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# LIFE AFTER COLLEGE:

## A GUIDE FOR UNDOCUMENTED STUDENTS

PUBLISHED BY EDUCATORS FOR FAIR CONSIDERATION (E4FC)

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# AUTHOR INTRODUCTION

While initially it may seem as though undocumented students have limited options upon graduating from college, this guide is intended to shed light on the possibilities that do exist. The guide has been written to be as inclusive and comprehensive as possible by including personal narratives, student testimonials and advice from experts. It is my desire that undocumented students and allies read through this guide and walk away feeling encouraged and unafraid of the next step.

As I navigated through my own life after college, it became more and more apparent that there were limited resources and opportunities for undocumented students after college. Shortly after I graduated from Fresno State, I moved to New York City to pursue a Master's degree at the New School For Social Research. Unfortunately, due to lack of financial support, I was unable to complete my program. I returned home without a plan of action or clue as to what the future would hold for me. I worked in landscaping with my father mowing lawns, trimming shrubs and raking leaves for a few months until I decided to move to the San Francisco Bay Area in search of better opportunities. I had no family, friends or connections there. I began to search for jobs on Craigslist and took whatever I could find. I did various jobs such as cleaning houses, collections, catering, waitressing, bartending, and promotions—all work completely unrelated to my degree in mathematics—but it enabled me to support myself and slowly formulate my next plan for returning to graduate school. Luckily, I also found E4FC, where I have been able to put my skills to good use and create this guide, which I have personally benefited from and which I hope will benefit many more undocumented students.

Through personal interviews I have been able to catch glimpses of what the journey looks like for undocumented students who are working and pursuing careers in education, law, medicine, nursing, business, and psychology, to name a few. The students I interviewed have been able to overcome many obstacles and are now doing great things. Most importantly, they are proud of their accomplishments and eager to share their experiences to empower other students.

I was hesitant to interview students when I first started working on the guide. It was easy to do research, but I did not feel ready to open up to students and have them open up to me. Once I started the interview process, I could not stop! It became a healing process for me to hear the amazing stories of my peers. Many of the interviews have resulted in amazing friendships and memories to last a lifetime.

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# GOING TO GRADUATE SCHOOL AND PROFESSIONAL SCHOOL

A common route for students interested in furthering their education or career is graduate school or professional school. Each requires ample preparation time and careful consideration.

## Graduate Versus Professional School

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Consider which program fits you best. Graduate school (i.e., a Ph.D.) is geared more toward research and academia while professional school (i.e. medical school, law school) is more focused on being a practitioner. Graduate school, in many cases, is paid for by the school through research assistantships, teaching fellowships or scholarships. Professional school is much more expensive than graduate school and may require more fundraising. Professional schools will prepare you for a technical trade (mechanic, electrician, plumber, professional chef, pastry master, law, etc.) and are often tied to a co-internship/progressive learning model meaning that you will have hands-on exposure while also studying in “X” field. Further, professional school is often a key time to build RELATIONSHIPS, which may be very important personally and professionally down the road. Bottom line, graduate school makes sense if you want to become a researcher/professor; professional school makes sense if you want to PRACTICE a certain profession outside of academia.

## Deciding Which School to Attend

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When thinking about graduate school, ask yourself a few questions. Why are you going in the first place? Is it to enhance your knowledge in a specific subject/topic? Is it to improve your future employability? Is it required in your field of study/work? Do you meet the academic requirements of this program? Do you need to take the GRE, GMAT, MCAT, LSATs or any other entrance exam? If so, what scores are they looking for? How big of a graduate program are you looking for? Is mentorship and guidance important to you? Will research and assistantship opportunities be open to you? Are there any student graduate support groups that will help you

through the program? Where do students publish, get exposure to conferences, and become acquainted with opportunities of employment from “X” college?<sup>1</sup>

You should also consider the implications that attending graduate school will have on you and your family. Think about the sacrifices you and your support system will have to endure and the rewards that will come from it. Think about the obvious: the COST! Think about the pros and cons of moving away from home or possibly to a different state. Are you willing to consider schools across the country or international schools? What will be the implications of your actions? Who are you putting at risk and for what? And are you ok with this personally?

Research “safe” communities and how receptive they are to undocumented students. Conduct research in the local newspapers and see added community comments about other students in your situation within that community. Think about your life as a graduate student in that community. How will you get around (transportation, housing, social life, etc.)?

## Private Versus Public

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Private and public schools differ greatly in tuition and in how they generate funds for their programs. Public schools usually have lower tuition, but funding will be heavily dominated by public funds from state and federal dollars, which are currently out of reach for undocumented students in most states. Private universities usually cost more, but may offer a better financial aid package. Keep in mind, however, that some may not accept undocumented students into their graduate programs. For those that do, funding options may be a little more relaxed and not as heavily tied to state and federal dollars. It may be wise to apply to both public and private schools to have options. What you need to keep in mind is that YOU have to create your opportunities.

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<sup>1</sup> Some of the information in this section is from the graduate resource guide created by Graduates Reaching a Dream Deferred (GRADD). For more information about GRADD, please visit <http://www.dreamresourcecenter.org>



Californians, look out for AB 130 in 2012: Recently passed

October, December and February. You cannot take the LSAT more than three times within a 2-year period. Raw scores are converted to a scaled score with a high of 180, a low of 120 and a median score of around 151. It





form, and some may include a rating system for the recommender to fill out in addition to the letter. Make sure to allow consent to privacy acts if required by the letter of recommendation forms.

Remember to keep track of your letters to ensure that they are submitted on time. If your professors are not being responsive, you may try e-mailing them or simply asking someone else. In general you should ask a few professors ahead of time if they are willing to write you a letter just in case someone is too busy, and always follow through with a thank you letter or update on your application process with those selected. This is not a requirement but rather common courtesy and an ability to expand and grow your personal network.

See Appendix C for a Recommendation Packet Checklist prepared by Professor Roberta Espinoza.

## GPA

While GPA is an important part of the application process, you should not discourage yourself from applying if you have a low GPA. Of course the higher the GPA the better, but many graduate schools do not expect you to have a 4.0 GPA. Once again familiarizing yourself with the program is key. Look through the website to find the minimum or average GPA for your specific program and call the school if you can't find this information on the website. You may also be able get away with a lower GPA if you have great research experience and an amazing personal statement and statement of purpose. If you are from an underrepresented population, then this should also provide you with added pride and motivation to continue the search, and schools may take this into account in the admissions process.

## Resume/Curriculum Vitae

The primary differences between a resume and a Curriculum Vitae (CV) are the length, what is included and what each is used for. A resume is a one or two page summary of your skills, work and volunteer experiences, and education. A Curriculum Vitae can be longer (at least two pages) and is a more detailed synopsis of your work, including your educational and academic background as well as your teaching and research experience, publications, presentations, awards, honors, affiliations and other details. A resume is generally used when seeking a job in the business or non-profit world while a CV is used primarily when applying to academic, educational, scientific or research positions. It is also

applicable when applying for fellowships or grants in graduate school.

You should constantly update both your resume and CV because you may forget to include details if you wait too long to update.

See Appendices D and E for sample resumes and Appendix F for a sample CV.







cation, the military etc. The key is that your background shows a track record of leadership.

## Medicine

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Most students interested in the medical field begin preparing throughout their undergraduate degrees by taking the standard courses required of pre-med students. Most medical students major in science-related fields, but a science degree is not required. Students may choose to apply to medical school right after the undergraduate degree or may take some time off.

Students admitted to medical school tend to have high academic achievement, including high MCAT scores and work experience and multiple extracurricular activities related to the medical field such as volunteering at a hospital or clinic, being a third rider on an ambulance, or performing scientific research with a professor. The medical school curriculum for the first two years is centered in factual knowledge and key skills such as critical thinking, establishing a relationship with patients and conducting medical histories and examinations. The final two years involve rotations through clerkships in primary care and specialty medicine, applying what was learned in the classroom. At some point during medical school, students must take the United States Medical Licensing Examination (USMLE), a three-step test that all potential physicians must pass in order to practice medicine in the United States and Canada. The first part covers basic medical principals and is taken at the end of the second year, the second part is on clinical diagnosis and disease development and is taken in the fourth year, and the final part on clinical management is taken during the first or second year of residency.

Students interested in biomedical research usually enroll in M.D./ Ph.D. programs. Such students take the first two years of medical school and then, upon completion of one or two of the third-year clinical clerkships, enter the graduate phase of the program. Once they complete their Ph.D. curriculum, they return to clinical studies. The entire process takes seven to eight years.

During the last year of medical school, students choose their specialties and begin to apply for their residency. Residencies are three-to-five year specialized training programs that follow graduation from medical school. Students are matched based on preferences by the National Resident Matching Program (NRMP) to ensure that applicants have a residency program appointment. Programs are competitive and limited in the number of

residency slots. Physicians must complete an accredited residency program to become certified to practice medicine. Physicians who seek more specialized training may pursue a fellowship. Once their education is complete, physicians obtain certification in their specialties.

The median cost of medical school in 2010 was \$49,298 for public school and \$66,984 for private. The mean debt at graduation was \$150,000 at public schools and \$180,000 at private schools. Most medical students use loans to pay for medical school such as Stafford and PLUS. Other expenses related to medical school include a \$160 application fee for the first school and \$33 for each additional school, a \$25-\$100 secondary application fee and \$235 for the MCAT.<sup>12</sup> During your residency and fellowship, you will earn a small salary, but not nearly as much as a full-fledged doctor would make.

As an undocumented student, you will find it difficult to go through the medical school process because, while you could apply and be accepted to medical school, you would only be able to complete the first two years of medical school since the process after the second year requires background checks and proof of legal status. If you are certain you want to become a doctor, you may consider applying to medical school outside of the country. Mexico and Cuba, for example, offer great medical programs with good incentives and more affordable prices.<sup>13</sup> However, you should know that leaving the country has risks that should carefully be considered prior to taking action (see Going Abroad Section below). For an alternative option, see Public Health below.

## Public Health

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Alternative options for undocumented students interested in the medical field are Master's or Ph.D. programs in public health. Public health is the science of protecting and improving the health of communities through education, promotion of healthy lifestyles, and research for disease and injury prevention. Public Health aims to improve the health and wellbeing of people around the world and works to prevent health problems before they occur. Public health incorporates the interdisciplinary approaches of epidemiology, biostatistics, and health services; other important subfields include environ-

<sup>12</sup> For further information about the medical school application process, see <https://www.aamc.org/download/68806/data/road-doctor.pdf>

<sup>13</sup> For further information on medical school in Cuba see <http://www.medicc.org/ns/index.php?s=10&p=0>







studying for and taking the LSAT and applying for law



can be a dilemma about what to reveal with regard to your immigration status because there's a chance that a program may reject you simply because of your status. However, the social work profession has a strong commitment to social justice and some programs may be sympathetic to you. Also, because social workers deal with diverse populations, being bilingual/bicultural is something to highlight as an asset. However, admission decisions include an evaluation of students' work and volunteer experience, which could potentially put undocumented students at a disadvantage, so you may want to offer an explanation for why this history may not be strong. As undergraduates, prospective MSW students may want to seek out service learning, internship, and volunteer opportunities. As MSW applicants, they may want to include their involvement with social action and advocacy groups. After acceptance into an MSW program, the Field Education faculty will work with the student to find an appropriate internship. Candor with the field faculty will probably be helpful. Some settings, including those working directly with children, may require fingerprinting, which undocumented students can do. MSW programs in California offer significant stipends for some MSW students interested in working in Child Welfare or Mental Health.<sup>20</sup> However, this requires signing a commitment to public employment, making these stipends unavailable to undocumented students under current law.<sup>21</sup> Most employment opportunities upon graduation are with public agencies that expect workers to be regular employees. However, it may be possible to work as an independent contractor.

## Teaching Credential Program

Teaching credential programs consist of coursework and field experience, including the student teaching required to obtain the Multiple and Single Subject teaching credentials in California. Students interested in teaching elementary school may enroll in Multiple Subject Instruction and students interested in teaching high school may enroll in Single Subject Instruction. Teaching credential programs typically take a year to complete. Admission into a Teaching Credential program

## Education

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Students interested in the field of education may choose to teach elementary, junior high or high school, or continue with graduate school to become professors at a university or college. Students interested in teaching must comply with the teaching requirements of each state, while students interested in doing educational research must adequately prepare for acceptance into graduate school in education. While teaching credentials are required for most public school instruction, private schools frequently hire teachers who are college graduates but lack credentials.

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<sup>20</sup> For example, visit the California Social Work Education Center at UC Berkeley website at <http://calswec.berkeley.edu>

<sup>21</sup> For more information about the profession: [www.bls.gov/oco/ocos060.htm](http://www.bls.gov/oco/ocos060.htm)

matter examinations or obtain verification of  
subject-matter coursework

5.

include student and employee identification cards, social security cards, draft classification cards, and credit cards. If you have any questions regarding acceptable photographic identification, call Evaluation Systems before the test date.

If the name on your identification differs from the name in which you are registered, you must bring **official** veri-





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# GETTING INTERNSHIPS

Internships can provide an opportunity for you to determine whether you are interested in a particular career, gain experience in your field, create a network of contacts, and sometimes gain school credit. An internship may also lead to a full-time job. For undocumented students, internships are a great way to gain valuable work experience without being an employee.



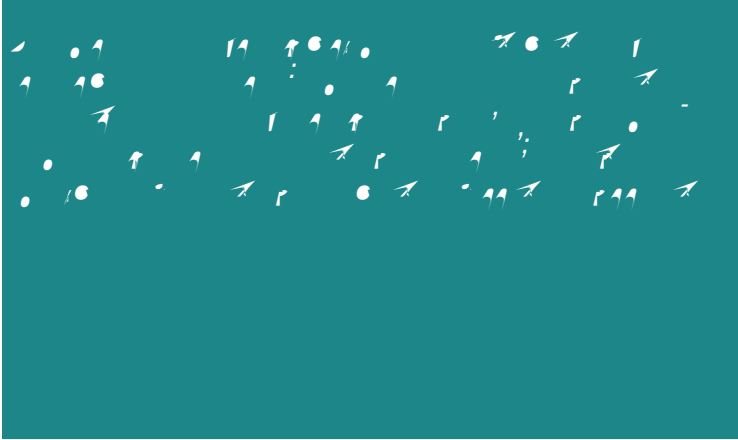
## Deciding Which

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- » Target key people you would like to talk to, introduce yourself and describe what you do.
- » If you are unable to identify someone on your target list, look for an individual you already know who is conversing with someone you do NOT know.
- » Exchange business cards and follow up with an e-mail or a phone call.



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# EARNING A LIVING

Most undocumented immigrants face significant barriers to pursuing employment in the United States. Employers are required to ask for proof of legal status, and it is illegal for any employer to hire a person knowing



and organizing them into three main groups: behavioral control, financial control, and the type of relationship of the parties. Those factors appear below, along with comments regarding each one:<sup>29</sup>

Behavioral Control:

Facts that show whether the business has a right to direct and control how the worker does the task for which the worker is hired include the type and degree of

1.

formed are especially important. However, employees may also incur unreimbursed

## Employees vs. Independent Contractors: Main Differences<sup>30</sup>

| An Employee  | An Independent Contractor   |
|--|---|
| Has a continuing relationship with an employer                           | Does the same work for multiple clients                                 |
| Normally is furnished significant tools, materials, etc. by the employer | Has own tools and equipment and can hire, supervise and pay assistants. |
| Can quit at any time without incurring liability                         | Receives all profits and is held liable for all losses and debts        |
| Must comply with instructions about when, where and how to work          | Sets his or her own hours and work schedule                             |
| Is trained by the employer   | Uses his or her own methods   |



## Employees vs. Independent Contractors: Examples

\*This section comes from "Your Rights As An Independent Contractor, Part 4: Industry Examples," About.com.

Below you will find examples of the types of work considered to be an independent contractor or an employee.<sup>31</sup>

### Computer Industry

Steve Smith, a computer programmer, is laid off when Megabyte Inc. downsizes. Megabyte agrees to pay Steve a flat amount to complete a one-time project to create a certain product. It is not clear how long it will take to complete the project, and Steve is not guaranteed any minimum payment for the hours spent on the program. Megabyte provides Steve with no instructions beyond the specifications for the product itself. Steve and Megabyte have a written contract, which provides that Steve is considered to be an independent contractor, is required to pay Federal and state taxes, and receives no benefits (such as health insurance, vacation pay, or sick pay) from Megabyte. Megabyte will file a Form 1099-MISC. Steve does the work





(Mario Lio,  
B.S. Civil Engineering, U.C. Berkeley)

## Promotions

Working in promotions is also something that you may want to consider, especially because the work is very flexible and, in most cases, individuals are hired as independent contractors. There are hundreds of marketing companies looking for people to promote all types of products including alcohol, energy drinks, make-up, phone apps, cell phones, and even papayas! A good starting point to finding work as a promoter is to look on Craigslist under the "Gigs" section under "Events." Most posts will indicate that they are looking for brand ambassadors or promotional models.

(Dana Kim, B.A. Architecture, U.C. Berkeley)

## Other Ideas

There are many, many other areas where students or graduates can use skills they learned in school or outside of school. Many tech companies hire a significant portion of their computer programmers as independent contractors, while more basic skills such as dog-walking, child care, and party planning can easily become the basis for starting a business or doing independent contractor work.

## Talking to Potential Clients about Working as an Independent Contractor

When it comes to speaking to potential clients about working as an independent contractor, you may consider doing the following:

- » Make sure the type of work you wish to do follows the independent contractor guidelines
- » Become familiar with the legal aspects of working as an independent contractor
- » Highlight your assets and skills and be prepared to demonstrate how they meet the needs of your clients
- » Research similar types of work so you know the standard rate for your services
- » Become familiar with writing contracts and make sure to sign a contract with every client

(Karla C. Reyes, B.S. Business Administration, San Jose State University, Small Business Owner)

## IRS Forms Required of Independent Contractors

**W-9:** The IRS requires that payers use Form W-9 to obtain taxpayer identification numbers from independent contractors. The W-9 is filled out at the start of work by an independent contractor and kept on record by the payer.<sup>32</sup> See Appendix H for Form W-9.

**1099:** The IRS requires that payers use Form 1099 to record the total amount of money paid to independent contractors in any given calendar year. A payer must file a 1099 for each independent contractor paid \$600 or more. A copy of the 1099 is given to the independent contractor.<sup>33</sup> See Appendix I for Form 1099.

## Starting a Sole Proprietorship

**Definition:** An independent contractor may wish to start his or her own company and provide services in the form of a sole proprietorship. A sole proprietorship is a type of business entity owned and run by one individual where there is no legal distinction between the owner and the business. With a sole proprietorship, the owner may use a trade name or a business name other than his or her own legal name to do business; in the United States, there is a requirement to file a "Doing Business As" (dba) statement with a local government agency, such as the county clerk's office.<sup>34</sup>

**Note:** Working as a sole proprietor still means that you are working as an independent contractor. You have the same liability, should follow the same guidelines, and must use the same tax forms as an independent contractor.

## Steps to Setting Up a Sole Proprietorship in

<sup>32</sup> For a PDF download of the W-9 form, see <http://www.irs.gov/pub/irs-pdf/fw9.pdf>

<sup>33</sup> For a PDF download of the 1099 form, see <http://www.irs.gov/pub/irs-pdf/f1099msc.pdf>

<sup>34</sup> "Sole Proprietorship," State of California Franchise Tax Board, <http://www.sos.ca.gov>



venues over \$250,000, it must pay an annual fee based on the total income for the year.<sup>38</sup>

## Steps to Setting up a LLC in California<sup>39</sup>

1. The group of workers must research the type of business plan they want and the state regulations.
2. An agreement is made that establishes how the business will be managed, who the members will be, how membership will be granted or revoked, and any other details.
3. To become a LLC in California, a person or group must file Articles of Organization with the Secretary of State along with a fee of \$70. The articles can be filed by filing a form on the Secretary of State's website.
4. The group should develop a management agreement. In California, the Beverly-Killiea Limited Liability Company Act, Corp C 1700-17655 contains rules regarding internal management.
5. Within 90 days of filing the articles, the LLC must file a Statement of Information with the Secretary of State. This includes names and addresses of LLC management and all members of the LLC, the general nature of the LLC's business activities, the name and address of the LLC's agent of service of process and the address of the LLC's principal business office. The statement would be filed every 2 years and when the information changes.
6. The LLC must obtain an Employer Identification Number (EIN) as its business tax identification number. The process of completing an EIN application on Form SS-4 can be done online, by phone, or through your attorney.<sup>40</sup>

agement and promote community and local development.

- » The free and voluntary membership of their members, in order to contribute with their personal work and economic resources, is conditioned by the existence of workplaces.
- » As a general rule, work shall be carried out by the members. This implies that the majority of the work-

## Basic Characteristics of Worker Cooperatives

\*The section comes from CICOPA (International Organization of Industrial, Artisanal and Service Producers' Cooperatives)<sup>41</sup>

- » They have the objective of creating and maintaining sustainable jobs and generating wealth, to improve the quality of life of the worker-members, dignify human work, allow workers' democratic self-man-

38 For further information on taxes for LLC, see <http://www.irs.gov/businesses/small/article/0,,id=98277,00.html>

39 "Limited Liability Company (LLC)," State of California Franchise Tax Board, [http://www.ftb.ca.gov/businesses/bus\\_structures/LLcompany.shtml](http://www.ftb.ca.gov/businesses/bus_structures/LLcompany.shtml) (accessed September 2011).

40 For further information on ITINs, see <http://www.irs.gov/individuals/article/0,,id=222220,00.html>

41 "World Declaration on Worker Cooperatives," CICOPA, <http://www.cicopa.coop/World-Declaration-on-Worker.html> (accessed October 2011)

Eco-Care Professional Housecleaning Services: A women’s cooperative made up of professionally trained worker-owners whose business provides residential and commercial cleaning services. <http://www.wagescooperatives.org/eco-care.html>

#### Health Care

Cooperative Care: Cooperative Care is a worker-owned cooperative of home care workers and certified nursing assistants. <http://co-opcare.com>

## A Recap of Requirements for Different Types of Work

|                                      | Full-Time Employee  | Independent Contractor  | Co-Owner of LLC  |
|--------------------------------------|---|---|--|
| <b>Personal Information Required</b> | Name, Address, SSN, statement about whether you are a citizen of the United States, noncitizen national of the United States, lawful personal resident or an alien authorized to work | Name, Address, SSN or ITIN  | None (All members may use the LLC EIN)   |
| <b>Government Forms</b>              | I-9, W-2  | W-9, 1099, Form 1040  | Form 8832 for classification of LLC, Form 1065 for LLC partnership, Form 1120 for LLC Corporation  |
| <b>Taxes</b>                         | Employer withholds income tax, social security tax and Medicare tax from each paycheck. Employee must file income tax return and pay federal income tax.                              | Contractors must pay self-employment and income tax. Contractors must file an income tax return for earnings over \$400 and pay federal income tax based on net income. | LLC pays \$800/ year minimum franchise tax + annual fee based on total income. Co-owners must pay income tax based on earnings from LLC. |
| <b>Startup Costs</b>                 | None  | Contractor pays \$35 for fictitious name registration with county and \$10 for business license (in California).  | LLC pays \$70 for Articles of Organization + attorney fees for filing and creating an agreement (in California).                         |

# Document Fraud

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\* This section written by Bill Ong Hing, Professor of Law at the University of San Francisco.

Working with false documentation may have implications in the long run. Congress has enacted special laws to punish individuals who use false immigration documents to obtain work in the United States.

## Definition of Document Fraud

The following provisions apply to all workers including U.S. citizens and those that are here in an undocumented status. It is unlawful for any person to knowingly:

- » Forge, counterfeit, alter, or falsely make any document for the purpose of satisfying a requirement of the Immigration and Nationality Act;
- » Use, attempt to use, obtain or receive any forged, counterfeit, altered, or false document to satisfy any requirement of the Immigration and Nationality Act;
- » Use or attempt to use any document lawfully issued to a person other than the possessor for the purpose of satisfying a requirement of the Immigration and Nationality Act; and

# GOING ABROAD

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40 Personal Narrative from Beleza Chan:

“My desire to grow and do something was larger than my ties to the U

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# EXPLORING YOUR IMMIGRATION REMEDIES

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It is important to understand your immigration status and learn about potential remedies. Educators for Fair Consideration's Legal Services team provides customized information about possible immigration remedies to immigrant students nationwide. Undocumented students, who are trained by committed and experienced immigration attorneys, do much of this work.

This confidential and anonymous service is intended for immigrant students who do not yet have legal residency or citizenship in the United States. Students should be under 35 years old and enrolled (or intending to enroll) in college. If you or someone you know would benefit from the Legal Services, you can fill out an online intake form at [www.e4fc.org/legalservices.html](http://www.e4fc.org/legalservices.html).

While there are numerous immigration remedies that may be available to undocumented students, we include detailed information about Deferred Action for Childhood Arrivals and a longer-term remedy that may not be commonly known to attorneys working with undocumented students. Also, make sure to visit E4FC's website to find our guide "Beyond Deferred Action: Common Immigration Remedies Every Dreamer Should Know About."

## Deferred Action for Childhood Arrivals

Deferred Action for Childhood Arrivals (DACA) is an administrative policy that will allow eligible undocumented students to receive a two-year deferment of their deportation and work authorization.

To be eligible for DACA, individuals must:

»

a U.S. consulate and then (if the visa is granted) enter the United States in valid nonimmigrant status with work authorization.

## How Do I Apply for a D3 Waiver?

You can apply for a d3 waiver in two ways: at a U.S. Consulate or a Port of Entry in your country of citizenship. Application for the d3 waiver thus requires you to leave the United States. It is important to remember that not only will departure automatically trigger the 10-year bar in most cases, but you will need to return to your birth country, which may be unfamiliar to you. You are also advised to consider the consequences of leaving the United States to apply for a d3 waiver before receiving H-1B petition approval. Even with petition approval, the d3 waiver and H-1B visa application are not guar-

that job in that geographic area, as well as to the actual wage paid at the company for others in the same job, among other attestations.<sup>43</sup>

The H-1B petition is submitted to USCIS with Form I-129 and supplements, a Labor Condition Application (LCA) certified by DOL, and evidence of the specialty occupation and the applicant's eligibility for H-1B status.

H-1B approval does not guarantee H-1B approval, even without the necessity of the d3 waiver application. USCIS adjudicates petitions, but a different agency, the Department of State (DOS), issues machine-readable visas (MRVs) outside the country. If you apply for an H-1B MRV concurrent with your d3 waiver application at a U.S. consulate abroad, H-1B petition approval by USCIS is the necessary first step.<sup>44</sup>

## Is the D3 Waiver Guaranteed?

A d3 waiver could be denied, or might be approved only after weeks or even months of delays. This is why it is important to wait for H-1B petition approval before making plans to leave the United States.

Is there any written guidance on d3 waiver adjudication?

The leading precedent decision on d3 waivers, *Matter of Hranka*, 16 I&N Dec. 491 (BIA 1978), articulated three criteria for consular officers to rely on when deciding whether an applicant's immigration violation should be waived:

1. The risk of harm to society if the applicant is admitted to the United States. For most undocumented students, their risk of harm to society is low if they intend to enter the United States as a working professional. Rather, there may be a potential benefit to U.S. society.
2. The seriousness of the applicant's prior immigration law, or criminal law, violations. This is compared to the range of grounds of inadmissibility covered by the d3 waiver. The immigration violation of unlawful presence, for example, is less serious than criminal convictions, drug offenses, or smuggling.
3. The reasons for wishing to enter the United States. This is not limited to exceptional or humanitarian

<sup>43</sup> For employer-specific resources on visa matters, please follow this link: <http://curranberger.com/content/blogcategory/38/119/>

<sup>44</sup> For more information on H-1Bs, please follow these links: <http://curranberger.com/content/view/35/67/>  
<http://curranberger.com/content/view/48/63/> (See "Visas After Graduation")

circumstances, but covers any legitimate purpose. Entering the United States for the purpose of pursuing professional employment with a non-profit, for instance, could be considered a legitimate reason at the discretion of the consular officer.

Consular officers also receive guidance from the State Department's Foreign Affairs Manual (FAM). On factors to consider when recommending a waiver, 9 FAM 40.301 N.3a states in part: "While the exercise of discretion and good judgment is essential, you may recommend waivers for any legitimate purpose such as family visits, medical treatment (whether or not available abroad), business conferences, tourism, etc."

Customs and Border Protection (CBP) – the officers who make immigration decisions at ports of entry– receive stricter guidance from the Inspector's Field Manual (IFM). IFM 17.5(e)(1) states in part:

Although the FAM provides guidance for State Department officers, the CBP is not bound by it. The inspector should consider all of the above and also consider that the Congress has deemed these aliens inadmissible to the United States. In considering the waiver, weigh the benefit, if any, to the United States should the waiver be granted. In situations where the proposed visit is for the purpose of medical treatment, consider whether such treatment is available to the alien abroad. Granting of waivers of these grounds should not be routine and available just for the asking.

This does not necessarily mean that a d3 waiver application is more difficult at a border crossing than at a consulate. Each border crossing and consulate has its own local rules and procedures, as well as personnel, which may impact the application process. Consultation with an immigration attorney will help prepare you for h border crossing |pighcennel,

States. Fortuitously, Dan-el's thesis advisor recruited him to work on a special project, and Princeton agreed to hire and sponsor him for an H-1B nonimmigrant visa. The H-1B enabled Dan-el to return to the United States after studying abroad. Prior to his return, Dan-el applied to and was accepted as a Ph.D. candidate in the Classics Department of Stanford University, which then supported his successful application to change from H-1B to F-1 student status. Although his legal status is not permanent, Dan-el

# STAYING MOTIVATED: EMOTIONAL HEALTH

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Within a few months, I packed my bags and moved to the Bay Area. I had always wanted to live there because of the wonderful weather, the more relaxed attitude and the city life in general. I tend to thrive off the adventure of moving to a new place, so my happiness factor instantly went up. Creating opportunity for myself has







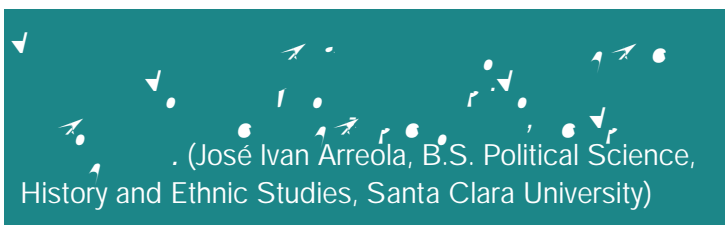
## Family and Friends

Family is what may keep you going. You may be driven to set an example for your younger siblings, or you may be conscious of the hard work your parents endure and want to help. Having a supportive family makes a huge difference because it becomes one of the only consistent support networks. When there are problems in the family, your friends may provide a similar support network.



## Finding A Local Immigrants Support Group

Finding a support group can provide a safe space for you to be open about your status. You may feel as though you are the only one going through this, but when you become involved in an organization or group, you realize that you are not alone. Regardless of where you live, the likelihood of there being a local immigrant support group is high. You may be surprised to find an organization you've never heard of by doing a quick Google search. If you don't find anything in your community, you may want to consider starting your own group.



## Mentoring/Tutoring

Lending a hand to younger immigrant students isn't only a nice gesture; it can also be a rewarding experience. You may see yourself in the students whom you work with and feel good about yourself for making a difference in someone's life.

## The Power of Storytelling

Many students grow up silenced about their situation, creating feelings of shame. Writing or sharing your

experience can be a liberating experience. You may not realize how much you are actually holding onto inside until you put it down on paper or tell someone about it.

## Finding Your M



as eating healthfully and getting adequate sleep, are all important.



## Seeking Professional Help

When a friend or a family member is not enough, there is always professional help. Plenty of students take advantage of the psychological services provided at school, but even after you graduate there are trusted psychological services offered at low prices in your community.



# APPENDICES

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letter in support of the California DREAM Act – state legislation that would provide financial aid to undocumented students – to the Governor of California, Arnold Schwarzenegger. My entrepreneurial skills were shown when I successfully launched a scholarship list for undocumented students in the San Francisco Bay Area that received over 15,000 hits online. This publicity allowed me to write the article “Not just a Latino Issue: Undocumented Students in Higher Education” for the Journal of College Admissions, a trade publication that reaches thousands of college admission counselors nationwide. All this work portrays my leadership and creativity in implementing plans for community betterment.

I believe that all of these experiences and accomplishments have shown my hard work and dedication in meeting the needs of my Latino and Asian immigrant communities. Overcoming my hardships made me a rational and flexible thinker, who has learned to identify problems and opportunities and find alternative solutions, characteristics that will allow me to succeed as a planner in community development. I believe that planning is a meaningful way to improve the lives of marginalized ethnic communities because it discusses the current situation of the community, but adds a long-term view to discussions of how a community should be planned out as. As such, I hope to assist immigrant communities in creating plans and policies to meet their social, economical, political, cultural needs, and to ensure their long-term sustainability. As a visionary, I can already see that the changes I have begun now will create better communities in the future. I believe that the University of Toronto is the perfect place for me to pursue a Planning degree, and to follow a path to a rewarding career.

# APPENDIX B:

## Sample Statement of Purpose

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Carlos Macias Prieto

### Statement of Purpose

My goal is to obtain a Ph.D. in American Studies from Purdue University and continue my study of social movements in the United States and Latin America. After completing my graduate research I plan to teach American Studies and Ethnic Studies at a large research university and hope to engage non-traditional students—first generation college students and immigrant students—and motivate them to continue their intellectual and professional pursuits. As a professor I plan to publish my research and contribute to the academy by collaborating with other professors and mentoring both graduate and undergraduate students.

My interest in Chicana/o and Latin American History goes back to my early years in high school. I remember visiting the library often, searching for books that would tell the history and stories of the familiar: of Mexico, of working class parents and their immigrant children growing up in American cities. I was searching for the narratives that were not included in school curricula. However, it was not until I started taking college courses in critical thinking that I began to realize that the history and stories of Chicana/os and millions of immigrants were largely neglected. This sparked my curiosity. I became determined to study the history of struggle of millions of people who have labored and suffered and, yet, their stories are un-chronicled. At the University of California, Berkeley, my interest in and passion for the study of Chicana/o and Latin American History was further ignited. I became convinced that reading what scholars have written is not enough; I want to write the history and stories of people many scholars have neglected.

As an undergraduate at Berkeley I took a number of courses that nurtured my academic development.

the last section of my paper, I critically analyzed the Zapatistas' initiative and the responses of both supporters and detractors. My thesis argued that the Zapatistas' "Other Campaign" offers significant alternatives for social revolution in Mexico.

At Purdue University, I plan to research the contribution of undocumented Mexican immigrants to the Chicana/o





## APPENDIX D: Sample Resume 1

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**OBJECTIVE:**

To volunteer for an organization that will allow me to influence my community.

## COMMUNITY SERVICE

American GI Forum, Sacred Heart Community Center, San Francisco AIDS Foundation, City Year's Spring Camp, Franklin McKinley District, Honolulu Marathon, Walk for AIDS Silicon Valley, Turkey Trot, HAREP Fiestas Patrias Celebration, California Coastal Clean-up Day

## APPENDIX E: Sample Resume 2

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### Education

**University of California, Berkeley**

Berkeley, CA | 08/09 – Present

- » Candidate for a Bachelor of Arts in Political Science, December 2011
- » Earned a 3.67 GPA, excelling in relevant courses such as Political Organizing, Immigration & Welfare, and Issues in Contemporary Asian American Communities

**Ohlone College**

# APPENDIX F: Sample CV

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## EDUCATION

California State University, Fresno  
Smittcamp Family Honors College  
Graduated May 2009  
B.A. Mathematics, Economics Minor  
Cum Laude

## PROFESSIONAL PRESENTATIONS

Missouri Valley Economic Association (MVEA)

October 2008

Oral Presentation, "Urbanization and the Cultural Costs of International Trade"

CSU, Fresno Mathematics Department Seminar Series

October 2008

Oral Presentation, "Urbanization and International Trade – A Possible Relationship"

Central California Research Symposium

April 2008

Oral Presentation, "P-Colorability for  $(12)^n$ "

The Mathematical Association of America Northern CA, Nevada and Hawaii Section

March 2008

Undergraduate Poster Session, "P-Colorability for  $(12)^n$ "

, Migrant Scholars Program

Summer 2007

Mentored migrant elementary students in guitar and computer classes.

, Roosevelt High School

Fall 2006

Tutored AVID students in need of individual tutoring on various subjects.

## **AWARDS**

Fresno Hispanic Scholarship

2008

Travel Grant, College of Science and Mathematics, Faculty Sponsored Research Award to attend MVEA

2008

Travel Grant, Louis Stokes Alliance for Minority Participation Program (LSAMP)

2008

Undergraduate Research Award to attend MVEA

2008

Travel Grant, Associated Students Inc. (ASI), Undergraduate Research Grant to attend MVEA

2008

Research Grant, Louis Stokes Alliance for Minority Participation Program (LSAMP) Undergraduate Research Award

2007

Travel Grant, College of Science and Mathematics, Faculty Sponsored Research Award to attend AMS National Meeting

2007

CSUF President's Scholar, Smittcamp Family Honors College, competitively attained, full-tuition scholarship; honors courses

2005

Appendix G: W-7 Form

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Form **W-7**

|  |  |
|--|--|
|  |  |
|--|--|





# APPENDIX H: W-9 Form

Form **W-9**  
(Rev. January 2011)  
Department of the Treasury  
Internal Revenue Service

## Request for Taxpayer Identification Number and Certification

G F  
d . D  
IRS.

Name (as shown on your income tax return)

---

Business name/disregarded entity name, if different from above

---

Check appropriate box for federal tax classification (required):  Individual/sole proprietor  C Corporation  S Corporation  Partnership  Trust/estate

Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ \_\_\_\_\_

Other (see instructions) ▶ \_\_\_\_\_

Exempt payee

Address (number, street, and apt. or suite no.)

---

City, state, and ZIP code

---

List account number(s) here (optional)

---

Requester's name and address (optional)

---

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

|                                |  |  |
|--------------------------------|--|--|
| Social Security Number         |  |  |
|                                |  |  |
|                                |  |  |
|                                |  |  |
| Employer Identification Number |  |  |
|                                |  |  |
|                                |  |  |
|                                |  |  |

### Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

**Note.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Signature of taxpayer (print name) \_\_\_\_\_ Date \_\_\_\_\_

### General Information

Section references are to the Internal Revenue Code unless otherwise noted.

#### Person

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a

# APPENDIX I: 1099 Form

VOID                  CORRECTED

|  |                                   |                            |  |
|--|-----------------------------------|----------------------------|--|
| PAYER'S name, street address, city, state, ZIP code, and telephone no. |                                   | 1 Rents                    | OMB No. 1545-0115                                      |
|  |                                   | \$                         |  |
|  |                                   | 2 Royalties                |  |
|  |                                   | \$                         |  |
|  |                                   | 3 Other income             | Federal income tax withheld                            |
| PAYER'S federal identification number                                  | RECIPIENT'S identification number | 5 Fishing boat proceeds    | 6 Medical and health care payments                     |
|  |                                   | \$                         | \$   |
| RECIPIENT'S name   |                                   | 7 Nonemployee compensation | 8 Substitute payments in lieu of dividends or interest |
|  |                                   | \$                         | \$   |
|  |                                   | 9                          |  |
|  |                                   | \$                         | \$   |



Contractor further agrees to seek direction under this Agreement from, submit work to and otherwise report to **(Supervisor Name)**.

Contractor represents that Contractor has the qualifications and ability to perform services of a (Title) in a professional manner. Contractor understands that in the course of providing services, they are representing (Company) and (Company) clients to the general public.

Contractor understands that (a) Punctuality is a must. If Contractor is late for an assignment, Contractor understands that s/he will be back-charged one hour of his/her fee or dismissed from the booking completely. Contractor agrees to arrive a minimum of fifteen (15) minutes prior to the scheduled start time. If Contractor cancels with less than 72 hours notice and has not notified (company), has not replaced him/herself with a qualified person approved by (Company), and/or is a no-show to a job, Contractor shall be charged with a \$125.00 cancellation fee. If Contractor cancels with less than 24 hours notice and has not notified (Company), has not replaced him/herself with a qualified person approved by (Company), or is a no-show to a job, Contractor shall be charged with a \$250.00 cancellation fee. Cancellations via e-mail are NOT acceptable. Contractor must contact (company) by telephone to cancel. (b) Contractor is expected present themselves in a professional manner. (c) If (Company) client wishes to change Contractor's work schedule, Contractor shall call (company) for approval. (d) At any (Company) event, Contractor shall not be under the influence of, use, possess, distribute, sell, condone, sanction or aid the illegal use or possession of alcoholic beverages, or illicit or controlled drugs for which the person has no valid prescription. Contractor further shall not, at any (Company) event, use, possess, or distribute or sell drug paraphernalia; or misuse legitimate prescription or over-the-counter drugs. The symptoms or influence may be, but are not limited to slurred speech or difficulty maintaining balance. (Company) reserves the right to send the Contractor home from an event without pay and terminate this contract if Contractor arrives at the event while under the influence of drugs or alcohol, or becomes intoxicated while at the event.

#### **Duties for (Company)**

(Company) agrees that for purposes of acceptance of Contractor's performance under this Agreement, its sole representatives shall be the President, (Name), or such other employee(s) or person(s) or entities the Company so designates.

(Company) further agrees to allow Contractor access to whatever records, files, or personnel reasonably deemed by the Company or Contractor to be necessary in order to allow Contractor to perform his duties under this Agreement, in accordance with (Company) Confidentiality Agreement.

#### **Fees & Taxes**

In consideration of Contractor's performance of his duties under this Agreement, (Company) agrees to pay fees to Contractor at an agreed upon hourly rate. These fees may be delivered to Contractor personally or by first class

The Independent Contractor will not be hired directly with the client for 2 years after the event date is over: If the Independent Contractor contacts the client directly/or vise versa about a job and is hired then the IC will owe (Company) %20 of there fees for the duration of the promotion-

The Independent Contractor will not contact the client directly about payment: If a contractor contacts the client directly about payment then payment will be forfeited by (Company).

**Confidentiality, No Conflict of Interest, Proprietary Information Agreement**

This Agreement is confidential and shall not be transferred, communicated or delivered to a third party, without the express prior written authorization of (Company) and Contractor.

During the entirety of this Agreement, Contractor will not accept work, enter into a contract, or accept an obligation that is inconsistent or incompatible with Contractor's obligations to (Company). Contractor warrants and represents that, to the best of Contractor's knowledge, there is no other contract or duty on Contractor's part which conflicts with or is inconsistent with this Agreement. Simultaneous with the execution of this agreement, Contractor agrees







## Appendix K:

# Relevant Articles about Undocumented Students


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Undocumented UCLA law grad is in a legal bind

Tobar, Hector. "Undocumented UCLA law grad is in a legal bind."     A 26 November 2010.

<http://articles.latimes.com/2010/nov/26/local/la-me-tobar-20101126>

Academic Purgatory: An illegal immigrant earns a Ph.D. Now what?

Stavans, Illan. "Academic Purgatory: An illegal immigrant earns a Ph.D. Now what?"  26 June 2011.

<http://chronicle.com/article/Academic-Purgatory/127970/>

Illegal at Princeton

Jordan, Miriam. "Illegal at Princeton."  15 April 2006.

[http://online.wsj.com/public/article/SB114505937960426590-JaBq2TSBeFiQZQH-vDQOIBaFtacl\\_20060519.html](http://online.wsj.com/public/article/SB114505937960426590-JaBq2TSBeFiQZQH-vDQOIBaFtacl_20060519.html)

Note: Dan-EI Padilla Peralta ultimately got an H-1B, which enabled him to reenter the country after he went to Oxford.

Just One Thing Missing (radio story about undocumented student about to graduate from UCLA)

McGray, Douglas. "Just One Thing Missing."     A 06 April 2007.

<http://www.douglasmcgray.com/justonething.mp3>

## Appendix L:

# Biographies of Contributors

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**José Ivan Arreola** was born in Durango, Mexico and came to the United States when he was four years old. With the unconditional love and support of his family and the guidance of many mentors along the way, Jose went on to study Political Science, History and Ethnic Studies at Santa Clara University – where he received a full scholarship. During his college career, Jose was an outspoken leader on campus around issues of racism, inequality, and oppression. Jose’s work culminated as the Executive Director of the Multicultural Center of Santa Clara University. Upon graduation, Jose was trained as a community organizer for racial and economic justice by the Center for Third World Organizing in Oakland, CA. As an undocumented student himself, Jose utilizes his experiences to help empower and support other undocumented students across the country.

**Krsna Avila** is a recent graduate from the University of California, Davis where he received his Bachelor of Arts Degree in Sociology and Psychology. Arriving in the United States when he was four months old, Krsna only faintly remembers Mexico, the country where he was born. Growing up in Oakland, he was a victim of four different gun-shooting incidents. His ambition to succeed academically has become a passion as well as a philosophy for self-development. In addition to coordinating E4FC’s Legal Services, Krsna is looking forward to receiving acceptance letters from prestigious law schools around the nation in the near future.

**Dan Berger** is a frequent speaker at colleges, universities, and nonprofits on immigration issues. He won the 1995 American Immigration Lawyers Association (AILA) annual writing competition for an article on INS policies toward international adoptions. Mr. Berger



represented health professionals through mentoring, career exposure, and leadership development. She serves on a variety of higher education advising committees and has extensive experience advising and working with

Act. In addition to his work with ASPIRE, Mario serves as the Student Support Coordinator for Educators for Fair Consideration.

**Laura Lopez** was born in Valle de Santiago, Guanajuato and raised in Napa, California. She graduated

the process of starting his own business as a holistic health coach.

**Karla C. Reyes** is the founder of KCR Public Relations. She is passionate about social justice in the areas of education for immigrant youth, social entrepreneurship and the advancement of women in every business sector.

## About the Author

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**ILIANA PEREZ** was born in Pachuca, Hidalgo, Mexico and immigrated to the United States when she was eight years old. With the support and encouragement from her parents, family and friends, she graduated with academic and university honors from California State University, Fresno with a degree in Mathematics and minors in Economics and Business. While at Fresno State, Iliana participated in the Aztec Dance Club, Peace and Dignity Journeys, MEChA, The Hispanic Business Student Association, the Salsa Club and Associated Students Inc. Upon graduation, Iliana went on to pursue a Master's Degree in Global Political Economy and Finance at the New School for Social Research in New York City. She believes that every student deserves the right to an education regardless of legal status. Because of her personal and educational history, she feels committed to bringing change to immigrant communities and later to communities in Mexico. Iliana would like to embark on an academic career that will ultimately prepare her for a career in academia as a professor.

## Acknowledgements

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This guide would not have been possible without the collaboration of the students who were willing to share their experiences and provide sample documents for this guide: José Ivan Arreola, Krsna Avila, Beza Chan, Catherine Eusebio, Perla Flores, Nelly Gonzalez, Blanca Hernandez, Prerna Lal, Sergio Lara, Mario Lio, Laura Lopez, Carlos Macias, Tsatsral Magnaibayar, Alejandro Mendoza, Julio Navarrete, Elijah Oh, Dan-el Padilla, Luis A. Perez, and Karla C. Reyes. Much guidance was also provided by Dan Berger (Curran & Berger LLC), Joshua Bernstein (Service Employees International Union), Tanya Broder (National Immigration Law Center), Santiago Campero (M.I.T. Sloan School of Management), Rhonda Factor (Counseling Services, The New School), Lorenzo Gamboa (Santa Clara University), Bill Ong Hing (University of San Francisco School of Law), Linton Joaquin (National Immigration Law Center), Claudia Rodriguez-Mojica (Stanford University School of Education), Madeleine Rose (Sonoma State University), Mark Silverman (Immigrant Legal Resource Center), and Stephen Yale-Loehr (Cornell Law School). Thank you to Jennifer Pence (Academic Springboard) for her assistance with the editing of this guide. Finally, thank you to Kathy Gin for her time and dedication not only to this guide, but E4FC in general.

## About Us

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### Educators for Fair Consideration (E4FC)

Founded in 2006, E4FC supports undocumented students in realizing their academic and career goals and actively contributing to society. We offer holistic programming that addresses the financial, legal, career, and emotional health needs of undocumented students. Specifically, we provide scholarships, legal services, professional and personal development workshops, and a strong peer network for undocumented students. We also lead presentations and create educational materials to raise awareness and support for undocumented students nationwide. Our programming is designed by and for undocumented young people with support from committed allies. For more information, please visit us online: [www.e4fc.org](http://www.e4fc.org).