable student information, including any data related to immigration status, without a judicial warrant, subpoena or court order, unless authorized by the student or required by law.
- The Chancellor's Office will not cooperate with any federal effort to create a registry of individuals based on any protected characteristics such as religion, national origin, race, or sexual orientation.
- The Chancellor's Office will continue to advocate for educational opportunities for all students in the community college system, regardless of immigration status, at the state and federal level.

While the Chancellor's Office acknowledges local authority and control in the administration of our community colleges, we encourage our local community college districts to consider our system's values when responding to this situation. We find the following strategies to be consistent with these values and recommend using them as a starting point for your local deliberations in these matters:

- District police departments should not detain, question or arrest any individual solely on the basis of (suspected) undocumented immigration status.
- Districts should not cooperate with any federal effort to create a registry of individuals based on any protected characteristics such as religion, national origin, race or sexual orientation.
- No confidential student records should be released without a judicial warrant, subpoena or court order, unless authorized by the student or required by law.

The California Community Colleges is the largest system of higher education in the nation composed of 72 districts and 113 colleges serving 2.1 million students per year. Community colleges supply workforce training, basic skills education and prepare students for transfer to four-year institutions. The Chancellor's Office provides leadership, advocacy and support under the direction of the Board of Governors of the California Community Colleges. For more information about the community colleges, please visit <http://californiacommunitycolleges.cccco.edu/>.

###

UC won't assist federal agents in immigration actions against students

The University of California announced sweeping actions Nov. 30 to protect its students who came into the country illegally.

Teresa Watanabe
November 30, 2016, 8:40 PM

The University of California announced sweeping actions Wednesday to protect its students who came into the country illegally, saying it would refuse to assist federal immigration agents, turn over confidential records without court orders or supply information for any national registry based on race, national origin or religion.

“While we still do not know what policies and practices the incoming federal administration may adopt, given the many public pronouncements made during the presidential campaign and its aftermath, we felt it necessary to reaffirm that UC will act upon its deeply held conviction that all members of our community have the right to work, study, and live safely and without fear at all UC locations,” UC President Janet Napolitano said in a statement.

Napolitano said the university would “vigorously protect the privacy and civil rights of the undocumented members of the UC community.”

The policies, described as a statement of principles, mark the first unified approach toward federal immigration issues for the system’s 10 campuses, according to UC spokeswoman Dianne Klein.

Napolitano formed a task force to examine possible actions shortly after the presidential election of Donald Trump stirred widespread unease and uncertainty on campuses. UC does not track students’ immigration status but says about 3,700 have obtained in-state tuition benefits under AB 540, a 2001 law designed to help those in the country illegally.

The UC president announced the new policies a day after she and the heads of the California State University and California Community Colleges sent a joint letter to President-elect Trump urging him to allow students without legal status to continue their educations. Trump, during his campaign, had said he would reverse an Obama administration program Napolitano created as Homeland Security secretary that deferred deportation proceedings against certain young people who stayed in school and out of trouble.

That program has helped nearly 720,000 young people nationally and 214,000 in California apply for work permits and continue their studies without fear of deportation.

The new policies heartened students such as Benjamin bin Mohd Yusof, who was brought illegally to the country from Brunei when he was 2 years old and is now a senior at UC Berkeley studying molecular cellular biology and South and Southeast Asian studies. He said he has felt unsafe since Trump's election, which he said showed that millions of Americans supported "violent and dehumanizing rhetoric about undocumented immigrants like myself."

While the UC protections will help him, he said, he worried about those not able to benefit from them.

"Where will that protection be for my mother and brother?" he said. "We have to do more for undocumented students and others everywhere."

Among the new UC principles:

- Campus police will not assist local, state or federal agents to investigate, detain or arrest students for violations of federal immigration law.
- Police also will be told not to contact, detain, question or arrest individuals solely on suspicion of immigration violations.
- No confidential student records will be released without a judicial warrant, subpoena or court order unless authorized by the student or required by law.
- UC will continue to admit all eligible students without regard to immigration status and take the same stance in treatment of patients at its medical centers.

University police should use their limited resources to build community trust and a "safe and secure environment" on campus rather than to assist in immigration cases, which is a federal responsibility, the statement said.

Campus police also will decline requests by federal immigration agents to detain any individuals unless their assistance is required by law or the individuals are wanted for serious or violent felonies. The California attorney general has concluded that compliance with such requests is voluntary.

In addition, UC will not cooperate with any effort to compile a federal registry of selected groups of people — such as one for Muslims, suggested by Trump during his campaign.

"A federal effort to create a registry based on any protected characteristics ... would be antithetical to the United States Constitution, the California Constitution, federal and state laws, and principles of nondiscrimination that guide our university," the statement said.

Earlier this month, Cal State affirmed that it would not help local, state or federal authorities enforce federal immigration law.

<http://www.sandiegouniontribune.com/la-me-ln-uc-undoc-student-protections-20161130-story.html>

IMMIGRATION POST-ELECTION Q & A:

DACA Students, “Sanctuary Campuses,” and Institutional or Community Assistance

The presidential election has jolted campuses with speculation and concern about undocumented community members and other issues impacting international populations. The roughly 750,000 young people who have been approved for the Obama administration’s Deferred Action for Childhood Arrivals (DACA) program have been the subject of particular attention. More broadly, there have been some calls to create “sanctuary campuses.” Statements and petitions have been circulated by college and university presidents,¹ student groups,² and policymakers.³ This Issue Brief is offered as a “current moment” aid in framing discussion and assessment by campus leaders, in the hope that it provides information that may assist in situational response, campus policy review, and engagement on the issues addressed here.

Why is this complicated and the future uncertain?

As explained below, DACA is not a law or regulation, it is simply an executive order. It does not confer legal status or a pathway to citizenship, it is only relevant to a small portion of undocumented individuals in the United States, and it can be modified or ended at any time. Many individuals with DACA status are college or university students. Much of the pre-election campaign discussion regarding immigration enforcement was not focused on this group. In addition, it is unlikely that all of an institution’s faculty and staff who are concerned about its DACA students know exactly who

- 1 E.g., [“Statement in Support of the Deferred Action for Childhood Arrivals \(DACA\) Program and Our Undocumented Immigrant Students,”](#) Pomona College (CA), Nov. 2016.
- 2 See [partial list of statements](#) in support of DACA and campus sanctuary petitions.
- 3 E.g., [Statement of U.S. House of Representatives Democrats in support of DACA students.](#)

This issue brief was prepared by Dan Berger of the immigration law firm Curran & Berger (Northampton, MA), with contributions from Stephen Yale-Loehr of Miller Mayer (Ithaca, NY) and the higher education and immigration practices at the international law firm Hogan Lovells US LLP; edited by Peter McDonough, ACE Vice President and General Counsel. (Dec. 2016)

DISCLAIMER

This Issue Brief does not constitute legal advice. It incorporates and reflects high-level observations based on non-exhaustive research, and does not analyze any specific factual scenarios taking into account potentially relevant details, such as whether an institution is public or private, state and local laws, and the legal status and role of a campus police department. Institutions should examine issues addressed here based on the context and facts of each situation, institutional policies, geographical and political context, and on their own counsel’s interpretation of applicable law. This is a fluid environment and topic, including the potential for changes in current law, federal agency interpretations of current law, or current enforcement practices.

these students are. Similarly, it is unlikely that the balance of a campus's undocumented population—students and others—is known.

There has never been large-scale immigration enforcement directed at undocumented individuals at American colleges and universities. It is far from clear whether the new administration's immigration policies and enforcement practices will target, include, or exclude current DACA students and other undocumented members of our nation's campus communities.

Nor is it known what form such actions might take. How long it would take to design, resource, organize, and implement governmental policy changes or enforcement actions is anyone's guess. The likelihood of success of judicial challenges to such policies and enforcement actions is speculative as well, even if the certainty and vigor of such challenges are not. In short, it is inevitable that there will be more questions than definitive answers for some time, but it is prudent to anticipate that the new administration may usher in changes in current laws, regulations, and policies.

What is the big picture?

Millions of undocumented immigrants have entered the United States during the last quarter century. Many arrived as infants or young children; they have grown up in the United States but without legal status. Added to their ranks are those who came and overstayed visas, who had poor immigration representation, or whose parents did not follow through on immigration applications.⁴

In 2003, the Immigration and Naturalization Service (INS) ceased to exist, and its functions were transferred to three new entities under the Department of Homeland Security (DHS): U.S. Citizenship and Immigration Services (USCIS); U.S. Immigration and Customs Enforcement (ICE); and U.S. Customs and Border Protection (CBP). ICE is largely responsible for enforcement of immigration laws within U.S. borders.

ICE's officers and agents currently conduct their enforcement actions consistent with a DHS November 2014 memorandum⁵ which prioritizes threats to national security, border security, and public safety. ICE's own Sensitive Locations Policy provides that enforcement actions should be avoided at sensitive locations, which are defined to include "post-secondary schools up to and including colleges and universities, and other institutions of learning such as vocational or trade schools."⁶ However, these policies can be modified or rescinded at will by the new administration.

What is DACA?

DACA, the Obama administration's Deferred Action for Childhood Arrivals policy, provides administrative relief from deportation for specific individuals who apply for and receive DACA status. It was announced on June 15, 2012.⁷

4 ["County-Level View of DACA Population Finds Surprising Amount of Ethnic & Enrollment Diversity,"](#) Migration Policy Institute, Sept. 2014.

5 ["Policies for the Apprehension, Detention and Removal of Undocumented Immigrants,"](#) Department of Homeland Security, Nov. 20, 2014.

6 ["Enforcement Actions at or Focused on Sensitive Locations,"](#) U.S. Immigration and Customs Enforcement, Oct. 24, 2011.

7 ["Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children,"](#) Department of Homeland Security, June 15, 2012.

As noted earlier, DACA is not a law, or even a regulation. It does not grant a legal status, nor does it offer a pathway to permanent residency or citizenship. It simply reflects the Obama administration's priorities regarding deportations.

With roughly 11 million undocumented immigrants in the United States, the administration chose to put those with criminal records or outstanding deportation orders at the top of the list for removal, and those with DACA status at the bottom. The hope by many has been that DACA can be a bridge to comprehensive immigration reform by Congress.

DACA reflects the USCIS's exercise of its prosecutorial discretion to permit approved individuals to stay for two years at a time without fear of deportation. Those granted DACA status also may receive a Social Security number and are eligible for two-year employment authorization documents.

DACA status may be given to undocumented young people who had no lawful status on June 15, 2012. To qualify, applicants must:

- have been physically present in the United States on June 15, 2012;
- have been under the age of 31 as of June 15, 2012;
- have come to the United States before reaching their 16th birthday;
- have continuously resided in the United States since June 15, 2007;
- currently be in school, or have graduated or obtained a certificate of completion from high school, or have obtained a general education development (GED) certificate, or have been honorably discharged from the Coast Guard or the Armed Forces of the United States; and
- have not been convicted of a felony, significant misdemeanor, or three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety.⁸

In 2014, the Obama administration attempted to expand DACA eligibility, but was prevented by a federal court from doing so on the day it was to go into effect in 2015. So, today on our campuses there are: (i) individuals who have DACA status; (ii) individuals who have DACA applications pending; (iii) individuals who would have been eligible for the expanded DACA; and (iv) other undocumented individuals who never were going to be eligible for DACA.

What would the end of DACA look like?

Since DACA is not codified by law or regulation, it can be modified or rescinded at any time by the new administration.⁹ If that were to happen, one approach could be a gradual phase out by approving no new applications and granting no DACA renewals for individuals currently in DACA status.

Completely rescinding DACA for nearly 750,000 young people could have more immediate implications for those who possess DACA status, including DACA students currently employed by institutions. USCIS could begin a formal process of revoking current employment authorization documents issued to DACA recipients (or perhaps it would take a more practical approach and

8 [“Consideration of Deferred Action for Childhood Arrivals,”](#) U.S. Citizenship and Immigration Services.

9 [“New Questions and Answers About DACA Now That Trump Is President-Elect,”](#) National Immigration Law Center, Nov. 15, 2016.

simply let them expire).¹⁰ Upon revocation or expiration, former DACA students would lose their work eligibility. Furthermore, without the benefits of DACA status, former DACA recipients could be ordered to appear in federal immigration court to face deportation proceedings. As a practical matter, however, this would be a major undertaking for deeply backlogged immigration courts, as well as for under-funded and under-resourced immigration enforcement officials.

Importantly, no specific plans for ending DACA have been proposed by President-Elect Trump to date, and it is far from clear that the new administration will prioritize immigration enforcement against DACA students (if DACA were rescinded) or other undocumented students. Indeed, the president-elect recently said that his administration will focus deportation efforts on criminal immigrants.¹¹ The Obama administration had the same priority,¹² and even with unprecedented resources that effort has taken years and still has far to go.¹³

What might be sensible for DACA students to consider doing now, and how can institutions be supportive?

The possible changes to DACA could have serious implications for DACA students studying abroad. If DACA were rescinded while a DACA student is out of the United States, there may be no way to return. Anyone with DACA status studying abroad for the fall semester or temporarily out of the country during winter break should make plans to return to the United States before the new administration takes office on January 20, 2017. DACA students who intend to study abroad next semester should fully understand the risks of leaving the country; they should be encouraged and supported to make alternative in-country plans. Institutional study abroad advisers should be certain that every DACA student is aware of the uncertainties, advised regarding other educational opportunities on campus or elsewhere within the United States, and assisted in obtaining refunds as necessary.

DACA students who are within 180 days of the end of their status period are eligible to apply for renewal of their status, and may do so now. However, processing times for renewal applications filed today are well over two months; there is no guarantee that the new administration will continue to grant DACA renewals, and the application fee is \$465. Some institutions have considered providing or identifying funding for these applications; however, this requires having a careful eye on state law (particularly for public institutions) and other potential restrictions on private use of institutional funds.

Assuring that DACA students and other undocumented campus community members know where to turn for knowledgeable, accessible, and affordable legal advice can be helpful. ImmigrationLawHelp.org is an online directory of nearly 1,000 free or low-cost nonprofit immigration legal services providers in all 50 states. Its website¹⁴ is searchable by state, county, or

¹⁰ 8 CFR 274a.14, AILA-NSC Liaison Minutes (Jan. 25, 2007) Question 11.

¹¹ See “[Trump: Criminals Will Be Deported First](#),” *Politico*, Nov. 6, 2016.

¹² “[Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens](#),” U.S. Immigration and Customs Enforcement, March 2, 2011.

¹³ See “[President Obama To Donald Trump On DACA: Think ‘Long And Hard’ On Endangering Dreamers](#),” NBC News, Nov. 15, 2016.

¹⁴ <https://www.immigrationlawhelp.org>.

detention facility, and searches can be refined by types and areas of legal assistance provided, populations served, languages spoken, other areas of legal assistance, and non-legal services provided. Institutions might assess whether there is a practical and beneficial means of identifying and publicizing pro bono on-campus or alumni legal services with expertise, or making funding available for individual legal consultations, consistent with the potential restrictions on private use of institutional resources noted above.¹⁵ Timely and informed advice and representation can be critical.¹⁶

Institutions should ensure that student health and counseling services are alerted and prepared to address the needs of DACA recipients and other undocumented students who may find themselves physically or emotionally challenged, particularly since many grew up with the fear of deportation.

DACA students who are on an educational and training path that requires employment authorization documents should evaluate backup options. For example, medical students will not be able to do residency training without the appropriate documentation.¹⁷

Is there anything preventing ICE or CBP from using an individual's DACA data to facilitate their deportation?

Current USCIS internal policy indicates that DACA data will not be disclosed to ICE or CBP for the purpose of immigration enforcement proceedings unless certain criteria are met, such as national security concerns, fraud or misrepresentation, or specific criminal offenses.¹⁸ However, USCIS has said that this policy “may be modified, superseded, or rescinded at any time without notice.”¹⁹ If this policy were to change, it is likely that attempts to use DACA data for broader enforcement efforts would be challenged legally, but it is too soon to assess the nature and chances of success of those challenges.

If DACA students come into contact with ICE or CBP, will they be placed into removal proceedings?

As noted above, DACA is intended, in part, to allow ICE and CBP to focus on priority cases. Unless and until there is a policy change, ICE and CBP officials and agents can be expected to exercise their prosecutorial discretion not to apprehend individuals with DACA status, have them placed into removal proceedings, or be removed. It is important to keep in mind, however, that DACA may change at any time.

What do people mean when they refer to a “sanctuary campus”?

The post-election concern about DACA students and other undocumented individuals on our nation's campuses has led to coast-to-coast protests and pleas for colleges and universities to offer sanctuary to protect undocumented community members from deportation. While the word “sanctuary” is commonly associated with either a sacred place or a refuge, the idea of a “sanctuary campus” has no clear meaning; it is an extension of the “sanctuary city” concept, another term with

15 [“Post-Election: Recommendations for School Administrators, Educators, Counselors, and Undocumented Students,”](#) My Undocumented Life, Nov. 13, 2016.

16 [“Do DREAMers really need a lawyer?”](#) AILA Leadership Blog, Aug. 3, 2012.

17 See <http://www.phdreamers.org/>.

18 Id.

19 [“Policy Memorandum on Revised Guidance for the Referral of Cases and Issuances of Notices to Appear in Cases Involving Inadmissible and Removable Aliens,”](#) U.S. Citizenship and Immigration Services, Nov. 7, 2011.

no consistent or agreed upon definition. Neither concept involves a legal status that is recognized under federal law.

“Sanctuary city” policies and practices vary around the country. One motivation and benefit is to encourage undocumented immigrants to feel secure going to the police for help or cooperating if they have information that can aid law enforcement. In a “sanctuary city,” police and municipal employees may be instructed not to inquire about an individual’s immigration status, and the city’s resources are not allocated to enforce federal immigration laws.²⁰

Requests that institutions declare their campuses as sanctuaries have included a broad range of actions. Students at over 100 colleges and universities currently have petitions circulating, calling for some level of sanctuary.

Is it relevant that an institution is geographically within a “sanctuary city”?

Federal law enforcement authorities could act in a range of ways regarding DACA students and other undocumented individuals who are part of higher education communities without involvement by local authorities. In those circumstances, a campus’s location within a sanctuary city may not matter.

How have institutions responded to calls for sanctuaries on campuses?

Immediate institutional responses typically have included reaffirming institutional or community principles or values, underscoring policies of inclusion and free expression, expressing continued support for DACA, and committing to support community members as much as possible while complying with the law. Some schools have stated that they will not voluntarily (without a court order) assist the federal government in immigration enforcement.²¹

Many sanctuary campus petitions incorporate uncontroversial demands for support and counseling to students and other undocumented community members. It is likely that institutions already have resources and practices in place that may align with such demands. Quickly and clearly organizing, cataloging, and publicizing them, as well as basic informational and “know your rights” materials, is one sensible immediate and beneficial response.²²

Anticipating—and having clear, consistent, and accurate and ready answers to—questions about policies and practices is important. This can be a challenge on a campus with several schools and distinct student populations (undergraduate schools, PhD candidates, business schools, medical schools, etc.).

As suggested below, understanding campus police department policies and practices—and being transparent about them where appropriate—should not be overlooked. For example, it may be helpful to understand and be able to accurately explain whether, when, and how fingerprints taken by

20 See “[The Limits of Sanctuary Cities](#),” *The New Yorker*, Nov. 23, 2016 and “[What Are Sanctuary Cities and How Are They Bracing for Trump’s Proposed Immigration Crackdown?](#)” KQED News, Nov. 17, 2016.

21 See “[In Defense of DACA](#),” *Inside Higher Ed*, Nov. 21, 2016.

22 See, e.g., “[Supporting Undocumented Youth](#),” U.S. Department of Education, Oct. 20, 2015. See e.g., [here](#) and [here](#) about knowing your rights. See e.g., information about [immigration news, advocacy and statistics](#), [business migration](#), and resources about undocumented students [here](#) and [here](#).

campus or local law enforcement will be added to the national fingerprint file maintained by the Federal Bureau of Investigation, since such fingerprints are likely to be forwarded to the DHS/ICE fingerprint database.²³ State law generally determines the circumstances when law enforcement, including campus police departments, may fingerprint individuals; and those laws evolve.²⁴

Are campus chapels and other houses of worship sanctuaries?

Again, “sanctuary” has no clear, consistently understood and applied meaning. At some institutions students have called for establishing campus chapels as sanctuaries from law enforcement officials for those facing deportation. Providing church sanctuary for criminal offenses was abolished by statute in England in the seventeenth century and never became part of the common law in the United States. There is no federal statute or judicial recognition of houses of worship, or particular portions of them, as sanctuaries.

While the notion of sacred places as sanctuaries in this country derives from custom, rather than law, and houses of worship enjoy no immunity from prosecution, there is a general law enforcement tradition to forgo entering churches to arrest non-violent criminals. Thus, some congregations have historically publicized their houses of worship as sanctuaries for individuals who fear deportation.²⁵

What about institutions being asked to pledge non-cooperation?

As a general proposition, the law imposes no affirmative duty on individuals or organizations to inform law enforcement authorities of illegal activity.²⁶ Furthermore, in many circumstances it is reasonable and appropriate to have, and abide by, institutional policies which require an individual’s consent, or receipt of a subpoena or warrant, before complying with requests by authorities for non-public information about campus community members. Indeed, federal and state privacy laws (such as those relating to education and medical records) may compel such a response.

However, some sanctuary campus petitions ask institutions to categorically refuse to cooperate with federal law enforcement; some propose not allowing officials to enter campus property unless they have a warrant, court order, or other lawful process. Such requests may run counter to applicable aspects of current and evolving federal or state laws, with particular challenges for public institutions. Also, they could risk termination of federal and state aid to institutions. And, as suggested below regarding campus police department discretion, they may conflict with campus law enforcement obligations, including on private campuses with sworn officers.

The Immigration and Nationality Act (INA) says that “a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, [DHS, ICE, or CBP] information regarding the citizenship or immigration status,

23 See “[Privacy Impact Assessment for the Fingerprint Identification Records System \(FIRS\) Integrated Automated Fingerprint Identification System \(IAFIS\) Outsourcing for Noncriminal Justice Purposes – Channeling](#),” Federal Bureau of Investigations and “[Fingerprint Technology](#),” Federal Bureau of Investigations, July 2010.

24 See, e.g., “[Must Officers Now Arrest, Rather Than Cite, for Misdemeanor Marijuana Possession?](#)” North Carolina Criminal Law, Oct. 7, 2015.

25 See “[Trump’s Battle Against Illegal Immigrant Sanctuary May End at Church Steps](#),” Fox News, Nov. 23, 2016.

26 See *United States v. Driscoll*, 449 F.2d 894, 896 (2d Cir. 1971) (defendant aware of alien smuggling had no duty to alert authorities).

lawful or unlawful, of any individual.”²⁷ Whether this prohibition would, in fact, apply to a particular institution, just its campus police department, or not apply at all would depend on the facts, such as whether the institution is public or private, and the legal status and authority of its campus police.²⁸ In terms of consequences for violation of this federal prohibition, to date the focus has been on revocation of a state or local entity’s entitlement to certain federal funds under the Edward Byrne Memorial Justice Assistance Grant Program and the State Criminal Alien Assistance Program.²⁹

How should institutions consider requests by federal officials for records identifying undocumented students or other community members?

As a general proposition, colleges and universities have no obligation to comply with a request by officials for institutional records in the absence of a subpoena or warrant. Indeed, the Family Educational Rights and Privacy Act’s (FERPA) basic premise is that a valid legal subpoena, warrant, or court order typically is required for nonconsensual access to a student’s education records. However, exceptions exist which explicitly allow for access to some students’ records. To note just a couple:

- The Student and Exchange Visitor Program (SEVP) requires that institutions participating in SEVP are subject to on-site review at any time. An ICE Field Representative^{30 31} visiting such a campus has the authority to ask for information about students on temporary student and training visas (F and J) administered by or present at the institution, but currently not about DACA or undocumented students. While FERPA restricts access to defined “education records” (but not to employee records) absent a student’s consent, students on temporary F or J visas have largely waived their rights under FERPA through the visa process.³² Also, institutions agree to grant access to certain employment-related information by signing H-1B, O-1, and other temporary visa petitions.³³
- The USA PATRIOT Act (post-9/11 legislation) allows exceptions to FERPA to enable nonconsensual disclosure of education records, and personally identifiable information contained in such records, where there is a judicial order based on the government’s assertion of terrorist activities.³⁴

It would be prudent for institutions to review applicable policies and protocols to assess how they may be interpreted and applied in the future to requests for information from government officials, and to the protection of campus community members’ privacy. Campus administrators who are likely to be the first points of contact by immigration officials should be fully aware of institutional philosophy and policy, and know where to turn for immediate advice and direction regarding nuanced situations.

27 See 8 U.S.C. § 1373.

28 The prohibition addresses actions by government entities and officials, and no court appears to have considered whether and under what set of facts the prohibition applies to a university or college.

29 [Memorandum](#), Department of Justice Referral of Allegations of Potential Violations of 8 U.S.C. § 1373 by Grant Recipients, July 7, 2016.

30 [“FAQs: SEVP Field Representatives,”](#) U.S. Immigration and Customs Enforcement.

31 [“Designated School Officials: What is Campus Sentinel?”](#) Department of Homeland Security, March 22, 2013.

32 For F visas, see 8 CFR 214.3(g), 8 CFR 214.1(h), 8 CFR 214.3(k); for J visas, see 22 CFR 62.10 (f-g).

33 See 20 CFR 655.760(a) about access files, and see [declaration](#) on page 6.

34 See 20 USC 1232g(j); 20 USC 9007(c).

What about calls for institutions to preclude ICE officials and agents from coming on campus?

As a legal and practical matter an institution may be unable to prevent ICE officials and agents from coming onto campus without a warrant. Significant portions of virtually every college and university campus—public and private—are open to anyone. While these accessible spaces can be made subject to reasonable time, place, and manner restrictions, it is difficult to imagine a court finding a targeted restriction against federal immigration officials to be reasonable. By contrast, restricted buildings or other areas (such as dormitories and other living spaces) would carry legitimate privacy interests, and therefore it could be appropriate to insist on an immigration warrant for access.³⁵ Here again, however, state and local law, as well as existing cooperation agreements between campus police and external authorities should be assessed.

Even where there may be a good-faith basis to insist on a warrant for access (or, in certain cases, a subpoena for access to records), such a request should not be seen as a license to frustrate the law enforcement purpose. For instance, if, while awaiting service of the warrant, an institution were to hide an undocumented person or destroy records, a law enforcement authority or court might very well take the position that an institution had run afoul of the “harboring” provision discussed below. Such steps could also trigger liability for obstruction of justice.³⁶

Might campus police departments have less discretion to minimize or avoid cooperation?

Federal law does not obligate local law enforcement—including sworn campus police officers—to devote resources to the enforcement of federal immigration laws. The INA provides that state or local police may enter into cooperative agreements with immigration enforcement officials and agents, though they are not compulsory.³⁷ Some college and university police departments have pledged not to sign up for a voluntary program if one is offered.³⁸

35 For DHS regulations on the enforcement powers of immigration officials see 8 C.F.R. § 287.8. The regulations describe the warrant requirement pertinent to immigration officers:

An immigration officer may not enter into the non-public areas of a business, a residence including the curtilage of such residence, or a farm or other outdoor agricultural operation, except as provided in section 287(a)(3) of the Act, for the purpose of questioning the occupants or employees concerning their right to be or remain in the United States unless the officer has either a warrant or the consent of the owner or other person in control of the site to be inspected. When consent to enter is given, the immigration officer must note on the officer’s report that consent was given and, if possible, by whom consent was given. If the immigration officer is denied access to conduct a site inspection, a warrant may be obtained.

8 C.F.R. § 287.8(f)(2). This provision recognizes that some areas of a business (much like some areas of a campus) are non-public (and therefore would require a warrant or consent to access), while other areas are clearly public, without any expectation of privacy, and without a need for warrant for entry. See [here](#) for a Q&A explaining the issues in general terms.

36 Although an individual is not required to affirmatively assist authorities, various federal statutes prohibit obstruction of civil, administrative, and criminal investigations and proceedings. See, e.g., 18 U.S.C. §§ 1505, 1510, 1512. The U.S. Sentencing Guidelines also provide for sentencing enhancements based upon obstructive conduct. See 8 U.S.S.G. § 3C1.1, “Obstructing or Impeding the Administration of Justice.” See also *United States v. Manzano-Huerta*, 809 F.3d 440 (8th Cir. 2016) (affirming the conviction of a defendant prosecuted for violating the harboring statute with an obstruction enhancement because he provided materially false information to law enforcement about the employment status of an unauthorized employee).

37 The INA says that “[n]othing in this subsection shall be construed to require any State or political subdivision of a State” to enter into such arrangements. See 8 U.S.C. § 1357(g)(9). “[Delegation of Immigration Authority Section 287\(g\) Immigration and Nationality Act](#),” U.S. Immigration and Customs Enforcement.

38 “[Bristol County Sheriff’s Office Partners with ICE, Granting Immigration Enforcement Authority](#),” ABC News 6, Nov. 21, 2016.

However, state laws often establish and inform campus police officers' authority and activities. This can be the case for private institutions' police departments as well as those of public institutions. A review and understanding of the source of campus police officers' authority and applicable state law is prudent. For example, a campus police department that is asked to consider adopting practices to implement or support sanctuary campus practices may find itself unable to do so due to applicable state law.

Also worthy of consideration are a campus police department's obligations pursuant to the department's or the institution's relationship with other law enforcement authorities, particularly those detailed in increasingly common memoranda of understanding between institutions and/or their campus police departments and local police departments (and perhaps state or federal law enforcement agencies as well).

Lack of cooperation by campus police could impact unwritten, but significant, cooperative expectations among federal, state, and local law enforcement. Resulting tensions may have negative consequences for state and local police and government responsiveness on a range of other matters that significantly affect college and universities, their campuses, and their communities.

Could an institution's officials or campus community members violate federal "harboring" law?

The INA provides for the imposition of criminal penalties and fines on individuals and organizations for employing, concealing, harboring, or shielding from detection unauthorized aliens.³⁹ The statute also makes it unlawful to encourage or induce an alien to come to, enter, or reside in the United States.⁴⁰ The statute penalizes attempts to commit the prohibited acts, as well as aiding or assisting such acts.

In the past, courts have interpreted the harboring prohibition broadly, generally considering "shielding," "harboring," and "concealing" to encompass "conduct tending substantially to facilitate an alien's remaining in the United States illegally."⁴¹ This includes conduct "tending to substantially facilitate an alien's remaining in the United States illegally and to prevent government authorities from detecting the alien's unlawful presence."⁴²

Some recent court decisions have begun to limit the definitions of that which constituted "harboring" under the statute by requiring that the defendant do more than simply provide shelter to an undocumented alien. Those court cases suggest that "harboring" means keeping an alien in any place with the intent to conceal from government authorities, moving an alien, or providing physical protection to an alien. For example, in one case, a restaurant owner was convicted under the harboring provision for employing and providing housing for unauthorized aliens where the court agreed that the defendant had not simply provided housing, but rather had "deliberately safeguard[ed]

39 See 8 U.S.C. § 1324. A "person" under the statute can be either "an individual or an organization." See 8 U.S.C. § 1101(b)(3). See also *United States v. Ye*, 588 F.3d 411, 414 (2009) (noting that "'conceal,' 'harbor,' and 'shield from detection' have independent meanings, and thus a conviction can result from committing (or attempting to commit) any one of the three acts").

40 See 8 U.S.C. § 1324.

41 *United States v. Lopez*, 521 F.2d 437, 441 (2d Cir. 1975).

42 3C Am. Jur. 2d Aliens and Citizens § 2588.

members of a specified group from the authorities.”⁴³ The federal appeals court said that “a defendant is guilty of harboring for purposes of § 1324 by providing a known illegal alien a secure haven, a refuge, a place to stay in which the authorities are unlikely to be seeking him.”⁴⁴ However, there is significant variation among the federal courts as to what must be established regarding the defendant’s intent—in other words, whether the defendant must act with clandestine intent (to hide the alien), whether the defendant must “substantially facilitate” the person’s unlawful stay, or whether “simple sheltering”⁴⁵ is sufficient to trigger statutory liability. In addition, some federal courts have taken the position that a person illegally “encourages” an unauthorized alien to “reside” in the United States when the person takes some action “to facilitate the alien’s ability to live in this country indefinitely.”⁴⁶

Given the fluidity of the broader national attention to immigration issues, the various ways this is being experienced geographically and the possibility that states’ laws may be relevant, as well as the current uncertainty about the particular focus of the new administration’s immigration agenda, it would be prudent to remain attentive to future interpretations of “harboring” by governmental officials, law enforcement, and the courts.

How worried should an institution be about losing federal funding if it is perceived as non-cooperative?

A federal funds recipient certifies or represents generally that it will comply with “all applicable laws” in connection with the receipt of a federal grant or other federal funding. However, at this time, no federal grant documents or guidance have been identified indicating that the primary federal agencies that provide federal financial assistance to institutions (such as the U.S. Department of Education, the National Institutes of Health, and the National Science Foundation) have adopted policies to compel or even request cooperation with the ICE by federal funds recipients, or policies that would provide a specific basis on which to withhold federal funding for noncooperation with ICE’s investigations or requests.⁴⁷ Of course, this could change in the future.

43 *United States v. McClellan*, 794 F. 3d 743, 751 (7th Cir. 2015).

44 *Id.* at 749-50 (quoting *United States v. Costello*, 666 F.3d 1040, 1050 (7th Cir. 2012)); see also *United States v. Vargas-Cordon*, 733 F.3d 366, 381 (2d Cir. 2013) (harboring requires that the defendant intended to facilitate an illegal alien’s remaining in the United States and to prevent the alien’s detection by immigration authorities).

45 *United States v. Acosta de Evans*, 531 F.2d 428, 430 (9th Cir. 1976) (“harbor” means “to afford shelter to”).

46 See *U.S. v. Thum*, 749 F. 3d 1143, 1148 (9th Cir. 2014). Defendants have been convicted under the harboring statute for doing as little as occasionally employing an alien housekeeper and offering advice on how to avoid deportation. See *U.S. v. Henderson*, 857 F. Supp. 2d 191, 210 (D. Mass. 2012) (explaining that encouragement entails “affirmative assistance that makes an alien lacking lawful immigration status more likely to enter or remain in the United States than she otherwise might have been,” quoting *DelRio-Mocci v. Connolly Properties Inc.*, 672 F. 3d 241, 248 [3d Cir. 2012]); *Edwards v. Prime*, 602 F. 3d 1276 (11th Cir. 2010) (finding that defendants had “encouraged or induced” illegal aliens to reside in the United States by knowingly supplying them with jobs and social security numbers to facilitate their employment, because the “Court [gives] a broad interpretation to the phrase ‘encouraging or inducing’ in this context, construing it to include the act of ‘helping’ aliens come to, enter, or remain in the United States”).

47 The standard grant documents that relate to these agencies and that identify various obligations of the grantee and assurances that the grantee provides to the government (e.g., NIH Grants Policy Statement; Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) were considered.

Should international members of our campus communities be concerned?

While media attention has focused on DACA and undocumented students, the change in administration could bring with it policies and protocols that impact international members of campus communities. For example, students from predominantly Muslim countries could face extended security delays for travel to the United States after January 20 if the new administration encourages some of its suggested policy actions. The 9/11 terrorist attacks prompted a call-in registration program that targeted anyone from 26 countries, all but one of which have predominantly Muslim populations.⁴⁸ A similar program could be implemented, or existing review for national security concerns could be expanded.

Campus leaders, as well as advisers to international students, faculty, and staff should remain attentive to the possible implementation of these or other discretionary measures.⁴⁹ They could have a significant impact on the attractiveness and accessibility of American higher education to potential undergraduate and graduate students from other countries.

Where do I turn for more information and advice?

To learn more about DACA, sanctuary, and other post-election issues that impact the higher education community, the National Association of College and University Attorneys (NACUA) will sponsor a webinar on December 8 from 12-2:00 p.m. Eastern Time. The NACUA member rate (also available to ACE members for this webinar) is \$265 per site. To review the program or to register, go to: <https://www.nacua.org/program-events/online-virtual-education/december-8-2016-webinar/home>.

More specifically, institutions would be well advised to consult with knowledgeable in-house or outside counsel. Context matters, i.e., particular facts and circumstances. So do state and local laws, and institutional (and campus police) relationships with state and local policymakers and authorities. Whether an institution is public or private may matter, as may whether students are primarily residents or commuters. These, and other potentially relevant things may require a careful assessment of a particular issue or question in the moment, in a fluid environment.

48 [NSEERS: The Consequences of America's Efforts to Secure Its Borders](#), American-Arab Anti-Discrimination Committee, March 31, 2009. The National Security Entry-Exit Registration System (NSEERS) program was implemented as a counterterrorism tool in the wake of September 11, 2001. The NSEERS program required certain non-immigrants to register themselves at ports of entry and local immigration offices for fingerprints, photographs, and lengthy questioning. The most controversial aspect of the NSEERS program was a "domestic" component that solicited registrations from more than 80,000 males who were inside the United States on temporary visas from Muslim-majority countries.

49 INA Sec. 212(f), 8 USC 1182(f) gives broad powers to designate certain groups of individuals for additional scrutiny; INA Sec. 264, 8 U.S.C. 1304 gives the government broad power to mandate registration of certain groups of people. See [here](#).