

# *Legal Times*

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## **Who Would Qualify Under the DREAM Act?**

In order to qualify under the DREAM Act, the student must have good moral character, and must have come to the U.S. at the age of 15 years or younger at least five years before the date of the enactment of the DREAM Act. They would qualify for conditional permanent resident status upon acceptance to college, graduation from a U.S. high school, or being awarded a GED in the U.S. At the time of filing, the student must be under the age of 35 in order to qualify. If a student committed crimes, was a security risk, or was inadmissible or removable on certain grounds, that student would not qualify.

## **Conditional Permanent Residence Status**

A student who qualifies under the DREAM Act would be given conditional permanent residence status. The conditional permanent residence would be similar to lawful permanent residence status, except, the student would be given status for a limited time period which is six years under normal circumstances.

With the conditional or temporary permanent residence status, the student would be able to work, get a driver's license, and participate in regular daily activities much like the American citizen would. The student would not be able to travel outside the U.S. for lengthy periods, and would not be eligible for Pell Grants or certain other federal financial aid grants. However, the student would be eligible for federal work study, student loans, and financial aid from the states in which they reside. During the period the student is a temporary permanent resident, that time is counted towards the required years for naturalization.

## **Requirements to Lift the Conditional/Temporary Residency Status**

The student is eligible for unrestricted lawful permanent resident status at the end of the conditional period under certain circumstances. The student must (1) maintain good moral character during the conditional period; (2) must not take lengthy trips abroad; and (3) must either have (i) graduated from a two-year college or certain vocational colleges, or studied for at least two years towards a B.A. or higher, or (ii) served in the U.S. armed forces for at least two

## **The Attorney's Corner**

*Let us talk law today.*

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**IMMIGRATION NEWS FLASH:  
The DREAM Act Reintroduced**

On March 26, 2009, a number of U.S. Senators and House of Representatives reintroduced the Development, Relief, and Education for Alien Minors (DREAM) Act, their version of the “American Dream Act.”

If passed, the DREAM Act would have two major changes to the current law: (1) permit certain immigrant students who have grown up in the U.S. to apply for temporary legal status and eventually obtain permanent residency, thus becoming eligible for U.S. citizenship if they go to college or serve in the U.S. military; and (2) eliminate a federal provision that penalizes states that provide in-state tuition to students irrespective of their immigrant status. If enacted, the DREAM Act would have a significant impact on the students who qualify.

years. If a student does not meet the requirements for lawful permanent status at the end of the six years, that period may be extended if the student can show good cause for the extension.

Under certain circumstances the U.S. Department of Homeland Security can waive the requirements if the student can show some compelling reason why they did not meet the requirements during the six year period. These compelling reasons include a disability which would have prevented the student’s completion, and where removal of the student from the U.S. would result in extreme unusual hardship to the student, or the student’s spouse, parents or children. The decision to waive the requirements is at the discretion of the officer; therefore, the student would want to explore this option with caution.

**In-State Tuition Option Under the DREAM Act**

Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), currently discourages states from providing in-state tuition or other education benefits to students who do not maintain immigrant status. Under section 505, if a state provides in-state tuition or other educational benefits to students who are undocumented, that state must provide the same benefits to U.S. citizens in the same circumstances, even if the U.S. citizen student is a resident of another state.

Since section 505 of IIRIRA became law, only ten states in the U.S. enacted laws allowing undocumented immigrant students to attend school and pay in-state tuition. These ten states are Texas, California, Utah, Washington, New York, Oklahoma, Illinois, Kansas, New Mexico, and Nebraska. These states are all pay a penalty under section 505 because they are required to provide in-state tuition discount to residents of other states who went to high school or graduated in the state. The DREAM Act would repeal this penalty. While the DREAM Act would not mandate that states provide in-state tuition, it would give other states the choice to do so without fear of penalty.

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Support is still needed for the DREAM Act to pass. Your support is needed so that this bill can pass and eliminate the barriers to higher education for our undocumented students. Petition your legislators and give our students a

path to legal residency. Call or write your legislators and ask them if they supported the DREAM Act. If they have, thank them. If they have not, urge them to support this important legislation.

If you are unsure of your state's representative you may visit <https://writerep.house.gov/writerep/welcome.shtml> for a complete list.

## **Inside This Issue**

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*Important Links and Resources for your Legal Research*

National Immigration Project of the Lawyers Guild for HIV:

<http://www.nationalimmigrationproject.org/HIV/2004HIVManual/2004hivmanual/>

Department of Health and Human Services: Centers for Disease Control and Prevention:

<http://www.cdc.gov/hiv/links.htm>

National HIV and STD Testing Resources:

<http://www.hivtest.org/>

Visa Bulletin:

[http://travel.state.gov/visa/frvi/bulletin/bulletin\\_1770.html](http://travel.state.gov/visa/frvi/bulletin/bulletin_1770.html)

USCIS page for processing time reports and individual case status:

<https://egov.uscis.gov/cris/jsps/index.jsp>

USCIS - list of physicians for adjustment:

<http://www.uscis.gov/civilsurgeons>

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