



## Fund for Leadership, Equity, Access and Diversity



### LEAD Fund Authors for 2017:

**Dakota Strode**  
*LGBTQA+ RIGHTS & OBAMA*

**Natalie Giron**  
*Educational Experience of Undocumented Latinx Students and Their Families in the New Political Climate*



## **About the LEAD Fund and the LEAD Fund Authors Program**

The Fund for Leadership, Equity, Access and Diversity (LEAD Fund) was established to provide thought leadership in promoting inclusive organizations and institutions through research and education on issues related to diversity, social responsibility, human and civil rights. The LEAD Fund is a "Think and Do" tank, which advances new knowledge and tested strategies aimed at eliminating prejudice and discrimination.

The Fund is a 501 (c) (3) charitable organization. It complements the work of the American Association for Access, Equity and Diversity (AAAED) through programs and activities that address a range of concerns, including affirmative action, equal opportunity, equity, access, civil rights, and diversity and inclusion in education, employment, business and contracting. The scope of the Fund's activities is both domestic and international. The LEAD Fund places a special emphasis on the emerging demographics in the United States in all of its work.

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LEAD Fund Authors are selected among a diverse pool of applicants who present their work in the form of poster presentations at the American Association for Access, Equity, and Diversity's (AAAED) annual conference and in other venues. After the conference, selected presenters will become LEAD Fund Authors and will have the opportunity to have their presentations published by the Fund. LEAD Fund Authors also have an opportunity to become LEAD Fund Fellows after graduation and to foster relationships with AAAED professionals.

LEAD Fund Authors' presentations are intended to disseminate fresh ideas on methods to promote access, equity, and diversity in employment, education and business/contracting.

We are pleased to publish the research of our first class of LEAD Fund Authors: Dakota Strode and Natalie Giron.

The LEAD Fund would like to thank Merle Singer, editor, for her work preparing this publication, and Desmond L. Moffitt, 2017 intern and now graduate of George Mason University, whose ideas led to the creation of the LEAD Fund Authors program.

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# LEAD Fund Authors for 2017

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**Dakota Strode**

**LGBTQA+ RIGHTS &  
OBAMA**

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## Abstract and Introduction

Over the past several decades, LGBTQA+ rights have greatly expanded due to the growing support and acceptance of the LGBTQA+ community by Americans.<sup>1</sup> Each modern president has contributed through aiding or harming the LGBTQA+ community's continuous fight for legal equality.

As the most influential president in advancing the civil liberties of the LGBTQA+ community, President Barack Obama enabled the LGBTQA+ community to claim their social rights by using the power vested in him as the president of the United States. President Obama used the media to affect the legal battles still being fought today by the LGBTQA+ community, created numerous executive decisions that gave rights to members of the LGBTQA+ community, appointed influential justices that have given LGBTQA+ rights, and supported various other advancements for the movement. While many people view issues related to the LGBTQA+ community to be exclusively under state jurisdiction, President Obama used his powers of law creation, media manipulation, and rhetorical persuasion to expand and secure the rights of the LGBTQA+ community during his eight year reign, rebranding the image of LGBTQA+ America.



## A Brief History of Previous Actions

The gay rights movement in America started in the early twentieth century. Groups formed to address political discrimination, both in the public and private spheres; however, discrimination became more apparent as homosexuality was classified as a mental illness. In the 1950s, following this classification, 4,880 service members or federal employees were either discharged from the military or removed from their federal jobs in an event that was known as the "Lavender Scare." This was the first action taken by a president on the issue of homosexuality. President Eisenhower issued an executive order in 1953 that barred homosexuals from any federal job because their mental health classification made them a danger to national security.<sup>2</sup> Homosexuals that were purged during the Lavender Scare became threats to the government not only because of their mental health classification, but also because they were likened to Communists during the era of McCarthyism because both were seen in America as immoral, godless, and threatening to the heterosexual family.<sup>3</sup>

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<sup>1</sup> In this paper, LGBTQA+ is an acronym for Lesbian, Gay, Bisexual, Transgender, Queer, Questioning, Aerosexual, Asexual, or Aromantic, and all others who identify within the community.

<sup>2</sup> «Timeline: Milestones in the American Gay Rights Movement,» *American Experience*.

<sup>3</sup> In Judith Adkins, «Congressional Investigations and the Lavender Scare,» *National Archives and Records Administration*, (Summer 2016): 3.

While limited federal government intervention occurred between 1950 and 1980, several states and local governments took action to protect LGBTQA+ citizens. Many marches, protests, elections of LGBT officials, and rallies led to local and state actions on the issue, such as in 1962 when Illinois became the first state to decriminalize homosexuality. After an LGBTQA+ sit in at a New York bar to protest discriminatory serving laws in 1966, the New York City Commission on Human Rights ruled that homosexuals must be served. In 1969, the Stonewall Riot triggered the beginning of the modern LGBTQA+ Rights movement. Harvey Milk, one of the first openly gay politicians, came into power in the late 1970s, promoting anti-discriminatory legislation in California. A few short years after Milk's assassination, Wisconsin became the first state to ban discrimination based on sexual orientation.<sup>4</sup>

Major movements by the United States government would come when the Supreme Court ruled later in the 1950s in *One, Inc. v. Olesen* that magazines featuring homosexual themes were protected by the First Amendment. During the AIDS scare of the 1980s, advocates marched and protested in Washington, D.C., to pressure President Reagan to address the issue. As a result, in 1987, the Centers for Disease Control sent 107 million brochures to Americans to explain the AIDS epidemic. In 1990, the Bush administration tackled the issue of AIDS, when President Bush signed the Ryan White Act, providing federal funding to assist those who contracted the disease.<sup>5</sup>

In the modern presidential era, from President Clinton on, LGBT rights gradually advanced until the current administration. "Don't Ask, Don't Tell," a 1993 military doctrine preventing the questioning of homosexuality by military officials, and not allowing homosexuals to identify or engage in homosexual acts, was an improvement from the previous status of gays and lesbians in the military at the time. In 1996, *Romer v. Evans*, outlawed state discrimination of gays based on the people's or their local governments' dislike of homosexuality.<sup>6</sup> However, President Clinton signed the Defense Against Marriage Act, which allowed states to not recognize same-sex marriages from other states. Further advancements such as *Lawrence v. Texas*, which banned sodomy laws in America in 2003, and numerous states granting LGBTQA+ rights inclusive of marriage and anti-discrimination laws, aided in establishing the platform for the Obama Administration to take over.<sup>7</sup>

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<sup>4</sup> «Timeline: Milestones in the American Gay Rights Movement,» *American Experience*.

<sup>5</sup> «Timeline: Milestones in the American Gay Rights Movement,» *American Experience*.

<sup>6</sup> 517 US 620 (1996)

<sup>7</sup> «Timeline: Milestones in the American Gay Rights Movement,» *American Experience*.

As LGBTQA+ rights in America began to expand, presidents prior to Obama both harmed and helped LGBTQA+ rights through their numerous avenues to influence public policy. However, more than any other president, Barack Obama advocated and created opportunity for the LGBTQA+ community. Through the use of executive orders and actions, the president was able to create federal law to protect and give rights to members of the LGBTQA+ community. President Obama's influence on promoting LGBTQA+ rights can be seen through his use of agenda setting and his use of the media through changing the rhetoric about the issue during press related events. His words influenced not only the people to change their opinions about LGBTQA+ rights, but also Congress, causing them to take action on the issue, otherwise known as his powers to rhetorically and legislatively agenda set. Obama's judicial appointments that have ruled in favor of numerous LGBTQA+ cases, proving to also aid in his fight for LGBTQA+ rights.



### **The Obama Administration: Executive Orders and Actions**

Since entering office in 2009, President Obama used his power of creating executive orders, memorandums, and actions to advance LGBTQA+ rights. Executive orders, or the president's ability to direct federal agencies to operate under congressional law as he wants, carry the weight of federal law. One of President Obama's first executive orders came in 2009 when he directed all federal agencies to provide the same benefits to same-sex partners as married couples in every way that the agencies were able to. The order also was one of the first executive orders to prohibit executive agencies from discriminating against employees based on anything - sexual orientation included - other than their performance on the job.<sup>8</sup> Because this was one of the first anti-discriminatory policies to protect LGBTQA+ individuals in the federal government, it would set the tone for future Obama administration policies to protect LGBTQA+ individuals.

By eliminating discriminatory bans of hospitals towards LGBTQA+ visitors, Obama was directly able to affect institutional policies that discriminated against members of the LGBTQA+ community. One of the president's first majorly influential memorandums was created in 2010, when he ordered the Department of Health and Human Services to create regulations preventing hospitals receiving Medicaid and Medicare funding from preventing LGBTQA+ people visiting these locations. The Department of Health and Human Services would also give grants

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<sup>8</sup> Barack Obama, «Memorandum for the Heads of Executive Departments and Agencies on Federal Benefits and Non-Discrimination, 6-17-09,» *The White House*, June 17, 2009, 1-3.

to LGBTQA+ youth support systems under the direction of President Obama.<sup>9</sup> By directing the Department of Health and Human Services to provide funding to LGBTQA+ support groups, Obama was able to use his power as the president to directly impact LGBTQA+ youths who do not have proper LGBTQA+ healthcare support.

The use of presidential memorandums gives the president power to direct agencies, specifically his cabinet departments, to address issues that can be impacted by his agencies. By directing the Department of Health and Human Services to provide funding to LGBTQA+ support groups, Obama was able to use his power as the president to directly impact LGBTQA+ youths that do not have proper LGBTQA+ healthcare support.

Another major advancement for the LGBTQA+ community came in 2011, when President Obama ordered the Department of Justice to end its protection of the Defense of Marriage Act, a law that not only allows for states to discriminate against same-sex couples, but also prevents them from gaining benefits that are acquired through legalized marriage. After it was challenged in court, Obama concluded that the law violated the Equal Protection Clause of the Constitution and contained provisions that were discriminatory and unreflective of modern America.<sup>10</sup> Soon after, the Supreme Court struck down the law in 2013 agreeing with the president, that the law violated the Equal Protection Clause of the Fourteenth Amendment. Obama was able to direct his agencies to change policy about the issue, which gathered major public attention, demonstrating both his ability to use his informal powers to direct the bureaucracy and to draw attention to the issue.

One of President Obama's most influential policies came in 2014, when he issued an executive order which protected all federal employees from discrimination based on gender identity.<sup>11</sup> Previously, federal employees who did not identify by their assigned genders at birth were subjected to numerous forms of discrimination; however, because the president has direct control over federal agencies, Obama was able to legally end all discrimination in federal agencies. Not only did this executive order apply on the federal level, but it also applied to any business receiving federal contracts from sexual orientation or

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<sup>9</sup> «Obama Administration Advancements on Behalf of LGBTQ Americans | Human Rights Campaign,» Human Rights Campaign.

<sup>10</sup> Brian Montopoli, «Obama administration will no longer defend DOMA,» CBS News, February 24th, 2011, 1-2.

<sup>11</sup> «Obama Administration Advancements on Behalf of LGBTQ Americans | Human Rights Campaign,» Human Rights Campaign.

gender based discrimination, which provides LGBTQA+ protection on a national level.<sup>12</sup> Obama's use of executive orders, particularly in this case, demonstrates how he was able to elevate LGBTQA+ rights by extending his power to protect them.



## The Obama Administration: Media and Rhetoric

Other than his direct influence over the federal bureaucracy to improve the lives of LGBTQA+ citizens, President Obama was also able to draw attention to the issues facing the LGBTQA+ community by his use of the media to promote his political agenda. President Obama's most influential media tactics included: his use of social media, speeches, town halls, and press conferences. With the media coverage of these events, President Obama was able to use his power of agenda setting and the bully pulpit.

Obama's ability to draw attention to the issue of LGBTQA+ rights, after the brutal murders of Matthew Shepard and James Byrd, Jr. in 1998, exemplifies how the President can rally Congress into taking major action.<sup>13</sup> Beginning in 2008, Obama created a plan to expand hate crime legislation, and in the following year, the president met with Judy Shepard and continued pressuring the Senate to pass hate crime legislation and later attended the 13th annual Human Rights Campaign National Dinner where he restated his support for the law.<sup>14</sup> President Obama's signing of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA), in 2009 captures the skill of the president to urge Congress into taking action on particularly troublesome issues like hate motivated crimes. HCPA allows for the Department of Justice to investigate, aid state investigations, and prosecute crimes based on hate motivation. Grants can be provided to states to help train officers on understanding hate-motivated crimes and to cover the expenses of the investigations. In addition, the FBI is required to keep statistics of crimes based on gender and gender identity.<sup>15</sup>

Obama was able to bring awareness to major issues facing the community like those discussed with the HCPA through his rhetorical pressure on Congress; however, he has also used the media to set his agenda to establish LGBTQA+ rights and bring awareness to the issues facing the community. In doing so, Obama was able to pressure Congress into taking action to address the LGBTQA+

<sup>12</sup> «Obama Administration Advancements on Behalf of LGBTQ Americans | Human Rights Campaign,» *Human Rights Campaign*.

<sup>13</sup> «Hate Crimes Timeline,» *Human Rights Campaign*, February 1, 2010, 3.

<sup>14</sup> «Hate Crimes Timeline,» *Human Rights Campaign*, 8-9.

<sup>15</sup> «Q&A: Hate Crimes Prevention Act,» *Human Rights Campaign*, February 1, 2010, 2-3.

issues that he influenced the people to adopt as important. The use of President Obama's bully pulpit, or his ability to set the agenda through his persuasion of people and Congress, greatly impacted LGBTQA+ legislation. For example, President Obama was able to pass the Affordable Care Act in 2010, which provided numerous benefits to the LGBTQA+ community such as, preventing insurance agencies from discriminating against people based on sexual orientation or a pre-existing condition, and it also allowed for individuals living with HIV/AIDS to receive coverage under Medicaid.<sup>16</sup> Obama's ability to advocate for this policy and to pressure Congress to enact his legislation not only shows that President Obama had legislative agenda setting powers, but that he was also able to give greater healthcare access to LGBTQA+ individuals.

Another example of President Obama's use of agenda setting is best demonstrated by his ability to pressure Congress between 2009 and 2010 to repeal Don't Ask, Don't Tell. During the debate among Congress about the repeal, the president had numerous reports sent to Congress and had military leaders address Congress about the non-existent risks of allowing openly gay, lesbian, and bisexual military personnel to serve and the promotion of the law's repeal. His ability to pressure Congress into passing the repeal law demonstrates his legislative agenda setting power and its effectiveness.<sup>17</sup>

The Obama administration has also been credited with expanding the term LGBT to LGBTQ and to the more modern terms LGBTQA and LGBTQA+. Obama was able to frame the rights movement and rhetoric surrounding it to expand the rights for many Americans. Previously, the Obama administration had addressed the group as LGBT; however, they expanded the term to be inclusive of QA. QA is inclusive of queer, questioning, and arosexual, asexual, or aromantic. With the expansion of this group, many more people who identified within the LGBT community would be represented legally. For example, in 2011, the Department of Justice issued regulations to prevent sexual abuse in correctional facilities, whereas before, only select minority groups had access to help. Because the Obama administration included Q and intersex, I, into these regulations, more members of the LGBTQA+ community gained legal rights, and it expanded the notion of who was included within the community to many Americans who were unaware of the other members of the community.<sup>18</sup> Additionally, in 2014,

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<sup>16</sup> «FACT SHEET: Obama Administration's Record and the LGBT Community,» *The White House*, June 9, 2016.

<sup>17</sup> «Hate Carl Hulse, «Senate Repeals Ban Against Openly Gay Military Personnel,» *The New York Times*, December 18, 2010, 1-2.

<sup>18</sup> «Obama Administration Advancements on Behalf of LGBTQ Americans | Human Rights Campaign,» *Human Rights Campaign*.

the United States Agency for International Development funded LGBTI human rights programs in Asia, as well as advancing LGBTI awareness and aid in other nations.<sup>19</sup>

Town halls, speeches, and press conferences proved to be one of Obama's most impactful ways to use his power of the bully pulpit. In his speeches, the president was able to publicly address an issue while pressuring the people and Congress to take his side on the topic. Given that he has a great amount of influence over America because of the power he had by his title, he was able to rally a great amount of support around his ideas. For example, during his 2015 speech given in Selma, Alabama, President Obama connected the Civil Rights movement of the 1960s to the Gay Rights movement of the 1970s. He related the struggles dealt with each day by gay Americans, and the bloodshed that they have faced, while calling on America to continue progress towards social justice. Obama called on Congress to renew the Voting Rights Act, which would protect LGBTQA+ citizens from discriminatory voting laws that would prevent voting based on gender identity and assigned gender at birth.<sup>20</sup>

Town halls and press conferences were also useful in Obama's advancement of LGBTQA+ rights. Like most presidents, Obama occasionally had audience members who were pre-approved with questions, which he could answer to directly address issues facing America.<sup>21</sup> However, he could also tailor his answers about specific questions to help frame the challenges in America. During his 2016 speech at a town hall in London, President Obama specifically answered a question from an audience member asking his opinions about the social movements that had morphed his perceptions on particular issues. Obama explained the reasoning behind what marriage equality was to him stating,

“... [I]t was not simply about legal rights but about a sense of stigma – that if you’re calling it something different it means less in the eyes of society. I believe that the manner in which the LGBT community described marriage equality as not some radical thing but actually reached out to people who said they care about family values and said ‘if you care about everything that families provide – stability and commitment and partnership – then this is actually a pretty conservative position to take, that you should be in favor of this.’ I thought there was a lot of smarts in reaching out and building and framing the issue in a way that could bring in people who initially didn’t agree with them.”<sup>22</sup>



<sup>19</sup> «FACT SHEET: Obama Administration's Record and the LGBT Community,» *The White House*, June 9, 2016.

<sup>20</sup> Maya Rhodan, «Full Text of President Obama's 'Bloody Sunday' Speech in Selma,» *Time*, March 7, 2015, 5, 7-8.

<sup>21</sup> Susan Milligan, «The President and the Press,» *Columbia Journalism Review*, (March & April 2015): 7.

<sup>22</sup> Andy Towle, «President Obama Explains What Changed His Mind on Marriage Equality to Youth Town Hall in London: WATCH,» *Towleroad*, April 13, 2016, 2-3.

Obama was able to globally speak about what marriage equality means to him, creating a definition of same-sex marriage that many people might not have assumed. This speech at the London town hall demonstrated not only the president's ability to continue pressuring for marriage equality as a major agenda issue, but it also exemplified Obama's strategy of "framing" because he was able to change the narrative of same-sex marriage to marriage equality.

Framing an issue can be described as the president's power to rephrase rhetoric around an issue in order to pressure for agenda goals or to rephrase ideas into people's minds. Within his answer at the town hall, the president made several changes to previously assumed ideas about same-sex marriage. For example, he stated, "people I loved who were in monogamous same-sex relationships," which conveys the idea that gay people were in monogamous relationships, rather than the stereotype that gay people are promiscuous.<sup>23</sup> He stated that civil unions and not allowing marriage equality demean gay people in society. Just by using the term, "marriage equality," he was changing the narrative from same-sex marriage to marriage equality. Obama finally stated that marriage equality provides for stable families, which can provide for productive child raising, de-stigmatizing the idea that gay couples cannot properly raise children.<sup>24</sup> As demonstrated in this town hall address, President Obama was able to change the rhetoric on same-sex marriage, instituting social equality ideas and LGBTQA+ ideals.

In order to reach a larger audience of Americans, media coverage of the president expanded through the use of the television. Since television coverage is a major way many Americans receive their news, it is a potential way the president can influence his citizens.<sup>25</sup> With regard to LGBTQA+ rights, a growing public concern over the treatment of this minority group has raised media attention about the issue.<sup>26</sup> Media coverage of LGBTQA+ related issues enabled the president to expand his scope of influence on the issue, providing him an outlet to gain support on his policies that could aid the community.<sup>27</sup> For example, in March of 2016, President Obama presented a presidential proclamation that established June as LGBT Pride Month. This action aimed to use the media to explain to America that

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<sup>23</sup> Towle, «President Obama Explains What Changed His Mind on Marriage Equality to Youth Town Hall in London: WATCH,» 2.

<sup>24</sup> Towle, «President Obama Explains What Changed His Mind on Marriage Equality to Youth Town Hall in London: WATCH,» 2.

<sup>25</sup> Jeffrey S. Peake, and Matthew Eshbaugh-Sona, «The Agenda-Setting Impact of Major Presidential TV Addresses,» *Routledge: Taylor & Francis Group*, (2008): 118.

<sup>26</sup> Jeffrey S. Peake and Matthew Eshbaugh-Sona, «The Agenda-Setting Impact of Major Presidential TV Addresses,» 118.

<sup>27</sup> Paul Waldman, «Is President Obama Reinventing the Bully Pulpit?» *The Washington Post*, December 22, 2014, 1.

by creating a “holiday” for LGBTQA+ people, Americans could help to “eliminate prejudice” and, in the words of Obama, “celebrate the great diversity of the American people.”<sup>28</sup> Because the media covered this address, the President was able to create a “safe zone” for LGBTQA+ Americans in June while raising public awareness about LGBT rights.



With the power of the president comes the power of “assumed leadership.” This means that, by just having the title of president, Obama assumed a leadership role over Americans - the people looked up to the president for guidance and wisdom.<sup>29</sup> In connection with LGBTQA+ rights, Obama demonstrated his ability to gather support because he, as the President, declared LGBTQA+ rights to be important. For example, by making Stonewall Park the first LGBTQ monument in June of 2016, President Obama drew attention to the importance of LGBTQ rights through the media coverage this presidential action received.<sup>30</sup> Accordingly, if the people see that the president created a national monument for LGBTQA+ people, then it must be an important issue; therefore, they too should consider it important.

### The Obama Administration: The Judiciary

Other than framing and his various uses of rhetorical powers, the president also used his power of judicial appointment in order to select judges and justices that would eventually rule in favor of the LGBTQA+ community in numerous cases. During his presidency, Obama nominated eleven openly homosexual judges to the courts.<sup>31</sup> No other president has nominated this many homosexual judges before, which implies that President Obama is advocating more than any other president to add a LGBTQA+ point of view to the judicial system. Additionally, the justices appointed by the president have had major impacts on the LGBTQA+ community, such as the Fourth Circuit Court of Appeals judge, Henry Floyd, who decided in favor of transgender restrooms and struck down same-sex marriage bans,<sup>32</sup> and the ruling in the historic Supreme Court decision in *Obergefell v. Hodges*. In this case, the court ruled in favor of the legalization of same-sex marriage across the United States.<sup>33</sup> The two justices who helped create the majority rule on this case were two appointees from President Obama, Justice Sonia Sotomayor and Elena Kagan. Both women helped establish the majority rule in this case and promoted ~~the advancement of gay~~ rights. Because the Obama administration selected

<sup>28</sup> Barack Obama, «Presidential Proclamation – LGBT Pride Month, 2016,» *The White House*, May 31, 2016, 2.

<sup>29</sup> Julian E Zelizer, «President's bully pulpit is not what it used to be,» CNN, July 11, 2011.

<sup>30</sup> «Obama Administration Advancements on Behalf of LGBTQ Americans | Human Rights Campaign,» *Human Rights Campaign*.

<sup>31</sup> Michael Grunwald, «Did Obama Win the Judicial Wars?» *POLITICO*, August 8, 2016, 3.

<sup>32</sup> Michael Grunwald, «Did Obama Win the Judicial Wars?», 6.

<sup>33</sup> *Obergefell v. Hodges* Director, Ohio Department of Health, 576 US\_ (2015). 1 – 103, *Supreme Court of the United States*, June 26, 2015.

liberal leaning Sonia Sotomayor and Elena Kagan, President Obama was able to promote LGBTQA+ rights in the courts. This ruling set a precedent for future cases about LGBTQA+ rights, in that the court will rely on this ruling to further the group's rights.

### The LGBTQA+ Community v. the States

While President Obama and his administration made a significant impact on the rights of the LGBTQA+ community, many people believe that the president used his power to take the rights of the people and the states away in order to advance the LGBTQA+ agenda. Since the legalization of same-sex marriage, several states have introduced religious liberty bills that would enable businesses from providing services to any member of the LGBTQA+ community if the owner found that by serving these people, he or she would be compromising his or her religious beliefs.<sup>34</sup> In addition to this discrimination, several states have begun to target the transgender members of the LGBTQA+ community since the legalization of same-sex marriage. For example, in North Carolina, the state government adopted a law that separates bathrooms by two biological genders, male and female. Many transgender people feel that it is difficult to personally identify by a particular gender, and as the verbal and physical attacks on transgender people have grown over the past several years, transgender people feel a lack of safety entering in a bathroom that could harbor such discomfort and potential danger.<sup>35</sup> The debate over LGBTQA+ rights and the states can not only be exemplified through the treatment of transgender people, but also in the treatment of the entire community over their right to marry.

Marriage has historically been a state governed right of the people because it is a power not explicitly stated in the Constitution to be a federal power, but assumed by the states. However, after the Supreme Court ruled that same-sex marriage was legal, it removed a constitutionally permitted state right away from the states. Since the government took away a right in the Constitution due to the Supreme Court decision, many Americans also felt threatened that the government could begin to take away many of their other rights, such as their religious liberty rights, an assumed reason to discriminate against the LGBTQA+ community. As the Obama administration continued to promote LGBTQA+ rights, these fears only became more solidified in these people as demonstrated by the spike in religious liberty-anti-LGBT legislation passed following the Courts' decision. Since 2013, two hundred pieces of legislation have been introduced in America promoting

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<sup>34</sup> Can Religious Freedom and LGBT Rights Co-Exist? *The Atlantic*, April 25, 2016.

<sup>35</sup> Can Religious Freedom and LGBT Rights Co-Exist?

anti-LGBT sentiments, many of which seek to preserve religious freedom as a way to discriminate against the LGBTQA+ community, twenty of which, have actually been signed into law.<sup>36</sup>

In order to counter these discriminatory actions taken by the states and the people, President Obama used his control over federal agencies to legally try to halt these actions. For example, following the North Carolina transgender debate, the Department of Justice, the U.S. Equal Opportunity Employment Commission, and the Department of Education released statements stating that by forcing students to conform to a particular gender that they do not associate with or by preventing transgender people from using a particular restroom were a form of sexual discrimination.<sup>37</sup> In addition to this particular case, the United States Supreme Court agreed to hear the case on the legality of the North Carolina anti-transgender bathroom law, which could again demonstrate how the Obama justices could help the majority to advance the LGBTQA+ Obama agenda by voting in favor of the law's illegality.



### Future Presidents and LGBTQA+ Rights

Even though President Obama and his administration advocated heavily for the rights and equal treatment of the LGBTQA+ community, he and his administration's work could all be unraveled by the incoming president. Each new president has the ability to override the previous president's executive orders, actions, memorandums, and he or she can restructure the bureaucratic agencies to operate in such a way that could remove rights from the LGBTQA+ community. In order to combat the potential setbacks and future harm that could come to the LGBTQA+ community, the president used his power of influence to rally popular support around a particular candidate that would continue his work in the next presidency. For example, President Obama tried to use the power in his title as the president and the power of influence that accompanies it in order to urge the people of the United States to vote for presidential candidate Hillary Rodham Clinton in the 2016 election because she would have the ability to continue the advancement of the LGBTQA+ community. Clinton has advocated LGBTQA+ rights not only in America, but abroad as well. She also claimed to make presidential orders and work with Congress to remove and prevent all LGBT discrimination when elected.<sup>38</sup>

<sup>36</sup> Everdeen Mason, and Aaron Williams, and Kennedy Elliot, «The Dramatic Rise in State Efforts to Limit LGBT Rights,» *The Washington Post*, July 1, 2016, 2-3.

<sup>37</sup> Katy Stienmetz, «Why So Many States Are Fighting Over LGBT Rights in 2016,» *Time*, March 31, 2016, 4.

<sup>38</sup> Joshua Eaton, "Where Hillary Clinton and Donald Trump Stand on LGBTQ Rights," *Teen Vogue*, July 28, 2016, 2-3.

However, Donald Trump beat Hillary Clinton and became the President of the United States. While campaigning, he provided little information about his agenda for the LGBTQA+ community while campaigning. However, President Trump was the first Republican candidate to express interest in the LGBTQA+ community during a nomination speech.<sup>39</sup> Once in office, he upheld President Obama's executive order to protect federal employees from anti-LGBT discrimination, and he refused to sign an executive order to allow religiously based people and organizations from discriminating against the LGBTQA+ community because it infringed on their faiths, providing an optimistic outlook for the LGBTQA+ community.<sup>40, 41</sup> Trump later reversed Obama's Department of Education and Department of Justice's guidance about protecting transgender students, giving the right to determine the treatment of transgender students from the federal government back to the states.<sup>42</sup> Additionally, Trump attempted to ban transgender people from serving in the military; however, that issue is still being debated by the court system.<sup>43</sup> President Trump's mixed support and attacks on the LGBTQA+ community created uncertainty for the future of LGBTQA+ rights in America.

## Conclusion

Under the Obama administration - more so than under any other presidency - LGBTQA+ rights have significantly expanded. As the president of the United States, Barack Obama used his power to influence the media, to create executive orders, actions, and memorandums, to appoint federal justices, and to use his rhetoric to agenda set in order to provide social rights to the LGBTQA+ community and promote their social acceptance in America. Religious liberty retaliation against the Obama Administration's LGBTQA+ equality stance has caused a few setbacks for the LGBTQA+ community; however, President Obama continued to advocate for the rights of the LGBTQA+ community for the remainder of his presidential term and into the potential president's next term.

While President Obama greatly helped to secure equality for the LGBTQA+ community, in order to continue the advancement of LGBTQA+ rights, there needs to be increased public support for this cause. Specifically, more LGBT

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<sup>39</sup> David Jackson, «Trump to keep Obama executive order for LGBTQ workplace protections,» *USA Today*, January 15, 2017, 1.

<sup>40</sup> Jackson, «Trump to keep Obama executive order for LGBTQ workplace protections,» 1-2.

<sup>41</sup> Sandhya Somashekhar, Emma Brown, and Moriah Balingit, «Trump administration rolls back protections for transgender students,» *The Washington Post*, February 22, 2017, 3.

<sup>42</sup> Somashekhar, Brown, and Balingit, «Trump administration rolls back protections for transgender students,» 1-2.

<sup>43</sup> David Phillips, "Judge Blocks Trump's Ban on Transgender Troops in Military," *The New York Times*, October 30, 2017, 1.

public officials must be elected because they increase the visibility of the LGBTQA+ community and have a greater ability to advocate for the rights of this minority group. Additionally, to increase public support of the LGBTQA+ community, more education in regard to LGBTQA+ issues must be administered in schools, bringing awareness of the needs of the LGBTQA+ community to the public. This can be accomplished through increased funding for LGBTQ student groups, the use of LGBTQ curricula in schools, and the hiring of LGBTQA+ teachers. If students and the public increase their knowledge of LGBTQA+ needs, then there is a higher likelihood that these needs can be advocated for and addressed at all levels of government.



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### LEAD Fund Author's Biography

Dakota Strode hails from Central Illinois and is a senior at American University in Washington, D.C., where he studies political science and the Russian language. Dakota enjoys studying LGBTQA+ culture and history. In his free time, he is involved in various LGBTQA+ groups on campus, tries to keep up to date on political affairs, and also enjoys running and cooking. Dakota likes "scary movies and upbeat, pop music." He also likes to believe that he is the meshing point between Sasha Velour and **Катя Замолодчикова**. In the fall of 2017, he attended Trinity College in Dublin, Ireland where he studied queer politics in the nation.



**Natalie Giron**

# ***Educational Experience of Undocumented Latinx Students and Their Families in the New Political Climate***

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## Abstract

This paper focuses on how the current issue of immigration policy under Trump, the Supreme Court split decision in *United States v. Texas*, as well as Deferred Action for Parents of American Lawful Permanent Residents (DAPA) and Deferred Action for Childhood Arrivals (DACA) affect the access to and success of education for undocumented students and their families. In addition, the paper reveals the extent to which President Trump's immigration policies have caused undocumented students and student-citizens to become more anxious, stressed, and depressed regarding their status and the status of their families.<sup>1</sup>



By measuring themes of anxiety, fear, and stress, this research explores the perspective of eight students—seven of whom are undocumented and one who is a student-citizen with undocumented parents—on how the election has affected their mental health and success in school. The anti-immigration rhetoric propagated throughout and since the recent election has had an overwhelming impact on many communities; the results of these interviews reflect that the 2016 election and current administration have affected the mental health and educational success of undocumented students. This research aims to contribute to the inclusiveness and rights of undocumented students and students with undocumented parents in the United States.

## Introduction

In November 2014, President Obama announced the initiation of DAPA and the expansion of DACA.<sup>2</sup> DAPA would stop the deportations of undocumented parents of U.S. citizens and lawful permanent residents.<sup>3</sup> However, states such as Texas believed that providing work permits for undocumented parents placed an undue burden and that the federal government exceeded their constitutional powers.<sup>4</sup> The split decision in the case *United States v. Texas* has prevented four out of the eleven million immigrants whose children are citizens from getting work permits.<sup>5</sup> By targeting immigrant parents' eligibility to work legally in the United States, the Supreme Court decision on DAPA indirectly affects undocumented and

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<sup>1</sup> L.E. Gulbas et al., "Deportation Experiences and Depression among U.S. Citizen-Children with Undocumented Mexican Parents," *Child: Care, Health & Development* 42, no. 2 (2016): 220.

<sup>2</sup> Stephany Cuevas and Amy Cheung, "Dissolving Boundaries: Understanding Undocumented Students' Educational Experiences," *Harvard Educational Review* 85, no. 3 (2015): 311.

<sup>3</sup> Cuevas and Cheung, "Understanding Undocumented Students' Educational Experiences," 311.

<sup>4</sup> *United States v. Texas*, 579 U.S. \_\_ (2016): 60.

<sup>5</sup> National Immigration Law Center, *New questions and answers about DACA now that Trump is president*, (2017).

student-citizens' mental health and success in school.<sup>6</sup> Additionally, the new immigration policies under President Trump and the instability on DACA affect the access to and educational success of undocumented students. The American Psychological Association (APA) found that loss of and separations from family members and familiar customs, traditions, and changes in socioeconomic status have the potential to serve as a catalyst for the development of a variety of psychological problems.<sup>7</sup> The factors that contribute to success in school are parental and financial support, which will be increasingly difficult for students with undocumented parents.<sup>8</sup> The decision of DAPA and President's Trump's immigration policies harms undocumented students and student-citizens with undocumented parents, and it violates the Equal Protection Clause of the 14th Amendment.

## Methodology

Through this research I interviewed eight students—four women and four men, with mixed immigration statuses, whose ages ranged from 19 to 24. One student is a citizen but has parents and family members who are undocumented, three students are in the process of getting their residency but still have DACA, and the remaining four students are undocumented but have DACA.

I received full Institutional Review Board approval from American University to interview these students as well the students' consent to write about their experiences. I coded the research by reading the transcripts and highlighting themes relating to mental health (e.g., stress, anxiety, and depression); educational success (e.g., not attending class, needing extension on papers, not completing homework); and work authorization (e.g., how many students were employed before and after DACA, whether their parents work, and the types of jobs they have held in the United States).

## Results

The results of this research were separated into three sections—mental health, educational success, and work authorization. In this new political climate, these were the categories I found important to consider for undocumented students

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<sup>6</sup> American Psychological Association, "Crossroads: The Psychology of Immigration in the New Century," Presidential Task Force on Immigration (2012): 7.

<sup>7</sup> APA, "The Psychology of Immigration in the New Century," 7.

<sup>8</sup> Tracy Lachica Buenavista, "Issues Affecting U.S. Filipino Student Access to Postsecondary Education: A Critical Race Theory Perspective," *Journal of Education for Students Placed at Risk* 15, no. 1-2 (2010): 120.

and student-citizens with undocumented family members. However, for this paper I will only be discussing the results of the 2016 election on students' mental health and educational success.



### **Mental Health**

The first theme of mental health was stress. All eight students felt stressed about the uncertainty of their future because of their and their parents' undocumented status. The next theme was fear/anxiety. All eight experienced these feelings when Trump was elected because they knew his immigration policies were going to specifically target their community, essentially affecting their future. The third theme was hopelessness, with six out of eight students feeling as though nothing they did, such as organizing and protesting, would work with the Trump administration because of their sentiments against the immigrant population. The third theme was paranoia because of the unpredictability of Trump, his policies, and his administration. I found that six out of eight students were in a constant state of paranoia after the 2016 election, and the paranoia intensified when President Trump signed the executive orders for the Muslim ban and border control policies.

### **Educational Success**

I found that this election did impact the educational success of undocumented students. In this research, I define educational success as turning in assignments on time, attending and passing class, and completing homework. For instance, if students' normal school routine was disrupted post-election, that would be classified as affecting their educational success. More than half of the students, five out of eight, struggled in school directly after the election. "Struggled" indicates that students had to ask for extensions on their papers, did not turn in assignments on time, did not work at their full capacity, and did not go to class. Students revealed that they could not find the purpose of going to school because of the uncertainty of DACA, their future, and the safety of their family and their community. These students felt detached from what they were learning in class because these topics did not address the new administration's and the country's perceived hatred toward and fear of undocumented immigrants. Students realized that they could not plan for life after college because of the uncertainty of losing all of their benefits from DACA. The constant reminders of Trump's policies through the media affected their mental health and school success because students knew that at any moment they could lose everything they had worked so hard to achieve, such as their college degree.



## Background

### Life of an Undocumented Student

The young people who migrate with their parents at an early age and grow up in the United States move through confusing and contradictory experiences of belonging and rejection as they make critical transitions from childhood to adolescence and adulthood.<sup>9</sup> In this research, I found that the undocumented students had a difficult childhood when they first arrived in the United States because of the language barrier and their culture and status. As one student said,

*There was an intense criminalization of immigrants, and that's when I started to realize—I knew I was undocumented my whole time, but that's when I realized, oh, they really don't want us here, like this goes beyond just like, you know, that we didn't come here without papers; it's a lot more than that....The harsher reality of realizing that I wasn't wanted here, that people had these really intense opinions about me, and I started learning about deportation and that I could be forcibly removed from my family.*<sup>10</sup>

The support and trust from educators is important for the success of undocumented students, who often have to find their own way through the convoluted education system.<sup>11</sup> If these underrepresented students received the proper mentoring in high school, then they would be able to succeed in achieving a postsecondary education.<sup>12</sup> Once again, this sentiment was prevalent among the students who were interviewed—specifically one who found a teacher who helped them develop a passion for literature and writing.

*It just became a joke for a lot of people to after that just to tease me about my accent, so I stopped wanting to hang out with people. I would spend a lot of my time, like lunchtime and stuff like that, in the class and just read. I mean, I got lost in reading. That's sort of what became my thing. I met a teacher the next year in fourth grade who told me the best way to learn a language is to read, and so she would recommend books, and she introduced me to Harry Potter and all these other novels.*<sup>13</sup>

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<sup>9</sup> As cited in Roberto G. Gonzales, Carola Suárez-Orozco, and María Cecilia Dedios-Sanguineti, "No Place to Belong: Contextualizing Concepts of Mental Health among Undocumented Immigrant Youth in the United States," *American Behavioral Scientist* 57, no. 8, (2013): 1175.

<sup>10</sup> Interviewee #7, (undocumented student) in discussion with author, March 2017.

<sup>11</sup> Pérez, "Removing Barriers to Higher Education for Undocumented Students."

<sup>12</sup> Zenen Jaimes Pérez, "Removing Barriers to Higher Education for Undocumented Students," Center for American Progress, (2014): 17.

<sup>13</sup> Interviewee #7, (undocumented student) in discussion with author, March 2017.

The constantly changing immigration policies in the United States provide an unstable life environment for students and their families because they become unsure of whether they can continue residing and working in the United States.<sup>14</sup> Although immigrant families value the American education system and undocumented youth find a higher education empowering, receiving an undergraduate degree is not easy to achieve.<sup>15</sup> When undocumented students enroll in college, they often have two identities because they are afraid to reveal their immigration status to their fellow classmates.<sup>16</sup> Some students have the added pressure of convincing their families that receiving a higher education is worth the risk.<sup>17</sup> Tackling these issues can be difficult for these students, even more so if there is no support from faculty, friends, or family.<sup>18</sup>



### The Right to an Education

Undocumented students in the United States were granted the right to a public education under the Supreme Court decision *Plyler v. Doe*. The Court decided that Texas had violated the Equal Protection Clause of the 14th Amendment by denying undocumented school-age children the free public education that it provides to children who are citizens.<sup>19</sup> Texas had revised its education laws to withhold from local school districts any state funds for the education of undocumented children and deny them admittance to the school.<sup>20</sup> Texas argued that undocumented students are not "persons within the jurisdiction" to be provided the same rights as students born in the United States.<sup>21</sup> However, the Court disagreed, stating that an "alien is a 'person' in any ordinary sense of that term, and one who has been guaranteed due process under the 5th Amendment."<sup>22</sup> The Court further emphasized that the 14th Amendment does not specifically state these rights are confined to citizens. Justice William Brennan cited the decision in *Yick Wo v. Hopkins* that said, "These provisions are universal in their application, to all persons within the territorial jurisdiction, without regard to any differences of race, of color, or of nationality, and the protection of the laws is a pledge of the protection of equal laws."<sup>23</sup>

<sup>14</sup> Cuevas and Cheung, "Understanding Undocumented Students' Educational Experiences," 311.

<sup>15</sup> Ibid, 312.

<sup>16</sup> Susana Hernandez et al., "Sharing their Secrets: Undocumented Students' Personal Stories of Fear, Drive, and Survival," *New Directions for Student Services* 2010, no. 131 (2010): 67.

<sup>17</sup> Ibid, 68.

<sup>18</sup> Ibid.

<sup>19</sup> *Plyler v. Doe*, 457 U.S. 202. (1982).

<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> *Plyler v. Doe*, 457 U.S. 202. (1982).

<sup>23</sup> Ibid.

Justice Brennan continued to state that Texas's argument of only applying "equal protection" to those "within the jurisdiction" (i.e., citizens), thereby leaving out individuals whom they deem as not protected, is contradictory to the purpose of the 14th Amendment.<sup>24</sup>

The Court defined "within its jurisdiction" as equal protection to all within a State's boundaries.<sup>25</sup> Therefore, undocumented students and their parents are protected under the Constitution because they are people living within the boundaries of the United States. The Court recognized the fundamental right and importance of an education regardless of legal status, stating that "it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education."<sup>26</sup> This set the precedent for states to grant equal protection to undocumented students, such as providing in-state tuition for undocumented students.<sup>27</sup>

### Barriers to Higher Education

Although higher education is not specifically mentioned as a right in the Constitution for undocumented or even documented students, Americans overwhelmingly believe that students should have the opportunity to attend a postsecondary institution without economic barriers.<sup>28</sup> During his term in office, President Obama and his administration worked to make college more accessible, affordable, and attainable for all American families.<sup>29</sup> "All American families" should include families with undocumented relatives because they are included in the Plyler decision; they live in America and also adhere to its laws and values; therefore, undocumented students should be given equal access, such as the right to in-state tuition.<sup>30</sup>

Even with states such as California, Colorado, Connecticut and Florida extending in-state tuition rates to undocumented students, these students continue to struggle to succeed in college.<sup>31</sup> Once undocumented students enter institutions with in-state tuition policies, they face barriers such as a lack of institutional support, lack of information about policy changes, and lack of financial support, which prevents

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<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

<sup>27</sup> "Undocumented Student Tuition: Overview," National Conference of State Legislatures, 2015.

<sup>28</sup> White House, "Higher Education," 2016, <https://obamawhitehouse.archives.gov/issues/education/higher-education>

<sup>29</sup> White House, "Higher Education," 2016.

<sup>30</sup> *Plyler v. Doe*, 457 U.S. 202. (1982).

<sup>31</sup> Pérez, "Removing Barriers to Higher Education for Undocumented Students," 17.

them from graduating.<sup>32</sup> According to the Center for American Progress, from the 2003-2004 school year to the 2013-2014 school year, the average published tuition and fees at public four-year institutions rose by an average of 5 percent per year.<sup>33</sup> As a result, even the in-state tuition rate exceeds the financial capability of thousands of undocumented students, specifically since they remain ineligible for all forms of federal financial aid.<sup>34</sup> Students are stressed when applying to college because applications may expose their family members' immigration status and pose a risk for them.<sup>35</sup> This stress is not just prevalent in the college application process, but also in elementary or high school because students are trying to balance two identities, one in school and the other at home. Also, these students have limited opportunities in school programs because of financial strain and immigration status, which impedes their academic success. For instance, this was true for Interviewee #7 who could not attend summer programs because of their immigration status and financial difficulties.

I actually remember that my teachers would tell me about summer programs where I could go to a summer camp for writing that, like, the grants could cover it, and then they would give me applications for them. Of course they ask for social security, and I couldn't fill it out, and they would ask me, "Why aren't you doing this?" And I was like, "Oh, my mom doesn't feel comfortable with me leaving for the summer." So yeah, it was a really weird, you know, weird world I had to navigate without telling people my reality...trying to survive within not being, you know, two parts of an extreme, either so perfect that I get too much attention, or someone who commits crime to be more deportable.<sup>36</sup>

Additionally, their parents' inability to find work that pays above minimum wage can become an economic hardship for the students trying to pay for college because they have to choose between working or going to college.<sup>37</sup> For instance, the immigration status of families affects their quality of living since more than 40 percent of undocumented children in the U.S. fall below the federal poverty line.<sup>38</sup> Students in this predicament work to financially support their families, but by



<sup>32</sup> Pérez, "Removing Barriers to Higher Education for Undocumented Students," 24-25.

<sup>33</sup> Ibid, 20.

<sup>34</sup> Ibid.

<sup>35</sup> Pérez, "Removing Barriers to Higher Education for Undocumented Students," 24.

<sup>36</sup> Interviewee #7, (undocumented student) in discussion with author, March 2017.

<sup>37</sup> Pérez, "Removing Barriers to Higher Education for Undocumented Students," 23.

<sup>38</sup> Ibid, 22.

doing so, they are sacrificing their education.<sup>39</sup> If the Supreme Court had ruled in favor of DAPA, then it would have allowed for parents of citizen-children to work legally in the United States, and it would put fewer burdens on the child.<sup>40</sup> For instance, one student voiced their concerns on supporting their family after college because they also have to pay back school loans.

They don't know that I have loans, and that's a little scary because now they are expecting like, OK, now you are done with college and you'll be able to support us. And I'm like, actually no.... I got a really huge grant from school that covers like three-fourths of tuition, so that's great, but still it still leaves me with a huge chunk of loans.<sup>41</sup>

Since the Supreme Court did not decide on the legality of DAPA, states in the Fifth Circuit (such as Texas) will follow the ruling of the lower courts, which has blocked this policy from being implemented.

### Effects of Not Passing DAPA

The Court's tie vote and the Texas district court's preliminary injunction continue to block the DAPA and DACA+ initiatives, meaning that parents of citizen-children are not able to receive work permits and stay in the United States.<sup>42</sup> This fear of parents' getting deported poses many health risks to students—whether they are citizens or undocumented.

The implications of the split decision of *United States v. Texas* are harmful for students with undocumented parents, consequently affecting their success in school. The fear of having their parents deported will likely detract from students' concentration and produce mental health problems.<sup>43</sup> Research has shown that parental involvement and support is a positive factor of school success and academic achievement for children as young as kindergarten to as old as college.<sup>44</sup> This is no different for Latinx students; parental support has been found to substantially increase their academic achievement.<sup>45</sup> For the majority of the students who were interviewed, their parents' support really helped them succeed in school. As one student said,

<sup>39</sup> Ibid, 23.

<sup>40</sup> Ibid, 24.

<sup>41</sup> Interviewee #1, (student-citizen with undocumented parents) in discussion with author, March 2017.

<sup>42</sup> National Immigration Law Center, New questions and answers about DACA now that Trump is president, (2017).

<sup>43</sup> Gulbas et al., "Deportation Experiences and Depression among U.S. Citizen-Children," 220.

<sup>44</sup> As cited in Anne LeFevre and Terry Shaw, "Latino Parent Involvement and School Success: Longitudinal Effects of Formal and Informal Support," *Education and Urban Society* 44, no. 6, (2012): 708.

<sup>45</sup> As cited in LeFevre and Shaw, "Latino Parent Involvement and School Success," 708.

I was tired of being stupid..., so I didn't go to class.... I just like skipped the whole day. When my mom came, I talked to her about how I felt—like I was like 9 years old going through all these horrible mental and emotional issues, and that's when she really made a commitment to teach me how to read. She sat down to teach me at night...at 11 p.m., once she got home from work all tired, and I was tired, and I made an effort to keep reading until I learned it.<sup>46</sup>



Consequently, the failed passage of DAPA will affect school success for undocumented students and student-citizens because when parents are forced to leave, students will find themselves without the support system, which may lead to stress and depression.<sup>47</sup>

### **Mental Health and Deportation**

Citizen-children who suffer parental deportation experience the most severe consequences associated with immigration enforcement, such as mental health issues.<sup>48</sup> The immediate consequences of parent deportation include changes in family income, difficulties with childcare, and barriers to public health resources and social services.<sup>49</sup> However, the underreported consequence is the success of students' education, because if they are citizens, they are threatened with the possibility of being parentless and going into the foster care system.<sup>50</sup> The 2016 election has caused mixed-status families to plan a future for their citizen-children if they are deported.

We are definitely more nervous and anxious whether any of us are going to make it home or anything like that. We have even taken measures of, like, because my younger—I have two younger sisters—they are both American citizens, and we are taking care of that like, if anything were to happen...they are going to stay with an aunt that I have here and stuff like that, so that's what's been going on since January.<sup>51</sup>

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<sup>46</sup> Interviewee #5, (undocumented student) in discussion with author, March 2017.

<sup>47</sup> Gulbas et al., "Deportation Experiences and Depression among U.S. Citizen-Children," 220.

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

<sup>50</sup> Kalina Brabeck and Qingwen Xu, "The Impact of Detention and Deportation on Latino Immigrant Children and Families: A Quantitative Exploration," *Hispanic Journal of Behavioral Science* 32, no. 3 (2010).

<sup>51</sup> Interviewee #6, (undocumented student getting residency) in discussion with author, March 2017.

According to the Migration Policy Institute, in 2015, 88 percent of children in immigrant families are U.S. born, suggesting that Trump's immigration policies will impact a large portion of citizen-children. Losing a parent through deportation can cause depression, anxiety, and social withdrawal in school and their personal lives.<sup>52</sup> A parent's legal vulnerability and the possibility of deportation can cause depression among citizen-children, and other studies demonstrate how depression can affect the educational success of students.<sup>53</sup>

According to the National College Health Assessment, one third of U.S. college students had difficulty functioning due to depression, and undocumented students are not excluded from these statistics.<sup>54</sup> Studies have shown that undocumented immigrant youth experience high levels of stress due to barriers of their unauthorized status and decreased motivation in high school.<sup>55</sup> The devastation expressed by one student who was on the honor roll every year in school only to find out that a four-year university was out of reach demonstrates that undocumented students acquire higher levels of stress and depression throughout high school and college.

I'm about to graduate [from high school]. I can't get a job. It gives you anxiety, and you're like, what am I going to do with my life? And then I was like, maybe we can apply to college, maybe that's an option. And then we went to the career center, and there was this counselor there, and she was telling us how we couldn't pay for school. It was really depressing. I cried in front of her that day. She really told it to me straight, like you can't really go to a four-year university because you can't get financial aid.... I was like, oh my god, there is no reason for me to apply for school. Like what am I doing? So I walked away, and my twin stayed.... The counselor was saying that we could go to community college. And I said no like I don't want to go to community college; this is bullshit. It was definitely devastating for me, but I accepted it.<sup>56</sup>

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<sup>52</sup> Gulbas et al., "Deportation Experiences and Depression among U.S. Citizen-Children," 221.

<sup>53</sup> Brabeck and Xu, "Impact of Detention and Deportation on Latinos," 353 and Gulbas et al., "Deportation Experiences and Depression among U.S. Citizen-Children," 224.

<sup>54</sup> Amy Novotney, "Students Under Pressure," American Psychological Association 45, no. 8 (2014): 36.

<sup>55</sup> Gonzales et al., "No Place to Belong," 1176.

<sup>56</sup> Interviewee #8, (undocumented student) in personal discussion with author, April 2017.

This hostile social and political climate, the cumulative stress from increased responsibilities to contribute to their families, decreased options to participate as full members of society, and daily fear and anxiety resulting from the ever present fear of deportation can take a toll on a youth's mental and emotional health.<sup>57</sup> Undocumented students may feel the regular student stress but also additional mental stress because of their family's immigration status.<sup>58</sup>



There are policies that outline the right for undocumented youth to attend school, but the absence of institutional support required to make educational access feasible makes it harder for youth to complete postsecondary education.<sup>59</sup> It's no surprise that socioeconomic status affects college access and retention for students of color, and their inability to access sources of support intensifies the existing educational disparities.<sup>60</sup> In 2009, 34 percent of first-generation Latinx children lived in poverty, and while immigrant parents are likely to be working, they tend to be employed in low-skilled jobs with lower wages and no benefits.<sup>61</sup> The cost of attending a postsecondary institution limits its population to students who can afford to pay, which usually hinders undocumented students from attending because of family (parent deportation) and work-related (loss of income) stresses.<sup>62</sup> Families with mixed-status households have incomes that are 40 percent lower than that of either native-born families or legal immigrant families; therefore, they often work in low-paying, unstable jobs, resulting in youth working to support their families.<sup>63</sup>

The failure of passing DAPA will affect those mixed-status families the most because their family structure will be destroyed.<sup>64</sup> The failed passage of DAPA is causing injury and harm to other students and their families in the United States because they are being discriminated against simply for their legal status.<sup>65</sup> The government is not adhering to *Plyler v. Doe* in providing equal protection of the law to all students, as their health is being compromised. The student's best interest is not kept in mind; the separation of families will cause depression and anxiety.<sup>66</sup>

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<sup>57</sup> Gonzales et al., "No Place to Belong," 1178.

<sup>58</sup> Gonzales et al., "No Place to Belong," 1191.

<sup>59</sup> Buenavista, "Issues Affecting U.S. Filipino Student Access to Postsecondary Education," 119.

<sup>60</sup> *Ibid.*, 120.

<sup>61</sup> Brabeck and Xu, "Impact of Detention and Deportation on Latinos," 342.

<sup>62</sup> Buenavista, "Issues Affecting U.S. Filipino Student Access to Postsecondary Education," 120.

<sup>63</sup> *Ibid.* As cited in Gonzales et al., "No Place to Belong," 1177.

<sup>64</sup> Brabeck and Xu, "Impact of Detention and Deportation on Latinos," 344.

<sup>65</sup> Brabeck and Xu, "Impact of Detention and Deportation on Latinos," 345.

<sup>66</sup> *Ibid.*

Furthermore, children who are either undocumented or American citizens but have undocumented parents will bear the financial burden when their parents are forced to leave the country. If the family decides not to leave the country, students pursuing a higher education may fear that they are putting their family at risk of being deported because of the information they provide through the application process.<sup>67</sup> For instance, DACA students are uncertain how their plans for the future will affect the safety of their family members; as one student said, "It became hard to plan it out because of my family. Like I have to consider that now, not that I didn't consider them [before], but now, considering the danger they are exposed to, you know, I am kind of limited in, like, with the options of, like, fellowships."<sup>68</sup>

If parents are deported, then students may have to work more to care for siblings or send money to support their parents. If the students are undocumented, then the stress triples because they too will have the fear of deportation. Either way, immigration policies supporting deportation affect students' access to higher education.

Furthermore, undocumented students receiving a postsecondary education will likely experience higher levels of socio-emotional distress because of the increasing cost of college, the need to support themselves and their families, and the fear that they may not be guaranteed an entry-level position in their field because of their status.<sup>69</sup> Undocumented students are already feeling the pressure of the bureaucracy of institutions, but now with the decision on DAPA/DACA+ and the new administration, they have the additional stress and anxiety of the possibility of their family members or themselves being deported.

### Trump's Immigration Policies

In January 2017, Trump signed an executive order on border security and immigration enforcement improvements.<sup>70</sup> In the executive order, Trump focused only on immigrants coming from Mexico who have placed "a significant strain

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<sup>67</sup> Janet K. Lopez, *Undocumented students and the policies of wasted potential* (El Paso: LFB Scholarly Publishing LLC 2010), 63.

<sup>68</sup> Interviewee #4, (undocumented student) in personal discussion with author, March 2017.

<sup>69</sup> William Pérez et al "Cursed and Blessed: Examining the Socioemotional and Academic Experiences of Undocumented Latina and Latino College Students," *New Directions for Student Services* 2010, no. 131 (2010): 37

<sup>70</sup> Exec. Order. No. 13767, 82 Fed. Reg. 8793 (Jan 25, 2017) <https://www.whitehouse.gov/the-press-office/2017/01/25/executive-order-border-security-and-immigration-enforcement-improvements>.

on Federal resources" and are a threat to "national security and public safety."<sup>71</sup> Along with securing the southern border by building a wall, the executive order aimed to deport "illegal aliens swiftly, consistently, and humanely."<sup>72</sup>



Secretary of Homeland Security John Kelly issued a memo on the enforcement of immigration laws after Trump's executive order on border security.<sup>73</sup> He rescinded "all existing conflicting directives, memoranda, or field guidance regarding the enforcement of immigration laws" except for the 2012 DACA memo and the 2014 DAPA memo.<sup>74</sup> This seems like good news for undocumented individuals, but the immigration policies as seen in the executive order still target their family members and even themselves, as a DACA recipient was deported in April.<sup>75</sup> It's clear that under this administration, the act of crossing the border illegally has branded all immigrants as "criminals," and no one is safe from deportation.

## Mental Health in 2016 Election

Along with this stress, undocumented Mexican youths are surrounded by hostile political backlash and rising anti-immigrant sentiment producing an unhealthy environment.<sup>76</sup> Trump's anti-immigrant rhetoric before and after the election has impacted students' mental health, causing schools to create healing circles for undocumented students.<sup>77</sup>

According to the Center for American Progress, undocumented students have often experienced mental health issues due to their immigration status, and they require support and advocacy that many school administrators are not trained to provide; often these students will rely on informal networks for support.<sup>78</sup> After the election, one student discussed the sentiments among certain groups on campus against undocumented students, revealing that the campus atmosphere has grown more intolerant towards undocumented students:

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<sup>71</sup> Exec. Order. No. 13767, 82 Fed. Reg. 8793 (Jan 25, 2017)

<sup>72</sup> Ibid.

<sup>73</sup> Secretary John Kelly to Kevin McAleenan, February 17, 2017, U.S. Department of Homeland Security, *Enforcement of the Immigration Laws to Serve the National Interest*.

<sup>74</sup> Kelly, "Enforcement of the Immigration Laws to Serve the National Interest," 2.

<sup>75</sup> Joshua Barajas, "Government says he lost his DACA Status, but this Immigrant says he was Deported despite Protections," PBS, <http://www.pbs.org/newshour/rundown/first-protected-dreamer-deported-president-trump/>

<sup>76</sup> Gonzales et al., "No Place to Belong," 1178.

<sup>77</sup> Jenny Manrique, "Las Batallas Mentales de los Indocumentados en Tiempos de Donald Trump," Univision Noticias. Nov. 4 2016. <http://www.univision.com/noticias/salud-mental/las-batallas-mentales-de-los-indocumentados-en-tiempos-de-donald-trump>

<sup>78</sup> Ibid.

College Republicans were...arguing against the students who would approach them.... I saw a lot of undocumented people trying to argue with them, but when the argument invalidates your own humanity, it's very dehumanizing to have to convince someone that you're human, you know, because in the process you become...almost an opinion, and then you have to defend it. And so there were folks who were crying, and people said, "I'm dropping out. I can't stay here anymore."<sup>79</sup>

Depression and anxiety overwhelm undocumented students, whose life can be altered in an instant by President Trump. One student did not want to watch the news anymore since it became "very draining" to their personal life and they had become "numb to the conversation of Trump" because they knew that nothing positive could come from his policies.<sup>80</sup>

### Educational Success Post-2016 Election

This research shows that the 2016 election and Trump's becoming president impacted the school success of five out of the eight students interviewed. Research already shows that undocumented students face unique obstacles when attempting to access higher education and when they are already enrolled in college.<sup>81</sup> For instance, they may not be able to take advantage of social supports and academic resources available to them because of the systematic (transportation issues), institutional (university not informed on the rights for undocumented students), and financial barriers (not able to pay tuition or find a job).<sup>82</sup> Along with the stress and obstacles faced when entering college, these students are now forced to deal with the discriminatory immigration policies passed by the Trump administration. Mental health and educational success are intertwined, because if students feel depressed, anxious, or stressed their academics will suffer. When Trump was elected, undocumented students felt their whole world shift because they did not know what was going to happen to them or their families. The constant fear and anxiety affected their concentration in their schoolwork and made them question the purpose of going to class. As one student said,

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<sup>79</sup> Interviewee #7, (undocumented student) in discussion with author, March 2017.

<sup>80</sup> Interviewee #4, (undocumented student) in discussion with author, March 2017.

<sup>81</sup> Neeta Kantamneni et al., "DREAMing Big: Understanding the Current Context of Academic and Career Decision-Making for Undocumented Students," *Journal of Career Development* 43, no. 6 (2016): 484.

<sup>82</sup> Kantamneni et al., "DREAMing Big Understanding Decision-Making for Undocumented Students," 484-485.

When [Trump] got elected it was like a bomb dropped, because I was like, "Oh my God...this is actually happening." I was in so much shock... I think our community was filled with fear; a lot of us got very depressed. I got very depressed.... We would both go to class, and we would sit there...and listen to things that weren't even relevant to the situation that we're in, and it was frustrating. I couldn't pay attention. I felt like there was no point to go to school.<sup>83</sup>



When asked if their academic success and personal life were affected when Trump was elected, the majority of students felt the impact of this election in their schoolwork. Students had to ask for extensions on their papers and received lower grades than what they usually receive, as this one interviewee shares:

[The election] definitely affected me in both ways.... My professor, like I said, extended the deadlines, so that was helpful, but even then, I think this was the hardest final season of my three and a half years here. Yeah, in terms of academics, it's impossible to concentrate to read a book in class...about a topic completely distant to what's actually happening when all this is happening. It was super hard...to be able to focus on writing an essay when, you know, [your] family back at home is in danger, you know, because of these immigration raids that are happening within like a few miles away from where my family's from. So focus on academics...I saw that as selfish.... For the first week and a half...I didn't go to class, and for the first week and a half afterwards, I didn't do any work, and it was very intentional just to be able to say I'm not going to do anything. I am just going to take care of my own mental and emotional well-being, and yeah, so I did that.<sup>84</sup>

Another student revealed that their work ethic had suffered after the election because it was very hard to find the concentration needed when they knew that their community was suffering and being targeted.

I couldn't concentrate, I couldn't think about anything....But it definitely affected my work ethic in school; never in my time in college had I ever asked for an extension on a paper until that time, and I was just like I couldn't concentrate, and even though I got that extra time, I wasn't able to work at my full capacity. What I wrote was not—I

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<sup>83</sup> Interviewee #8, (undocumented student) in discussion with author, April 2017.

<sup>84</sup> Interviewee #4, (undocumented student) in discussion with author, March 2017.

wasn't very passionate about it, and I got a B-, and I've always gotten a B+.... I'm a very good student; I'm very dedicated, so I feel like I put some work in there, just not to the full extent that I would have wanted.<sup>85</sup>

Unfortunately, the election really impacted undocumented student's mental health and academics, but students received support from their peers and counselors which helped them get through the semester. I found this was true with one interviewee who explains how the support from their community directly after the election helped them get through the semester:

So when [the election] happened, I think if it wasn't for that community that I have here, it would have been like super harder to, you know, to say to even continue coming.... I didn't go to lecture for the first three days afterwards; like there was like barely any people of color on campus.... The support...if it wasn't for my community here...I don't think I would even be here so when this happened, a lot of the community reached out to all of us, you know.... Individual professors, some professors did send out emails saying like if we need time, if we need space we can go ahead and take it. My professor was the one that extended my deadline, a lot of people and a lot of friends reached out individually, so I think like the community itself was very helpful and very supportive.<sup>86</sup>

Counseling services can facilitate institutional support that can work around the barriers undocumented students experience in higher education.<sup>87</sup> For example, peer support can be a powerful coping mechanism for students with undocumented status, and this is what I saw with all the students interviewed, but more so with interviewee #5 and #8.<sup>88</sup>

### Consequences of Trump's Immigration Policies

However, for many of those who do not go to college, entry into adulthood is met with job insecurity and marked by growing competition for jobs that offer meager wages, limited benefits, and few opportunities to advance.<sup>89</sup> Undocumented students will not be going back to their home country after high school; therefore,

<sup>85</sup> Interviewee #8, (undocumented student) in discussion with author, April 2017.

<sup>86</sup> Interviewee #4, (undocumented student) in discussion with author, March 2017.

<sup>87</sup> Kantamneni et al., "DREAMing Big Understanding Decision-Making for Undocumented Students," 492.

<sup>88</sup> Ibid.

<sup>89</sup> Leisy Abrego and Roberto Gonzales, "Blocked Paths, Uncertain Futures: The Postsecondary Education and Labor Market Prospects of Undocumented Latino Youth," *Journal of Education for Students Placed at Risk* 15, no. 1-2, (2010): 151

if they cannot go to college, they will be forced to work either in the underground economy or at a minimum wage job. Without full legal rights or with the elimination of programs such as DACA, they are barred from the very mechanisms that have ensured high levels of economic and social mobility to other immigrants throughout U.S. history.<sup>90</sup> Undocumented students do not even want to think about their future without DACA because for them, there is no future; their degrees, their hard work, their jobs would be nonexistent. As one interviewee explains the fear of not having DACA and what it means for their future:

[I feel] a lot of fear, too, a lot of insecurity as you are looking at the news every morning because you know something about DACA is going to come up. I have DACA now and that saved my life because I have a job, I have a car, I have an ID, I have a lot of security. And so there is a lot of fear on DACA. I think DACA cannot die. I have no plans if it dies – like I have no plan because there is no plan.<sup>91</sup>

The Trump administration should think twice before they create and implement new restrictive immigration policies because not only would such policies destroy the lives of undocumented students and their families, it would be detrimental to the United States, which would not receive the benefits accrued from these individuals. These undocumented immigrants are American citizens in all senses of the word, and the United States should start treating them as human beings with protections and rights.

### Limitations

The population size for this research was very small; therefore, that was a huge limitation on the results because interviewing eight students does not fully capture the experiences of all undocumented students in the United States. My results may have not shown the complete picture of the experiences of undocumented students in the post-2016 election because a few students were in the process of getting their residency, and one student was a citizen but had undocumented family members. Unfortunately, it was extremely difficult to find students willing to participate or even refer other students for this research because of the fear and anxiety in the community. However, for these eight students, the election did impact them and their families, which did prove my hypothesis for this research.



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<sup>90</sup> Ibid, 152.

<sup>91</sup> Interviewee #5, (undocumented student) in discussion with author, March 2017.

Furthermore, I was not able to interview students whose parents would have qualified for DACA to get a better understanding on how this election has affected them. Including more students in this population would have given stronger support for explaining the importance of passing DACA in *United States v. Texas*, especially since these students are citizens.

For future research, focusing on students under 18 who are student-citizens or completely undocumented, meaning that they do not even have DACA, would provide another crucial perspective on the importance of progressive immigration reform. I believe that this election has affected those students even more because their future is more uncertain since they either do not have any form of documentation or their parents are being targeted more under this administration. This topic is far from being thoroughly researched, because as the next four years go by, the policies that Trump implements will already have made a lasting impact on the immigrant population.

## Conclusion

Although the population size for this research was small, it is the first step in developing more in-depth research on the effects of treating undocumented immigrants as second-class citizens in the United States. The health risks of undocumented students and student-citizens should be a concern for the government, since in *Yick Wo v. Hopkins* and *Plyler v. Doe*, the Supreme Court decided that not applying protection to those individuals who are not citizens is contradictory to the 14th Amendment.<sup>92</sup> With this foundation from the Supreme Court, a few students indicated that DACA very strategically created a second class within the undocumented community because society usually supports "Dreamers" because of their determination to go to college and make a better life for themselves. However, the current immigration policies should focus on all undocumented immigrants and not just DACA students because immigrants contribute and are part of this society. They work just as hard as "citizens," they believe in the same American values and beliefs as "citizens," and they love this country just as much as "citizens" do. The United States must move forward and provide rights to all immigrants regardless of their citizenship status in hopes of creating a stronger and more inclusive country.

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<sup>92</sup> *Plyler v. Doe*, 457 U.S. 202. (1982).

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Natalie D. Giron graduated magna cum laude from American University with a Justice and Law major and minor in Public Administration and Policy. This research was selected to present at the National Conference for Undergraduate Research at the University of Memphis. It also received the Best Presentation in Human Rights and Policy Implications at American University's School of Public Affairs 9th Annual Symposium. Natalie wants to continue advocating for the rights of undocumented students, children, and adults living in the United States and hopes to expand her research. Please email her at [Giron.NatalieD22@gmail.com](mailto:Giron.NatalieD22@gmail.com) for any comments and/or questions about her research.





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