

For Illegal-Immigrant Students, New Policy on Deportations Offers Limited Relief

By Kelley Field

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When President Obama announced last month that his administration would take steps to suspend the deportation of immigrants who pose little risk to society, many college students celebrated.

"People who have criminal backgrounds should be a priority, not people who grew up here and are trying to better America," said Ola Kaso, a University of Michigan freshman who was brought to the United States from Albania when she was 4 and faces possible deportation in the spring.

The plan, which will create an interagency committee to recommend cases for closure, offers limited relief to students who would benefit under the Dream Act, a long-stalled bill that would provide a path to citizenship for undocumented students.

While that measure languishes in Congress, many states are taking steps to make public colleges more affordable for illegal-immigrant students. The California Legislature is poised to pass a bill that would allow undocumented students to apply for an estimated \$40-million in Cal Grants, community-college fee waivers, and other grants, a month after the governor signed a bill that gives them access to private scholarships. Illinois, which has one of the nation's largest populations of illegal immigrants, granted undocumented students access to private scholarships in early August.

Other states have taken the opposite approach, denying in-state tuition and state scholarships to illegal-immigrant students. In Georgia, where a new policy has shut out undocumented students from five of the top state colleges, a group of professors has started a program called "Freedom University," to offer seminars to the students. And this week a federal judge temporarily blocked a tough Alabama law that, among other things, compels public schools to verify students' citizenship and bars undocumented students from the states' public colleges.

The U.S. Department of Justice has argued that the Alabama law pre-empts federal immigration authority, a power the White House is clearly asserting with its decision to suspend many deportations. But the government's new approach isn't a panacea for undocumented students. It won't grant them legal status, for example, and it won't qualify them for federal student aid. At most, it offers a temporary reprieve for some students who are already caught up in the legal system.

"This policy merely continues their legal limbo," said Stephen W. Yale-Loehr, a professor of immigration law at Cornell University.

Secretary of Homeland Security Janet Napolitano acknowledged such limitations in an August 18 letter to Sen. Richard J. Durbin, Democrat of Illinois, writing that the policy "will not provide categorical relief for any group."

"Thus the process will not alleviate the need for passage of the Dream Act or for larger reforms to our immigration laws," she continued.

But the Dream Act is unlikely to clear Congress anytime soon. Though the measure enjoys bipartisan support, it has never made it through both chambers. It came close to passage in 2010, but fell five votes short in the Senate, where Republicans had threatened a filibuster.

Angering the Opposition

The Dream Act would go further than any of the state bills, making illegal-immigrant students eligible for

citizenship if they met certain conditions. Supporters of the bill say it would benefit the economy by helping young immigrants obtain better-paying jobs. But critics say the measure would reward law-breaking and invite more illegal immigration. They accuse the administration of conducting an end-run around Congress with the new enforcement policy.

"He doesn't have the constitutional authority to do it," said Ira Mehlman, a spokesman for the Federation for American Immigration Reform, which advocates tougher immigration policies. "Making laws is the exclusive prerogative of Congress."

James E. Campbell, a political-science professor at the University at Buffalo, warned that the president's actions could "harden opposition" to the Dream Act in Congress.

But Mr. Obama's supporters say he is simply using federal resources wisely. They point out that he is not the first president to give prosecutors the discretion to close low-priority deportation cases.

"He's telling Congress, You need to fix this, but in the meantime, we're going to use our limited resources in a smart way," said David W. Leopold, immediate past president of the American Immigration Lawyers Association. "I call that smart enforcement."

It's unclear how many students will benefit from the new policy. The Department of Homeland Security does not have a process for reporting and tracking students who would qualify for the Dream Act, so no one knows how many undocumented college students are in removal proceedings or how many have been deported since the bill was introduced in 2001.

At least two students have already gotten a reprieve. A week after the administration's announcement, federal authorities in Georgia agreed to close their cases against Luis Enrique Hernández, a high-school senior, and Pedro Morales, who has been admitted to Georgia Northwestern Technical College. Mr. Morales, who came to the country when he was 7, had been arrested three months earlier at a traffic stop and spent five nights in a county jail. He said he was terrified that he would be forced to leave the country he considers home for a place he left as a child.

"I don't know anything about Mexico," he said.

Esterny Ironche, a 55-year-old Spanish teacher with no criminal history, wasn't so lucky. The teacher, who is married to a U.S. citizen, was deported to Spain last week, according to the Houston Chronicle.

Such disparities reflect the fairly wide latitude that federal prosecutors have historically been given. Advocates hope the committee, which will review 300,000 pending cases, will bring consistency to the process by categorizing cases in a uniform way.

Ms. Kaso, who testified at a U.S. Senate hearing on the Dream Act in June, said she is "eager to see how it will all play out."

"All these students who could have a positive influence on our society are being deported," she said. "I think there's something wrong with that."