THEY, TOO, SING AMERICA: A CRITICAL ANALYSIS OF USG POLICY 4.1.6 AND ITS PERCEIVED IMPACTS ON DACA STUDENTS IN THE STATE OF GEORGIA

Ryan Z. Maltese
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THEY, TOO, SING AMERICA: A CRITICAL ANALYSIS OF USG POLICY 4.1.6 AND ITS
PERCEIVED IMPACTS ON DACA STUDENTS IN THE STATE OF GEORGIA

by

RYAN Z. MALTESE

Under the Direction of Janice B. Fournillier

ABSTRACT

Research interrogating the development, implementation and enforcement of reactionary and conservative social and educational movements and policies has enabled us to show the contradictions and unequal effects and the disproportionate and disparate impacts on the lives of minority students (Apple, 2009). This research study examined how the Board of Regents, Georgia’s higher education governing body, interprets and enforces the “lawful presence” requirement set forth in USG Policy 4.1.6. The study gave primary consideration to Deferred Action for Childhood Arrivals (DACA) recipients, who the data show have been systematically excluded from access to certain state colleges and universities without legal cause or justification.

The study also examined the perceived impacts of Policy 4.1.6 on DACA students seeking admission to the state’s most selective colleges and universities. Data collected from participant interviews of DACA students, along with data gathered through participant observation and documents analysis, were used to create a greater understanding of the impacts of Policy 4.1.6 on
both DACA and undocumented students. The study is significant because it traverses matters of current legal import, while also contributing to the growing body of literature concerning access to postsecondary education for undocumented students. Using the methodological approach of critical theory, the study incorporated elements of critical race theory (CRT), critical Latino/a studies (LatCrit), and critical policy analysis in the exploration of the various narratives and counternarratives created by the enforcement of Policy 4.1.6. Using Interpretive Phenomenological Analysis (IPA) of the interview data, a critical assessment of the perceived impacts of Georgia immigration and education policy development and implementation is also provided. Finally, this study revealed the ways in which ‘race-neutral’ educational policies result in discriminatory practices against minorities, specifically undocumented students, the majority of who are Latino/a. The knowledge gained from this research gives policymakers on either side of this issue with analysis that can more effectively guide them in the interpretation of federal mandates and conflicting state laws that result in the subordination of significant segments of student populations.

INDEX WORDS: undocumented students, postsecondary education, critical policy analysis, interpretive phenomenological analysis
DEDICATION

This research study is dedicated to the millions of young people brought to this country in search of the hopes and promises that are ingrained in the American ideal. Continue to believe in yourselves and in the spirit of those whose fight for freedom laid the groundwork for your struggle. Hold on to your dreams and remember your purpose, for you, too, sing America.
ACKNOWLEDGMENTS

This dissertation would not have been possible without the loving support and dedication of my beloved wife, Jackie. This is as much her accomplishment as it is my own. I also want to acknowledge my children, Chino, Gabriella, Jackson and Rosaria, who never quite understood exactly what Daddy was doing in front of the computer for hours and hours. I give thanks and praise to the rest of my family, especially my mother, Rosanne, whose support, guidance and direction throughout my life have defined me as a thinker, a scholar and a human being. Unfortunately, my grandmother passed away before I could complete this study, but it was her strength and her willingness to provide my family a home that made this study a reality.

I want to acknowledge the members of my dissertation committee. I found comfort in their critiques, and I am thankful for their belief in me, especially at the very beginning of this process, when I had little belief in myself. A special thank you goes to my committee chair, Dr. Janice Fournillier, whose dedication to this project was immeasurable. She showed me what it means to be committed to the production of quality scholarship, as well as finding my own voice within it.

I would like to acknowledge the Joseph and Evelyn Lowery Institute for Justice and Human Rights and its incredible staff. For three years, Cheryl, Blake and Dr. Lowery served as my surrogate family, supporting my graduate fellowship and offering guidance, support and context for the journey I was taking. Few people have an opportunity to meet iconic figures in American history, let alone engage them at the most personal level. It is an experience that I will cherish forever and one that, in many ways, shaped the course of this dissertation.

I also want to acknowledge my classmates with whom I completed group projects and engaged in intellectual discourse. To my cohort, thank you for believing in me, even when I thought I was in over my head and wholly out of place in the program. And to my professors, having an opportunity to learn from some of the most distinguished and profound policy scholars in the Academy has been an honor and a pleasure, and I hope I will continue to live up to their expectations of me.

A special acknowledgement goes to the students of Freedom University. In many ways, they are the foundation of this research. It is their voices and the voices of the tens of thousands who they represent that I have tried my best to reflect in this study. I am eternally grateful to them for accepting me into their safe spaces. “Blessed are those who hunger and thirst for righteousness, for they will be satisfied” (Matthew 5:6).

I want to acknowledge my colleagues in the Office of Undergraduate Studies and Student Success. So many times, they reminded me of the value of the experiences we bring to bear as we pursue our professional and academic ambitions. Their support and encouragement were invaluable, and I will always be grateful to them for opening their office doors to me and allowing me to share my stories of marriage, parenthood, teaching, learning and struggle.

Finally, I must acknowledge the thousands of young people I have had the opportunity to counsel, teach, mentor, advise, lead, manage, direct, supervise, encourage, critique, engage and support over the last twenty years of my life and career. This accomplishment comes with the recognition that they have allowed me to truly understand the value of higher education and its significant role in the lives of those that have the opportunity to pursue it. I do hope that at some point, this understanding will help shape educational policies that seek out the inclusivity of all of the voices that comprise this generation of learners, allowing each one their own occasion to join the higher education discourse.
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<td>Board of Regents</td>
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<td>Critical Policy Studies</td>
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<td>Illegal Immigration Reform and Immigrant Responsibility Act</td>
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<td>Immigration Reform and Control Act</td>
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<td>ISRT</td>
<td>In-state Resident Tuition</td>
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<td>MALDEF</td>
<td>Mexican American Legal Defense and Education Fund</td>
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<td>P@GSU</td>
<td>Perimeter @ Georgia State University</td>
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<td>PRWORA</td>
<td>Personal Responsibility and Work Reconciliation Act</td>
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<tr>
<td>SB/HB</td>
<td>Senate Bill or House Bill</td>
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<td>UGA</td>
<td>University of Georgia</td>
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<td>USCIS</td>
<td>U.S. Customs and Immigration Services</td>
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<td>USG</td>
<td>University System of Georgia</td>
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CHAPTER ONE

INTRODUCTION

They’ll see how beautiful I am
And be ashamed –
I, too, am America.
~ Langston Hughes (1945)

Statement of the Problem

There are a multitude of socio-cultural factors that determine the purpose and significance of education in the lives of persons living in the United States. For many, education is the foundation upon which society is built. In the U.S., public school systems throughout the country teach children that education perpetually creates space for the ideals outlined in this country's founding document. The promise of life, liberty, and the pursuit of happiness as inalienable rights is shared by all those who seek to take part in the evolving legacy of the country. An added component to this narrative is the expectation of postsecondary education as the gateway to greater opportunity, economic stability, and familial prosperity at the national and international level. This belief has become an indelible part of the K-12 educational experience, and a college degree is, for many, the prerequisite for achieving and maintaining one's highest possible class status in the United States. Bennett and Lutz (2009) note,

The presence or lack of postsecondary educational training opens or closes paths to particular occupations, and one's position in the occupational structure frames one's access to a myriad of resources that affect one's life chances (p. 71).

Intellectual capacity creates advancements in society, often developed from the postsecondary educational experience. Since our first institutions of higher education were established
in the early 17th century, “American people have always regarded education and acquisition of knowledge as a matter of supreme importance which should be diligently promoted” (Meyer v. Nebraska, 1923, p. 400). The opportunity to participate in that experience has often been a difficult process for many, including Natives, slaves, women, people of color, and, most recently, undocumented foreign-born nationals, who have been denied access at one point or another. Still, I contend that these communities (and many others) have all played a key role in developing the cultural poesies that provide scholars and students the platforms from which they develop the ideas that further the conventions of humanity. Most recently, the Deferred Action for Childhood Arrivals (DACA) program created an opportunity for previously undocumented students to assume a more active role in the overall U.S. experience, including opportunities to work legally and lawfully establish themselves within their communities. There are certain Georgia policies, however, that have excluded immigrants, specifically undocumented and DACA students, from joining this arena of higher education scholarship. A larger conceptual framework is thus created, addressing issues of civil rights that are worthy of further interrogation and the production of new knowledge. This type of research is thus a reminder that, "the history of civil rights in this country is replete with challenges at every turn to attempts to increase access to opportunities in society" (Alger, 2013, p. 153). The ways that we meet those challenges is a focus of this study that explored undocumented young people’s perceptions of the impacts of these frameworks and the ways in which they came together to seize the opportunity for change.

The majority of undocumented students in the United States are children brought to the country at a very young age by their parents. Gonzales (2008) argues that to engage this community of undocumented immigrants includes determining what rights to education should be extended to them. Emphasizing the significance of education in the United States, Supreme Court
Justice William Brennan stated that education “provides the basic tools by which individuals might lead economically productive lives to the benefit of us all” and that it “has a fundamental role in maintaining the fabric of our society” (457 U.S. 202, 1982, p. 221). This statement, made over thirty years ago in the landmark decision, *Plyler v. Doe* (1982), now resonates across the landscape of higher education as policymakers create or limit avenues for undocumented persons attempting to obtain a college degree. The debate often centers on whether states, as the traditional purveyors of K-12 and postsecondary education, should extend in-state resident tuition (ISRT) to undocumented persons who have graduated from a state high school and otherwise meet all the traditional residency requirements. Lawmakers and administrators on either side of this issue argue the merits of immigration policy within the context of social justice, disparate economic impacts, fairness and equal protection under the law. To ensure victory on this political battlefield, those on the side of access are relying upon this country’s legacy of equitability that is written into the annals of U.S. history. They are using these very principles to contest the socio-political discourse that is restricting their opportunities for postsecondary education. This dissertation explored a small facet of this larger discourse, precipitated by the creation and implementation of Policy 4.1.6, enacted by the University System of Georgia Board of Regents, and currently enforced against undocumented and DACA students.

**Policy Issue**

The policy cycle for USG Policy 4.1.6 began in the spring of 2010. Jessica Colotl, then a junior at Kennesaw State University was stopped by university police for a minor traffic infraction and charged with driving without a license (Banks, 2013, p. 1426). Colotl, a Mexican immigrant who at the time had spent more than half her life in the U.S., was arrested and then spent
the next thirty-seven days in an Alabama detention center because she was undocumented (Banks, 2013). Even though Georgia law expressly prohibited undocumented students from being eligible for in-state tuition, Colotl had been matriculating at Kennesaw State as an in-state student, thus receiving state-subsidized tuition. Munoz, Espino, and Antrop-Gonzales (2014) noted, "Jessica’s arrest sparked controversy among local civil rights groups who advocated for the plight of immigrants who are undocumented" (p. 2). At the same time, members of the public expressed concern about the number of undocumented students enrolled in the state’s public institutions of higher education and receiving state subsidies (Munoz et al., 2014). According to Banks (2013):

The University System of Georgia Board of Regents was confronted with public outcries that "the University System was being swamped by thousands of undocumented students, that Georgia taxpayers were subsidizing the education of these students through in-state tuition", and that "undocumented students were taking seats in college from academically qualified Georgians" (p. 1440).

In response to the public concern, the Georgia Board of Regents voted 14–2 to adopt Policy 4.1.6, which made undocumented students ineligible for admission to and enrollment in the state’s five most selective public universities (Soltis, 2015). The University System of Georgia (USG) Board of Regents Policy Manual states in Section 4.1.6 (enacted in October 2010):

A person who is not lawfully present in the United States shall not be eligible for admission to any University System institution which, for the two most recent academic years, did not admit all academically qualified applicants (except for cases in which applicants were rejected for non-academic reasons) (www.usg.edu, 2015).

In effect, Policy 4.1.6 prohibited any undocumented persons, regardless of state residency, from attending Georgia’s five most selective universities, which include the University of Georgia (UGA), Georgia Institute of Technology, Georgia State University (GSU), Georgia College and State University, and the Medical College of Georgia (Banks, 2013; Munoz et al, 2014;
Soltis, 2015). Also, undocumented students, including those who graduate from Georgia high schools and meet all ISRT requirements, must pay out-of-state tuition rates at all other state colleges, community colleges and technical schools in the university system (Quinton, p. 2013). In November 2016, during the course of this research study, the Board of Regents announced GSU and the Medical College of Georgia (since renamed Augusta University) were removed from consideration of the policy. Irrespective of the Board of Regents' action, the study began prior to the announcement and has provided an analysis of the issues, factors, and concerns that were a standard part of the policy discourse during its enforcement against all five of these institutions.

Central to this dissertation was how Georgia's state colleges and universities, along with its governing bodies, interpreted and enforced the "lawful presence" requirement outlined in Policy 4.1.6. The study examined the participants’ perceptions of the impact of the policy on undocumented students in the state of Georgia. Unique to the research was a focus on the Deferred Action for Childhood Arrivals (DACA) program, which is managed by the Department of Homeland Security (DHS) and grants deferred action status to certain undocumented youth who were brought to the U.S. as children and have lived and remained in the country ever since their arrival. The program, Hu (2015) explains, "allows young people who are undocumented to request temporary relief from deportation proceedings and work authorizations for a period of two years if they meet certain criteria" (p. 27). DACA also grants work permits to eligible undocumented persons who came to the U.S. at age 16 or younger and have led law-abiding lives (Long, Jr., 2014). While this legislation does not create a path to citizenship, it exercises "prosecutorial discretion" by suspending the threat of deportation for a large portion of the more than 2 million undocumented persons who are aged 24 or younger (Banks, 2013). Hu (2015) also noted, "DACA provides more consistency and transparency to the exercise of prosecutorial discretion
for a specific group of individuals – undocumented young people who entered the United States as children” (p. 50). However, Adams and Boyne (2015) warned that "given the fact DACA is not enacted as law, DHS has the authority to renew or even terminate a DACA grant at any time" (p. 51).

The fact that DACA is not a law is how the state of Georgia, through its Board of Regents, currently enforces policies that restrict access to postsecondary education for "DACAmented"\(^1\) students. According to the USG Office of Legal Affairs, as noted in the *USG Manual for Determining Tuition Classification and Awarding Out-of-State Tuition Waivers* (2015-16), “individuals granted DACA are not considered lawfully present in the United States” (www.usg.edu). The manual goes on the note that, “[any] individual granted DACA by the Department of Homeland Security is ineligible to be classified as an in-state student, granted a USG out-of-state waiver, or to be admitted to any institution falling under Policy 4.1.6” (www.usg.edu). This dissertation arrives at a different conclusion, and maintains that the DACA program grants the “lawful presence” necessary to gain entry into all of the state’s public colleges and universities.

A merger within Georgia’s university system further problematized the interpretation of Policy 4.1.6. On January 6, 2015, the USG Board of Regents voted to consolidate Georgia State University (GSU), a four-year research university, with Georgia Perimeter College (GPC), a community college comprising five campuses throughout the metro Atlanta area and offering two-year associate degrees. The stated goal of the consolidation was to “improve student success by expanding access, applying best-practice programs and reinvesting savings into academics for

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\(^1\) The term “DACAmented” emerges from the research as a substitute researchers and the undocumented both use. It describes their immigration status as a DACA recipient and is used interchangeably throughout the body of this research study.
the benefit of our students” (www.consolidation.gsu.edu). According to the institutions, the consolidation also presented “an opportunity to create a modern, urban university that balances the needs for access as well as research and public service” (www.consolidation.gsu.edu).

One year later, GSU and Perimeter@GSU, became the largest university in the state and twelfth largest in the nation, serving more than 50,000 students on six campuses throughout the metro-Atlanta area. But what happened to the 420 undocumented students enrolled at new Perimeter at GSU, who at the time were not allowed to attend GSU’s main campus (Davis and Redmon, 2015)? As noted earlier, Policy 4.1.6 prohibited an undocumented student from enrolling at any of Georgia’s five most select universities, one of which was Georgia State University. On its website, GSU provided some guidance regarding the transition from one program to another within the GSU academic framework, by answering the question, “How will the consolidation affect undocumented students?” with the following: “The policy at each respective institution is not expected to change. GPC enrolls undocumented students (who pay out-of-state tuition) while Georgia State is one of five USG institutions that do not” (www.consolidation.gsu.edu). This created a dilemma for undocumented students (and DACA students) and an opportunity to critically explore the plight of undocumented students pursuing postsecondary education.

**Purpose of the Study**

In law school, I learned that *Brown vs. Board of Education of Topeka* (1954) was founded on the principle that providing public education within a racially integrated framework was necessary to build a united and culturally diverse society grounded in principles of equality and freedom. I believe this system "provides undocumented immigrant students with the same social
lessons their American-born peers receive about the ideals of meritocracy and American values of citizenship” (Gleeson and Gonzales, p. 5). I also contend that the next logical step in the public education discourse should challenge educators to ensure every opportunity for undocumented students to fulfill their promise and potential through equitable access to postsecondary education. The current Board of Regents’ interpretation of the DACA program creates a dilemma for Georgia’s university system. I have sought to discover alternative interpretations, and I have critically examined the way in which the Board of Regents has interpreted the DACA program, specifically as it relates to the admission of DACAMENTED students to all public colleges and universities in the state. Multiple narratives have been constructed by this policy, from policymakers and DACAMENTED students, and out of which I was able to understand the inconsistencies endemic in the 4.1.6 policymaking and enforcement process. Analysis of these narratives explored how such policies are indicative of a broader socio-legal framework that disenfranchises promising young people within our state and national borders.

According to USG Policy 4.1.6, a person “not lawfully present in the United States” is severely restricted from attending USG institutions (www.usg.edu/policymanual). Under the guidelines issued by USCIS, receipt of DACA does, in fact, make one “lawfully present in the United States” (Adams and Boyne, 2015, p. 50). Martinez (2014) explains, however, that “[the] concept of liminal legality is appropriate here, too, as DACA recipients are granted legal presence but not lawful status, and their deferred status is valid only as long as the policy is in place, leaving their long-term status in flux” (p. 1876). Understanding the distinction between ‘lawful presence’ and ‘legal status’ was a significant part of the data collection and analysis process. DACA is not federal legislation, but instead, it exists as a discretionary federal registration program that stays deportation proceedings for certain qualified undocumented persons. In this con-
tested space between "legal status" and "lawful presence," the state of Georgia has chosen to interpret a federal policy and enforce a state policy in a manner differently from every other state in the nation (Adams and Boyne, 2015). This study provided a critical analysis of this position to further understand the consequences for those on either side of the argument. Martinez (2014) provides some justification for such a research inquiry:

Studying the factors that affect how local and state-level elected officials respond to federal efforts will go a long way toward understanding the contextual factors that give rise to policies that support or hinder immigrant incorporation and mobility as well as the consequences of state-level responses to immigration that are at odds with federal-level ones (p. 1886).

This research focuses on the perceived impacts of Policy 4.1.6 on DACA students in the state of Georgia seeking admission to public higher education institutions. An article in The Signal, the GSU student newspaper, provided a glimpse into the concerns of some of these students (a few were participating in a campus protest against the policy at the time of the article), highlighting one undocumented student as saying, “even for the ones that do get to stay in the U.S. under the DACA policy, there is a constant reminder of the lack of legal status, as they are banned from Georgia’s top five public colleges, and forced to pay out-of-state or international tuition to the colleges they attend” (Maxouris, 2016, p. 3). Understanding how DACA students responded to this policy provided a counter-narrative to the dominant discourse and current legal interpretation of Policy 4.1.6 by the Board of Regents. The storytelling surrounding USG Policy 4.1.6 explored by this research provides the contested space in which this critical inquiry was conducted and from which policy alternatives were created.
Significance of the Study

The United States of America has served as a beacon of hope to millions of people in search of a better life and a new beginning. At the time of the country’s inception, however, the participatory democratic process was only extended to a small fraction of the populace. Since then, ‘American’ history intertwines a narrative of freedom with stories of the victimization and systemic oppression of people deemed far less significant than those privileged few, the rest made separate from the societal mainstream. As a result, deep within the creation of the U.S. legacy are the protestations of the oppressed that have operated to preserve the democratic ideal often set ablaze by the fires of amoral acquiescence. Still, the belief in opportunity has been a mantra to all who arrive with the dream of securing their futures, regardless of the racial, cultural and socio-historical barriers set before them. Over the last half-century, many of these dreams have been stilted as the regulation of immigration has transformed naturally occurring patterns of migration to the U.S. into unauthorized migrant settlement and expansion in need of regulation and policy reform (Gonzales, 2008).

Gonzales, Olivas, Flores and Chomsky are leading scholars providing valuable research on the undocumented population in the U.S. Other scholars, such as Darolia, Patochnick and Gildersleeve, join them in producing scholarship regarding the ways that state educational systems craft policy capable of meeting and/or restricting the educational opportunities for undocumented students through grants of ISRT and state aid and scholarships. But a significant gap in the literature exists at the intersection of federal immigration policy and state higher education policy, specifically as it relates to the enforcement of USG Policy 4.1.6 and its prohibition of DACA students from enrolling in certain state colleges and universities. Because of the newness of these policies, little, if any, research has been conducted that provides a critical lens for the
analysis of this policy discourse. This dissertation provided a critical policy analysis of USG Policy 4.1.6 and its enforcement by the Board of Regents. The study also explores the perceived impacts of the policy on DACA students in Georgia and uniquely features the stories of those directly affected by the policy, as well as the social and political context out of which the policy was formed.

This dissertation challenges the USG Board of Regents to consider re-assessing the function and application of USG Policy 4.1.6 to determine if it currently serves the best interests of the state and its citizenry, taking into account the various social factors that impact certain segments of the state's population, as well as the state's overall economic vitality. The data presented herein show that DACA students have satisfied the Board of Regents’ requirement of lawful presence for enrollment in the state’s most selective institutions. Additionally, I argue that if the data also show that there is a significant advantage in extending a postsecondary educational opportunity to the undocumented\(^2\), then we cannot justify the omission of the undocumented student voices (including those of the DACAmented) in the intellectual discourse taking place at those institutions.

**Research Questions**

Guiding this research study are the following research questions:

1. What accounts for the state’s interpretation of the “lawful presence” requirement of USG Policy 4.1.6, specifically as it relates to “DACAmended” students in the state of Georgia who would otherwise qualify for full admission?

\(^2\) The term “undocumented” is used here as a noun, highlighting much of the literature which explores undocumented status as part of a larger identity related to legality and status. Although not specifically mentioned herein, “undocumented” can be regularized in the same manner as other social constructs, i.e. race, gender, class, all of which are used interchangeably as either adjective or noun.
2. What are the impacts of Policy 4.1.6 on “DACAmmented” students in the state of Georgia, as perceived by them?

Potential Contributions of the Research

This research is intended to assist in clarifying the rights and freedoms of undocumented students in Georgia who have received DACA approval and, as the data will show, fulfill the “lawful presence” requirement of USG institutions, yet are still banned from certain state colleges and universities, as well as in-state tuition benefits at all others. Under 8 U.S.C. §1621(d), “states have the authority to enact laws that determine the eligibility of foreign national students for certain state and local benefits” (Adams and Boyne, 2015, p. 54). Georgia now exists as the only state in the Union that restricts or denies access to public colleges and universities for DACA recipients.

Within the context of education, “[the] U.S. Supreme Court recognized the importance of education for not only the individual student, but also for the family structure and the larger community and society” (Nguyen and Hoy, 2015, p. 371). Clarifying the rights and opportunities of DACA students to teachers and administrators at the K-12 level can provide valuable assistance in the manner in which they prepare these students for their postsecondary aspirations. Nguyen and Hoy (2015) note, “[state] policies which have the effect of re-segregating undocumented students, impact not just these students but also schools, providers, and teachers at all academic levels” (p. 369). As a result, even with their most promising students, “primary and secondary educators encounter the challenge of encouraging undocumented students to continue onto college” (Nguyen and Hoy, 2015, p. 369) given the uncertainty they face in pursuing affordable higher education.
Finally, it is important to recognize that excluding the undocumented and DACAmented student voices from Georgia’s most selective schools does not make their voices go away. In fact, the research presented herein argues for the inclusion of their voices within the choral framework of the critical discourse concerning access to postsecondary education. “They, too, sing America” (Hughes, 1945), and what is fairly certain is the fact that preventing opportunities for these students to access postsecondary education – this country’s primary vehicle for success and upward mobility – creates a permanent underclass much to the dismay of the reasoning brought forth by the Court in its Plyler v. Doe (1982) decision. And given the ongoing policy discourse around immigration legislation, specifically for DACA students, this study provides critical insight into the adverse effects of segregating one group within the nation’s population from one legal public benefit (higher education and in-state resident tuition) potentially increasing its reliance on other public benefits (social welfare programs). Hernandez (2012) explains, “this underclass might attain citizenship but remain under-educated for the purpose of contributing meaningfully to American society, thereby becoming the drain on resources that conservative politicians fear” (p. 565). Thus, creating legislation that continues to restrict “an equal opportunity to attend college because of their undocumented immigration status unreasonably increases avoidable future expenses associated with unemployment, social justice, and crime” (Weedan, 2015, p. 200).

“Although they are a part of our society – working together, learning together, and playing together – undocumented immigrants do not receive similar public benefits and are not afforded the same social security that is fundamental to living a productive life in our society” (Nguyen and Hoy, 2015, 356). One of these benefits is the right to education, which critical scholarship suggests is the most effective way to liberate oneself from subordination and the ful-
fillment of the belief that we can do better than those that came before us. In fact, “the ‘American Dream’ explicitly endorses education as the route to opportunity and upward mobility, including the notion that children can advance beyond their parent's circumstances” (Palmer and Davidson, 2011, p. 11). According to Weedan:

Society is the main beneficiary of public policy when public officials expand the opportunity to acquire a college education to students who are bona fide state residents with undocumented federal status; because possessing a college education is the key to personal economic growth (p. 216).

This study has revealed some of the inequities created by USG Policy 4.1.6. It provides documentation that can be useful to those policymakers (and others) who seek to correct these inequities and give greater consideration to the effects of the policy on historically disadvantaged groups.

**Study Overview**

This dissertation critically analyzes USG Policy 4.1.6, seeking further insight on the issues that the policy intended to address and the persons affected by the policy’s implementation. Policymakers in support of Policy 4.1.6 argue that there are potentially thousands of undocumented persons graduating from Georgia high schools and seeking admission to the state’s most esteemed undergraduate institutions (Banks, 2013, 1440). Thus, their narrative argued that having this policy in place stems the tide of the myriad “illegal aliens” seeking to enroll in the state’s top public colleges and universities. Much of the research presented in this study, however, shows a different story, quantifying the number of undocumented students seeking to enroll Georgia’s top five research universities as far less significant that policymakers would have us believe. In addition, the counternarratives presented in this research provide alternative interpre-
tations to Policy 4.1.6. Exploration of federal law and ongoing legal proceedings give the researcher and reader an opportunity to consider the multivariate complications that are shaping the policy discourse.

In Chapter 2, I provide a history of immigration and immigration policy development in the United States. I discuss the history of access to public education for immigrants and the significant legislative measures and legal cases that helped shape the manner in which education services were and continue to be delivered to the ever-growing immigrant population in this country. The chapter includes a review of the landmark decision, *Plyler v. Doe* (1982), which found that undocumented children were entitled to full access to primary and secondary public schools (457 U.S. 202). Given that *Plyler* did not extend into education beyond high school, I will also provide an examination of undocumented students’ access to postsecondary education post-*Plyler*, giving consideration to the federal and state Development Relief and Education for Alien Minors (DREAM) Act proposals, as well as other legislative measures, including the 1996 Immigration Acts – the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and the Personal Responsibility and Work Reconciliation Act (PRWORA). The chapter concludes with an in-depth discussion of the Deferred Action for Childhood Arrivals (DACA) program, including analysis of the federal exercise of prosecutorial discretion and the current USG Board of Regents interpretation of how DACA applies to Policy 4.1.6.

Chapter 3 provides a comprehensive description of the research methodology grounding this study and the various research methods used to conduct this policy analysis. I used qualitative research, which “demands that the world be examined with the assumption that nothing is trivial” (Bogdan and Biklen, 2007, 5). This dissertation is a critical policy analysis that uses critical race theory (CRT) and critical Latino/a studies LatCrit theory to analyze the dominant policy
narrative, as well as the often unheard and unacknowledged policy counternarratives (through counter storytelling) that all create the policy discourse. Central to the data collection process are the participant interviews that served as the basis for the policy analysis and which were examined through interpretive phenomenological analysis (IPA). Participant observation and document analysis were also key components of the research inquiry.

Chapter 4 presents the data findings in six claims, derived from the data analysis process. These claims explore a variety of social, political and legal issues brought forth during the data collection process, including the etymology of Policy 4.1.6, an understanding of “undocumentedness,” the lawful presence/legal status discourse, the effects of DACA in the lives of undocumented students, the perceived impacts of Policy 4.1.6 on DACA students in Georgia, the role of race in the continued enforcement of Policy 4.1.6 against DACA students, and finally, the subversive voices that arise as a result of the existence of Policy 4.1.6. The goal of the data analysis is to present a comprehensive and informative recitation of the life cycle of the policy and the myriad outcomes attributed to its implementation.

Chapter 5 concludes the research study. It provides a summary of the findings that emanated from the data, as well as a discussion of the conclusions that were made directly from the findings. The chapter also discusses additional areas of concerns with the policy discourse and offers recommendations for additional research studies, as well as points brought forth in the research worthy of further interrogation.
CHAPTER TWO
LITERATURE REVIEW

Introduction

I have reviewed the available research on undocumented students' access to postsecondary education. Much of what I have found centers on the larger question of how federal and state systems address the educational rights and benefits of immigrants in the U.S. Some believe that people who enter and remain in this country illegally have no right to the privileges extended to U.S. citizens and legal permanent residents. The literature will show that much of the historical and recent legislation adopts this particular position. The majority of the scholarship on this issue, however, takes the position that persons in the U.S. without legal status should still be privy to certain protections and benefits under the law, including the right to attend public colleges and universities in the states in which they have established residence.

This research contributes to the scholarship of the latter conclusion. It seeks explanation and justification for policy measures that either restrict or inhibit opportunities for traditionally underserved communities in the U.S. In doing so, my research presents viable alternatives to the current hegemonic structures that can result in greater access to public colleges and universities for undocumented students in the state of Georgia. Anyon (2014) provides the foundation upon which this literature review was constructed:

Whether one is born to radicalism, or acquires it along the way, the premises on which it rests affirm the deeply rooted causes of, and connections between, social problems. A radical frame provides the understanding that, for example, economic exclusion and educational underachievement flow fundamentally from systemic causes, even in the face of
what appears to be individual failure. And a radical analysis points toward concrete, long-lasting solutions (Kindle at Loc. 4088).

This study interrogated the systemic processes that exclude specific ethnic groups from access to postsecondary opportunity. Whether the approach is 'radical' remains a judgment best discerned by the reader. I have thus argued that we question any policy, which functions as a barrier to educational achievement.

Article 26 of the United Nations’ The Universal Declaration of Human Rights (1948) states in part, “[education] shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms” (http://www.un.org/en/universal-declaration-human-rights/). I believe that educators and administrators grounded in the principles of universal access to education are duty-bound to interrogate issues of social injustice, specifically as they relate to educational access, including the access of those whose status in this country unverified. My experience as an attorney is a heavy influence in my deliberations on the issue, and I have taken an opportunity in this dissertation to review the legal justifications for certain policy measures that arbitrarily or inadvertently restrict access or opportunity for anyone entitled to such privilege. This literature review provides a historical examination of undocumented students' access to postsecondary education in the United States, within the larger historical context of immigration in U.S. and the policies that became an enduring part of that process.

Background and Literature Search Strategy

The question of how to deliver public education to immigrant student populations is not an "emerging" topic in academic scholarship. Recent conversations in the political arena regard-
ing the rights and privileges of the ever-growing undocumented population, however, have been the subject of much debate within the academy. Leading this critical discourse are Michael Olivas (2008, 2009, 2012, 2013, 2015), Roberto Gonzales (2008, 2010, 2013, 2014, 2015), Stella Flores (2010), and Gildersleeve (2010, 2012). They have been staunch advocates for educational policies entitling undocumented children to the same access to childhood and postsecondary education as their documented contemporaries. Gildersleeve (2010) and Gonzales (2009, 2010) provide insight into the perceptions of undocumented students and how access to postsecondary education through in-state residency tuition opportunities shapes their identities. Central to much of the scholarship has been the federal Development, Relief and Education for Alien Minors Act (commonly known as the DREAM Act), which has been introduced to Congress more than a dozen times since 2001, but has yet to become law. Far less scholarship has directly addressed how the Deferred Action for Childhood Arrivals (DACA) program, established in 2012, has impacted education policymaking over the past four years. Hu (2015) has, however, produced an informative publication on the legalities of prosecutorial discretion and the comparative force of law it carries. Given that approximately 65,000 undocumented students graduate from U.S. high schools each year, the question of whether or not policymakers should create barriers or pathways to postsecondary education has become a contentious issue.

In the state of Georgia, USG Policy 4.1.6 prohibits students from enrolling at many of Georgia’s higher education institutions by limiting access to its most selective schools. Much of the literature situates the policy into a historical context, as the type of systematic exclusion and corresponding political justification that is reminiscent of the kind of de jure segregation so prevalent in the pre-Brown v. Board of Education of (1954) era that stood for more than a half-century, since the Plessy v. Ferguson (1896) adopted the “Separate, But Equal” doctrine. After
careful consideration of the literature, there appears to be the same segregationist intent in Policy 4.1.6, fastening it into the historical image of Governor George Wallace, proud and resolute at the doors of the hallowed halls of the University of Alabama, resisting the winds of change while standing in the way of progress.

The literature on the subject of USG Policy 4.1.6 and its effects on the undocumented students whose enrollment at the Georgia institutions it prohibits is limited, given the newness of the policy. The legal commentary published by Banks (2013), "Members Only: Undocumented Students and In-State Tuition," initially informed my research inquiry. I then followed Garson (2012) and conducted a literature search and review process that included documents, journal articles, news articles, books, legal records and media publications. Literature was collected and analyzed up to the point of dissertation completion due to the fluidity of the policy discourse ongoing throughout the research process.

The search stage involved a combination of “chain-of-citations” (Garson, 2012), involving the following primary topics: 1. undocumented student access to postsecondary education; 2. DREAM Act; 3. in-state residency tuition and undocumented students; and 4. DACA and postsecondary education. The searches resulted in more than 10,000 hits and yielded more than 200 total sources. These sources became the basis of the literature review and shaped the hypotheses further explored in this research inquiry.

A Historical Overview of Immigration

U.S. education policy has been shaped by the country’s immigration factors throughout its history, including the recognition and regulation of immigration to the U.S. within the context of authorization. De Genova (2002) explains, “[the] recent proliferation and acceleration of
transnational migration has involved the global emergence of a variety of sociohistorically
distinct undocumented migrations as well as a concomitant variety of sociohistorically particular
configurations of migrant ‘illegality’” (p. 424). The exponential increase in unauthorized mi-
grant settlement has, according to Gonzales (2008), “contributed to larger numbers of unauthor-
ized children growing into adulthood, for which legal status, poor schools, and poverty conspire
to make political, social, and economic incorporation extremely complicated” (p. 223). In re-
sponse to these movements, “a series of adjustments and transformations in immigration laws
and labor recruitment have shaped the nature of communities” (Gonzales, 2008, p. 222) – socially
and economically. They have given rise to an unprecedented number of individuals with lim-
ited opportunities to access the swath of public benefits available to the general citizenry. De
Genova (2002) again maintains that these immigration laws are the result of a history of complex
and calculated interventions – mostly through strategic planning. He explains further:

The intricate history of law-making is distinguished above all by the constitutive restlessness and relative incoherence of various strategies, tactics, and compromises that nation-states implement at particular historical moments, precisely to mediate the contradictions immanent in social crises and political struggles, above all, around the subordination of labor. Thus, immigration laws serve as instruments to supply and refine the parameters of both discipline and coercion, but this is largely so through the deployment of those laws as tactics (De Genova, 2002, p. 425).

I contend that the issue of immigration is politicized in a manner that vilifies entire
groups of people for taking part in the very actions that have defined the history of humanity.
Providing context for this argument, Radoff (2011) notes, "humans are not illegal, rather laws
and policies frame certain actions as illegal" (p. 442). On American policy development, Frum
(2007) explains, "much of the discourse concerning immigration is focused on seeking to restrict
the movement of people across borders and to limit access for immigrants currently in the United
States to social ‘benefits’, including higher education” (p. 82). This discourse is limiting, and I argue that it fails to take into account the many circumstances influencing migratory action. In the alternative, Radoff (2008) challenges us to, “entertain the possibility that in unauthorized border-crossing, parents act out of love, generosity, and sacrifice to provide a better life for their children” (p. 443). Radoff (2008) points out that crossing borders and seeking entry into different countries is not a criminal act as much as it is an act of human freedom and the search for better circumstances (p. 443). Benhabib (2004) proffers a policymaking alternative:

We need to decriminalize the worldwide movement of peoples, and treat each person, whatever his or her political citizenship status, in accordance with the dignity of moral personhood. This implies acknowledging that crossing borders and seeking entry into different polities is not a criminal act but an expression of human freedom and the search for human betterment in a world which we have to share with our fellow human beings (Benhabib, 2004, p. 177).

The statement referenced above is not provided as justification of my own political position on immigration. In fact, I have been careful throughout this policy analysis to maintain a relatively objective position on the broader scope of immigration matters. The reference above merely offers an example of the inherent nature of human migration as an endemic part of human history. If this latter point is indeed true, then how is it that we characterize certain individuals as “illegal,” “unauthorized,” or “undocumented,” and what are the various policy ramifications of such a designation? Moreover, should immigration policy be crafted in a manner that acknowledges the inevitability of people crossing borders, and if so, how should we then characterize that group? Passel and Cohn (2009) explain the current understanding of unauthorized status:

Unauthorized immigrants consist of residents of the United States who are not U.S. citizens, who do not hold current permanent resident visas or who have not been granted permission under a set of specific authorized temporary statuses for longer-term residence and work (p. vi).
It is significant that this group comprises 30% of the nation's entire foreign-born population of more than 39 million people (Passel and Cohn, 2009).

Undocumented persons live with and among us, having become an indelible part of the American mosaic, and as such, a permanent part of the larger immigration narrative. Moreover, as noted by Nguyen and Hoy (2015), "while legislators constantly debate the issues of border security and unaccompanied children, amnesty and a path to citizenship, and social services for undocumented immigrants, undocumented families live in our neighborhoods, contribute to our economy, and attend our schools" (p. 356). Currently, there are between 11 and 12 million undocumented persons in the United States (Passel and Cohn, 2009; Flores, 2010; Gleeson and Gonzales, 2012; Gonzales, 2009; Olivas, 2012). Of this number, there are an estimated 1.5 million undocumented students in the American public school system (Yates, 2004). Kim (2013) defines an ‘undocumented student' as "a student foreign national who entered the U.S. without inspection or with fraudulent documents or who entered the U.S. legally as a nonimmigrant but violated the terms of his or her visa status and remained in the U.S. without authorization" (p. 55). Most undocumented students were born abroad and brought to the United States by their parents at a very young age (Gonzales, 2009). Because they fit somewhere between the first and second generations of immigrants, they are labeled the "1.5 generation". They are defined by Gonzales (2010) as "undocumented immigrant children who migrate before the age of 12 and receive most of their schooling and socialization in the United States” (p. 471). Gonzales (2009) further explains, "they are not first-generation immigrants because they did not choose to migrate, but neither do they belong to the second generation because they were born and spent part of their childhood outside of the United States” (p. 7). What is also significant is that the United States is the only home they have ever known. But for their lack of documentation, they would
be examples of the historical narrative that has given rise to the panorama of multiple ethnicities that produce the multicultural demography of this country.

**Framing Immigrant Education – Past and Present**

Over the course of U.S. history, immigration has played a seminal role in the shaping of our society culturally, socially, politically and economically (Clark-Ibanez, 2015). In the last century and a half, this amalgamation of peoples was regulated through a series of legislative acts (enacted and proposed) and legal decisions (federal and state) that have created, asserted, restricted and revoked the rights of immigrants in America, regardless of documentation. Much of this legislation has had a direct and permanent impact on the manner in which the public education benefit extends to immigrants, including those undocumented who would bear the brunt of the majority of their restrictive measures. Immigration legislation in the U.S. dates back to the late 18th century with the 1790 Naturalization Act, which excluded non-white people from eligibility to become naturalized citizens (Lopez, Passel and Rohal, 2015). U.S. immigration laws at the end of the 1800s, as well as those following into the mid-20th century, pertained mostly to immigrant groups from Europe and Asia (Clark-Ibanez, 2015). These laws, like the Chinese Exclusion Act of 1882, banned Chinese immigration to the United States (Clark-Ibanez, 2015).

Similarly, the Immigration Act of 1917, also known as the Asiatic Barred Zone Act, banned persons from most of the other parts of Asia, as well as the Pacific Islands (Clark-Ibanez, 2015). The Immigration Acts of 1924 and 1952, imposed further restrictions for immigrants from various countries, retaining quota systems for certain nationalities, placing a two percent cap per country, and most significantly, creating a labeling system that defined three types of immigrants: “those with special skills or relatives of U.S. citizens, average immigrants, and refu-
gees” (Clark-Ibanez, 2015, p. 18). “These laws were passed against a backdrop of growing federal regulation of immigration” (Lopez et al., 2015, p. 19), including country limits, a bar on criminals, those deemed “lunatics” or “idiots,” and people unable to support themselves (Lopez et al., 2015, p. 19). As we will see later in this discourse, “the categories in which immigrants fall within a country’s particular immigration system—refugees, skilled professionals, undocumented workers—determine the extent to which they are entitled by law to participate in society” (Gleeson and Gonzales, 2012, p. 2).

During World War II, an official guest worker program was created between the United States and Mexico. It was named the Bracero Program. Nearly five million Mexicans participated, resulting in a heavy influx of Hispanic immigrants to the U.S. (Clark-Ibanez, 2015). The effects of this program, however, went beyond the authorized seasonal migration of Mexican labor. Chomsky (2014) explains, “the program also deepened the structures and culture of migration, including extralegal migration, in western Mexico” (p. 57). The issue of documentation thus became its own process of “illegality”, as a whole new industry of smuggling people across borders became the work of the “coyotes” who worked with US-based labor contractors to supply workers to farmers without official paperwork (Chomsky, 2014, p. 57). The result was a steady rise in the undocumented population ingrained into the migrant worker experience. Chomsky (2014) notes, “by the time the program ended in 1964, it had outlived its demand because the extralegal system that had grown alongside it had grown large and strong enough to fulfill the country’s farm labor demand” (p. 57).

After the Bracero program, the Immigration and Nationality Act of 1965 replaced the national origins quota system with a much more restrictive ”preferential system that benefited low-skilled workers and family members of U.S. citizens and permanent legal residents” (Clark-
Ibanez, 2015, p. 19). The law also included a quota for refugees, granting them only 6% of the annual visas, compared with 74% for families, 10% for professionals, and 10% for workers (Lopez et al., 2015, p. 20). The 1965 law also made it exceedingly difficult for immigrants to seek citizenship. The result was a vacuum of seasonal workers who had little incentive to go through administrative processes to find gainful employment across American borders. Instead, many of these workers simply found it easier to enter the U.S. as undocumented immigrants, in order to escape vacillating social, political and economic constructs in many Central American countries, as well as frequent violence and civil wars. Employers continued to hire such workers without consequence or reprisal, even as both the number of undocumented persons and the number of deportations of such persons increased dramatically over the next twenty years (Clark-Ibanez, 2015). These actions influenced both immigration policy developments, as well as the cultural and ethnic makeup of the entire country. As further explained by Frum (2007), "factors including the role of migrant networks and family connections, the migration industry (labor recruiters, brokers, interpreters, smugglers, etc.), structural dependence on immigrant labor on the part of host countries, and structural dependence on exporting labor on the part of sending nations all impact the migratory process” (p. 98).

**Educating the Undocumented**

For this research, it is important to gain a thorough understanding of the ways in which immigration policies have manifested during this country's development as an industrial economic power because the migratory process for those seeking better lives and opportunities in the United States continue to change the ethnographic make-up of the country. As more and more immigrants settled – documented or otherwise – so too did their children, whose foundational
education would become the responsibility of the individual states in which they established residence. Problematizing this issue is the lack of viable options given to most undocumented students as they traverse the U.S. landscape throughout their childhood, including dealing with issues of poverty, medical care, social inclusion, and especially education. "Although they are a part of our society – working together, learning together, and playing together – undocumented immigrants do not receive similar public benefits, and are not afforded the same social security that is fundamental to living a productive life in our society" (Nguyen and Hoy, 2015, p. 356).

Each of these factors serves as an entry point for undocumented students into varying qualities of life, further exacerbated by the proverbial “life in the shadows” – and many children are unaware of their status until they graduate from high school or apply for their first job. “Unlike their undocumented parents and other adult counterparts, who migrate with a clear understanding of the sort of existence that awaits them, many undocumented students do not even identify with the immigrant experience and are only forced to view themselves as such upon graduation” (Gleeson and Gonzales, 2012, p. 14). Clark-Ibanez (2015) offers an another viewpoint for many ‘1.5ers’, stating that, “immigration for them means coping with daily life altering decisions, the sense of being from neither here nor there, and the enduring quest for a better life” (p. 3).

Each year, an estimated 65,000 undocumented students graduate from U.S. high schools, but less than five percent ever attend college (Abrego, 2008; Adams and Boyne, 2015; Aldana, Lyon and McKanders, 2012; Anderson, 2013; Cervantes, 2015; Darolia and Potochnick, 2015; Diaz-Strong and Meiners, 2007; Drachman, 2006; Flores, 2010; Gonzales, 2009; Herrera, Garibay, Garcia and Johnston, 2013; Olivas, 2012; Perez 2010, Perez and Rodriguez, 2011; Radoff, 2011). The vast majority of undocumented students are invariably precluded from the educa-
tional process beyond their secondary schooling process (Yates, 2004). Palmer and Davidson (2011) explain:

> While the undocumented do have access to public primary and secondary education, postsecondary education remains a largely inaccessible resource, primarily due to the prohibitive costs of college education, but also due to legal and social boundaries (p. 1).

The most notable reason attributable to such a disparity in undocumented students' postsecondary participation is that access to K-12 is a legal mandate for every child in the country, but there is no Constitutional guarantee to higher education (Nguyen and Hoy, 2015). Instead, "postsecondary education is a state responsibility … these systems are the primary means by which students pursue their educational and professional aspirations" (Yates, 2004, p. 586). The delineation of the levels of education to which students in this country are guaranteed access currently results in the systematic exclusion of more than a million promising young minds whose inability to contribute to our intellectual narrative threatens the continued cultural exploration of the entire U.S. society. The landmark Supreme Court decision, *Plyler v. Doe* (1982), established the current policy framework over thirty years ago. The Court found, “this situation raises the specter of a permanent caste of undocumented resident aliens, encouraged by some to remain here as a source of cheap labor, but nevertheless denied the benefits that our society makes available to citizens and lawful residents” (457 U.S. 200, p. 218).

Access to public education has served the interests of every immigrant community that has come to this country. Gonzales (2010) explains, “historically, the public school has been one of the most important institutions in the lives of immigrant children, wielding the power to either replicate societal inequalities or equalize the field” (p. 471). It “has long been the primary vehicle through which immigrant children get funneled into the American mainstream” (Gleeson and Gonzales, 2012, p. 8). Moreover, public education has traditionally been regulated by state and
local governments while issues of immigration are relegated to Congress. But, "as the federal government has become more involved in public education and the states more involved in the regulation of immigration, power struggles among federal, state, and local governments have emerged" (Lee, 2012, p. 368). Many of the resulting policies have intertwined immigration issues with access to public benefits, including public education.

In the 1973 case, San Antonio School District v. Rodriguez, the Supreme Court held that there is no fundamental right to education, either implicit or explicit, which is protected by the Constitution (Yates, 2004). The Court further determined that any discriminatory measures taken against aliens must serve a legitimate and substantial state interest (Yates, 2004). This ruling was revisited in Plyler v. Doe (1982), when the Court established that “a Texas statute barring undocumented immigrant children from receiving free primary and secondary public education violated the Equal Protection Clause of the Fourteenth Amendment” (Yates, 2004, p. 589). The Court found that all children, regardless of their immigration status, should have the same right to access public K-12 education (Nguyen and Hoy, 2015). “The majority opinion held that denying undocumented children access to free public education ‘imposes a lifetime hardship on a discrete class of children not accountable for their disabling status, [and that] the stigma of illiteracy will mark them for the rest of their lives’” (Drachman, 2006, p. 92). Emphasizing the significance of education in the United States, the majority opinion stated that education, “provides the basic tools by which individuals might lead economically productive lives to the benefit of us all,” and that “public education has a pivotal role in maintaining the fabric of our society and in sustaining our political and cultural heritage” (457 U.S. 202, 1982, p. 221). The High Court recognized that denying children a basic education would inevitably handicap undocumented children for life, relegating them to second-class status. Justice Brennan (1982) wrote:
The inestimable toll of that deprivation on the social, economic, intellectual, and psychological well-being of the individual, and the obstacle it poses to individual achievement, make it most difficult to reconcile the cost or the principle of a status-based denial of basic education with the framework of equality embodied in the Equal Protection Clause (457 U.S. 202, p. 222).

This ruling was limited to K-12 education only, and in the thirty-plus years since this decision, the Court has continually declined to decide whether undocumented persons' rights to education extend to ‘higher education' at state colleges and universities, instead of allowing the individual states to make their determinations. As a result, note Nguyen and Hoy (2015), "many proponents of anti-immigration policies have created their own ‘Jim Crow’ laws knowing that this is an attempt to create barriers for undocumented students to continue their education" (p. 357). Many of these laws have severely limited well-qualified undocumented students from attending postsecondary institutions, either by statute or through lack of affordability, raising issues of social justice and equitability in the educational policymaking process. Nguyen and Hoy (2015) further note, “the guarantee of a public K-12 education without assured affordable access to higher education re-segregates undocumented students in our society, especially in a world economy that increasingly calls for a higher education degree to be competitive in the marketplace” (p. 357). As such, Hernandez (2012) offers the following perspective:

The Plyler reasoning should be extended to higher education because the prospect of an underclass in American society, coupled with the innocence of minor children brought to the United States by their undocumented parents, is as relevant in postsecondary education as it is in primary and secondary education (p. 529).

Four years after Plyler, Congress passed the Immigration Reform and Control Act (IR-CA) of 1986. "Its main provisions included legalization of undocumented immigrants present since 1982, legalization of agricultural workers, employer sanctions for hiring undocumented
workers, and greater border enforcement" (Clark-Ibanez, 2015, p. 21). IRCA also allowed for the legalization of nearly three million undocumented immigrants who had continuously resided in the country, granting them amnesty and giving them legal status to seek out new opportunity (Nguyen and Hoy, 2015). This legislation allowed for the establishment of entire communities of previously undocumented persons, creating wealth and economic stability not previously experienced and changing the very meaning of their lives. As explained by Clark-Ibanez (2015), "former undocumented immigrants began to have better job opportunities, access to government programs, and greater protection under the rule of law" (p. 21). Postsecondary education, however, did not instantly become a part of this acculturation process, as higher education continues to be a prohibitive cost for many Americans, natural or foreign-born. The journey is exceptionally complicated for undocumented students. They are strictly prohibited from receiving federal financial aid, even in states where they are granted in-state resident tuition (ISRT) status (Gonzales, 2010). Unlike other, similarly situated promising young high school graduates throughout the country, many undocumented students are relegated to a less promising narrative. "As the world of adulthood is opening up to their peers, a succession of doors is simultaneously being shut on them" (Gonzales, 2010, p. 479).

Over the last two decades, only limited guidance has come from the federal government to the states about undocumented persons' access to education. In 1996, Congress passed two pieces of legislation somewhat clarifying immigrant access to public benefits. The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), established the rules for distribution of state benefits to undocumented persons (Banks, 2013). Central to this particular legislation is Section 505, which states:

An alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State ... for any postsecondary education benefit unless a citizen or
national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident (8 U.S.C. § 1623, 1996).

The IIRIRA had a wide-ranging and adverse impact on immigrant communities through restrictive measures that made it extremely difficult, if not impossible, to gain access to various social services, including public assistance, driver's licenses, Social Security benefits, and federal student aid (Clark-Ibanez, 2015).

In addition, the Personal Responsibility and Work Reconciliation Act (PRWORA), "made unauthorized migrants ineligible for any State or local public benefit unless the state enacts a State law after [Act's] date, which affirmatively provides for such eligibility" (Banks, 2013, p. 1428). At the time this legislation was passed, three-fourths of all new immigrants to the U.S. settled in just six states: California, Texas, Illinois, Florida, New York, and New Jersey (Reich and Barth, 2010). But as Gonzales (2008) points out, "over the last two decades, the number of unauthorized families has grown to 6.6 million" (p. 222), creating a panoply of new cultures and ethnic communities in states all over the country, few of which had ever addressed the issue of immigration beyond adherence to standing federal legislation.

**Access to Postsecondary Education for Undocumented Students**

Among undocumented adults ages 18-24, only 60% have completed high school (Passel and Cohn, 2009). In addition, for those ages 25-64, almost a third have finished high school and gone no further (Passel and Cohn, 2009). The rates are slightly higher for the ‘1.5ers’, where 72% finish high school and more than half attend some level of postsecondary education (Gonzales, 2010). These figures are still far below the national average of U.S.-born residents. There are a variety of socio-historical and legal factors that contribute to the educational disparities
amongst undocumented students. In addition to their immigration status, they face myriad levels of inequality, including that which arises from racial and class designations (Gleeson and Gonzales, 2012). More than 75% of undocumented immigrants are Hispanic, many of them children who are living with their undocumented parents and other relatives, mired in poverty with median households well below the national average (Passel and Cohn, 2009). This research inquiry will rarely differentiate undocumented students by their ethnic or racial designations, noting instead, "undocumented students are diverse regarding countries of origin, languages spoken at home, and religion. They encompass a range of immigration histories and vary along the spectrum of socioeconomic status" (Teranishi, Suarez-Orozco, C., and Suarez-Orozco, M. 2015, p. i). And for each, “the ‘American Dream’ explicitly endorses education as the route to opportunity and upward mobility, including the notion that children can advance beyond their parents’ circumstances” (Palmer and Davidson, 2011, p. 11).

As the influx of immigrants has reached many more communities, legally or otherwise, state officials have been forced to pass measures that address a variety of social issues related to immigration. Accordingly, Texas and California were the first two states to pass legislation extending ISRT to undocumented students (Clark-Ibanez, 2015). Approximately twenty states now include greater access to higher education for undocumented persons through some level of in-state tuition measures. Federal legislation has failed to mirror such programs and instead allow other states a wide range of legislative actions. The result is a contentious discourse, viewed through the lenses of fairness and lawfulness. Reich and Barth (2010) explain that undocumented immigrants create a polarizing moral argument:

On the one hand, they are semi-permanent or even permanent, state residents, whose presence is often desired by local business and whose plight is often seen as a product of unfortunate circumstances in their homelands; on the other hand, they reside in the Unit-
ed States in violation of federal immigration law and their presence is often invoked as a threat to internal security and order (p. 419).

Policymakers at the state and local levels continue to create or limit avenues for undocumented persons attempting to obtain a postsecondary degree. Equally important is the fact that federal legislation continues to prohibit undocumented students from receiving federal financial aid. An alternative to this course of action is to open access for all who wish to enroll in a postsecondary institution, thus allowing them to contribute to the global intellectual narrative devoted to equity and fairness. Giroux (2009) argues, “colleges and universities do not simply produce knowledge and values for students; they also play an influential role in shaping their identities, values, and sense of what it means to become citizens of the world” (p. 460). Further complicating the matter of restricted access to postsecondary education, many of the states' legislative processes have enacted laws that result in the disenfranchisement of undocumented students who would otherwise have a chance to become educated and contributing members of our communities. Palmer and Davidson (2011) noted, "individuals with higher education experience greater social and professional mobility, sustained cultural and family values, higher salaries and greater benefits, and improved working conditions and health” (p. 3). But many opponents of increased access for undocumented students perceive these students as a threat to economic, social and cultural values. They argue:

To open up educational institutions to undocumented immigrants, at a cost similar to that of citizens, suggests another component of economic competition that immigrants may pose. In addition, the presence of undocumented students, who may struggle with English competency, implies changes to pedagogy that may threaten the ‘uniquely American’ educational experience (Palmer and Davidson, 2011, p. 3).
The heart of the debate centers on whether states, as the traditional purveyors of K-12 and post-secondary education, should extend ISRT to undocumented persons who have graduated from a state high school and otherwise meet all the traditional residency requirements. Lawmakers and administrators on either side of this issue are mired in arguments pertaining to social justice, immigration policy, economic impacts and equal protection under the law. But what are the actual harms suffered by students, regardless of immigration status, all of who have been denied the right to engage in the construction of knowledge that requires a deep spectrum of distinct voices? This research study favors the inclusion of all voices, including that of the undocumented, to the undergraduate intellectual discourse, and I argue that institutions of higher learning serve as forums for intellectual engagement where one is not only able but is also encouraged, to discuss the propagation of social justice and human rights. States that continue to exclude the undocumented voices from public colleges and universities create a larger conceptual framework embodying a new era in the struggle for civil and human rights. The research herein reminds the custodians of critical scholarship, "even though education is not guaranteed by the U.S. Constitution, it is often construed as a civil right, and can be located ideologically in the long and powerful tradition of civil rights struggle" (Anyon, 2014, Kindle at Loc. 3701).

Presently, "undocumented students may attend colleges, private and public, but states that wish to enable these students to be eligible for in-state public college tuition must pass legislation allowing them to establish in-state residency" (Olivas, 2009, p. 408). As of July 2015, twenty states (see Table 1) had taken some formal measure creating access to higher education and other public benefits for undocumented persons (Mendoza, 2015). They have "circumvented federal legislation by basing eligibility for in-state tuition on attendance at and graduation from a state high school rather than residency in that state" (Yates, 2004, p. 599), using a provision in
the federal code, 8 U.S.C § 1621(d), that “allows states to enact laws to make undocumented immigrants eligible for in-state tuition” (Yates, 2004, p. 600). As explained by Gonzales (2010):

By seeking to decouple education and immigration, these states have opted to provide those who attend and graduate from state high schools with access to the same in-state tuition rates available to other students attending public colleges and universities in their states (p. 470).

The state actions and the corresponding laws granting greater access to postsecondary education for undocumented students exhibit one side of how to address the ever-growing populations of immigrants. They have enacted legislation, executive decisions, or Board of Regents policy addendums that extend in-state resident tuition status to undocumented students who would otherwise meet the residency requirements of the state but for their immigration status. Table 1 provides a list of the states with these tuition equity laws, the year the policy was enacted, whether the state offers state aid as a part of the policy, and the residency requirements associated with the policy, and the policies associated with the legislation. Given the fluidity of this political discourse, however, the list will continue to vary.

Table 1. States Offering ISRT to Undocumented Students

<table>
<thead>
<tr>
<th>State</th>
<th>Year Enacted</th>
<th>State Aid</th>
<th>Residency Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Texas</td>
<td>2001</td>
<td>Yes</td>
<td>Reside in-state with a parent for 3 years prior to graduation and graduate from a TX public or private high school or GED program</td>
</tr>
<tr>
<td>California</td>
<td>2002</td>
<td>Yes</td>
<td>Attend a CA high school for 3 or more years prior to graduation or GED program</td>
</tr>
<tr>
<td>Utah</td>
<td>2002</td>
<td>No</td>
<td>Attend a UT high school for 3 or more years prior to graduation or a GED program</td>
</tr>
<tr>
<td>New York</td>
<td>2003</td>
<td>No</td>
<td>2 or more years an approved NY high</td>
</tr>
<tr>
<td>State</td>
<td>Year</td>
<td>Action</td>
<td>Requirements</td>
</tr>
<tr>
<td>------------------</td>
<td>-------</td>
<td>--------</td>
<td>--------------</td>
</tr>
<tr>
<td>Washington</td>
<td>2003</td>
<td>Yes</td>
<td>Complete full senior year at a WA high school and live in WA at least 3 years immediately prior to diploma or GED</td>
</tr>
<tr>
<td>Illinois</td>
<td>2003</td>
<td>Yes 2011</td>
<td>Attend IL high school for 3 years prior to graduation or GED and reside with parent while attending IL high school</td>
</tr>
<tr>
<td>Kansas</td>
<td>2004</td>
<td>No</td>
<td>Attend KS high school for 3 years prior to graduation or GED</td>
</tr>
<tr>
<td>New Mexico</td>
<td>2005</td>
<td>Yes</td>
<td>Attend NM high school for 1 year prior to graduation or GED</td>
</tr>
<tr>
<td>Nebraska</td>
<td>2006</td>
<td>No</td>
<td>Reside in NB 3 years prior to graduation or GED and live with a parent or guardian while attending high school</td>
</tr>
<tr>
<td>Oklahoma (through BOR)</td>
<td>2007</td>
<td>No</td>
<td>Attend a OK high school for at least two years prior to graduation or GED program</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>2009</td>
<td>No 2011 Repealed</td>
<td>Reside in WI 3 years prior to graduation or GED</td>
</tr>
<tr>
<td>Maryland</td>
<td>2011</td>
<td>No</td>
<td>Attend MD high school for 3 years, prove parents filed taxes, and for the first 2 years students can only attend community colleges</td>
</tr>
<tr>
<td>Connecticut</td>
<td>2011</td>
<td>No</td>
<td>Complete at least 4 years of high school level education in CT (amended to 2 years of high school in 2015)</td>
</tr>
<tr>
<td>Rhode Island (through BOR)</td>
<td>2011</td>
<td>No</td>
<td>Attend RI high school for at least 3 years and graduated; sign affidavit stating that they are pursuing legal status</td>
</tr>
<tr>
<td>Oregon</td>
<td>2013</td>
<td>No</td>
<td>Attend OR high school for 3 years, with 5 years attendance in any U.S. elementary or secondary school, and receive diploma in OR within 3 years of enrolling in university</td>
</tr>
<tr>
<td>Colorado</td>
<td>2013</td>
<td>No</td>
<td>Attend CO high school for at least 3 years prior to graduation or GED; be admitted to a CO college or university within 12 months or graduating</td>
</tr>
<tr>
<td>Minnesota</td>
<td>2013</td>
<td>No</td>
<td>Attend MN high school for 3 years prior to graduation or GED</td>
</tr>
<tr>
<td>New Jersey</td>
<td>2013</td>
<td>No</td>
<td>Attend NJ high school for 3 years prior to graduation or GED</td>
</tr>
</tbody>
</table>
Conversely, six states either expressly prohibit the in-state tuition benefit or specifically ban undocumented students from enrolling in some or all state colleges and universities. Thus, it is imperative that we examine some of the overarching themes embedded within the larger debate on postsecondary education for undocumented persons, and the moral and political dilemmas we face in looking at the evolution of immigration policy in the U.S. The following table provides further illustration of the multiple policies enacted by varying states regarding access to tuition benefits for undocumented students. It shows the states with laws providing in-state tuition to undocumented students (seen in orange), states with laws providing in-state tuition and access to state financial aid (seen in brown), states offering such benefits directly through their university systems (seen in blue), and states with laws specifically banning undocumented students from receiving in-state benefits (seen in green).

I contend that many of today's undocumented youth will ultimately achieve the same constitutional protections we currently share as citizens of the United States, empowering them
with the opportunity to become tomorrow's success stories. Evidencing this conclusion is *United States v. Verdugo-Urquidez* (1990), where the Supreme Court ruled that ‘the people’ are “a class of persons who are part of a national community or who have otherwise developed sufficient connection with the country to be considered part of that community” (494 U.S. 259, p. 265).

**Table 2. U.S. Map of ISRT Legislation for Undocumented Students**

Mendoza (2015)
The Court went even further, noting, “aliens receive constitutional protections when they have come within the territory of the United States and developed substantial connections with the country” (494 U.S. 259, p. 265). It may only be a matter of time before the same logic applied to the findings in Plyler v. Doe extends equal protection to undocumented students. Lopez and Lopez (2010) believe that future Court action will also extend the rights of undocumented persons, specifically those brought to this country at very young ages, to include equal access and protection under the laws as a representative sample of "the people" afforded such privilege by the U.S. Constitution. They argue that undocumented students have established "sufficient connection" to the places in which they've lived, and many have done everything that is expected of them to become thriving members of their resident states. But for their immigration status, many undocumented students find themselves as an integral part of their respective community, different even from other immigrants who come to the country as adults seeking employment. Gonzales, Terriquez and Ruszczyk (2014) explain this difference: "those who arrive in the United States as minors and enroll in the K-12 school system have greater levels of integration into public institutions than those who migrate primarily for the purpose of finding work" (Gonzales et al., 1855). Recent litigation filed in the state of Georgia will soon test both these legal and social theories.

A ‘DREAM’ Deferred – Considering ISRT for Undocumented Students

Historically, ISRT has been a way for states to support resident college students in their pursuit of higher education. Beyond the twenty states presently extending this benefit to undocumented students, other states require them to pay out-of-state tuition rates or enroll as international students at a higher cost. What is the significance of these particular policy actions?
lia and Patochnick (2015) reveal, “extant research indicates that lower tuition costs can lead to increased enrollment for students generally and that IRT policies specifically can increase college attendance among undocumented students” (p. 512). Although 8 U.S.C § 1621(d) allows states to enact laws to make undocumented immigrants eligible for in-state tuition (Yates, 2004), the lack of ISRT coupled with the additional costs associated with obtaining a degree invariably precludes most undocumented students from “continuing their education beyond secondary school” (Yates, 2004, p. 597). Rabanal (2013) continues the point, stating that for these students, "unable to legally work and prohibited from receiving federal loans, grants, and work-study opportunities, college tuition often presents an insurmountable obstacle to educational access” (p. 1059). It is essentially for these reasons that only 27 undocumented students were registered at the five top state universities in Georgia at the time that the Board of Regents adopted Policy 4.1.6. Still, there are approximately 1.1 million undocumented persons under the age of 18 and another 1.29 million between the ages of 18 and 24 in the U.S. (Banks, 2013). The fear is that if these students sought college admission and in-state tuition rates, then they would be a considerable drain on state resources (Banks, 2013; Lee, 2012; Quinton, 2013). This research questions the merit of such an argument. The state of Georgia already provides education to undocumented persons at the K-12 level, with no evidence showing any threat or considerable negative consequence to the state economy. In fact, upon graduation from high school, the government has already made a massive economic investment in their primary and secondary education of undocumented youth (Yates, 2004, p. 604). Yates (2004) places this responsibility in the national political arena and argues:

By denying in-state tuition to undocumented immigrants, the United States government denies these young adults, some of whom have lived most of their lives in the United States and intend to remain in the United States, the opportunity to attend college and enjoy the upward mobility that higher education affords (p. 586).
Should these students then be punished for taking part in American society, especially after ingratiating themselves to the social norms of popular culture and often adopting it for their own? Banks (2013) poses the following query, “should students who have lived the majority of their lives in the United States be precluded from certain opportunities in the United States because they lack lawful immigration status” (p. 1446)? She answers this question by arguing these same individuals “should not be subject to the same consequences as adults who are unlawfully present in the United States or children who are recent arrivals” (Banks, 2013, 1446). Weeden (2015) furthers this point:

A student denied access to higher education because they are unable to secure in-state tuition fees in their state of residence and where they attended high school is placed at a significant competitive disadvantage when it comes to having a meaningful opportunity to become a member of America’s educated middle class and beyond (pp. 200-201).

Others believe the act of illegally immigrating to the U.S. is, in fact, unlawful behavior, and it should not be rewarded, even when such behavior was not the arbitrary action of the young people brought to the country. This position, however, should also take note of the other potential and unintended consequences of Policy 4.1.6. Shahshahani (2010) proffers the potential economic and political benefits to increasing postsecondary access:

Denying higher education access to Georgia’s undocumented students would mean failing to capitalize on the state’s investment in their K-12 education. And denying these students access to affordable college education is short-sighted because they are likely to remain in Georgia and may well regularize their immigration status under current or future federal laws. Many of those students may one day be legal residents and citizens (www.ajc.com).

We must also accept that even with ISRT benefits reducing some of the financial burdens associated with attending college, ISRT alone “may not be sufficient given the limited infor-
mation and lack of financial aid options available to undocumented immigrant youth” (Darolia and Patochnick, 2015, p. 516). The costs of attending college are prohibitive even for U.S. citizen students eligible for financial aid. Many undocumented students face a variety of financial challenges, and for most, the idea of a college education remains a dream deferred. Gonzales (2009) informs us, “[nearly] 40 percent of undocumented children live below the federal poverty level (compared to 17 percent of native-born children), while the average income of undocumented immigrant families is 40 percent lower than that of either native-born families or legal immigrant families” (p. 6). Given the current socioeconomic standing of many undocumented students, “lower tuition associated with IRT policies may not be a sufficient financial benefit to allow many students to overcome the work and family obligations or resource constraints that prevent them from being able to attend full-time” (Darolia and Patochnick, 2015, p. 530). In fact, “qualitative research on undocumented immigrant college students find that many work burdensome hours to meet their financial needs, which reduces their ability to attend school full-time and to develop the supportive relationships that facilitate college completion” (Darolia and Patochnick, 2015, p. 515). Still, critical pedagogy presumes that “anyone concerned with distributive justice has some obligation to ensure that all students gain the knowledge that is valued by dominant groups in society and which provides access to socially valued opportunities, positions and goods” (Cribb and Gewirtz, 2009, p. 526). I argue that there is a moral imperative to craft policy and implement programs that offer everyone equitable opportunities for postsecondary education, ameliorating as many sociocultural disparities as possible and dismantling discursive practices – like USG Policy 4.1.6 – that marginalize undocumented students.

Success in college considers a variety of factors, including academic skill, family resources, relationships and institutional and external support (Conger and Chellman, 2013). Most
undocumented students face the same challenges as many other minority low-income, first-
generation college students. Whether American citizens or legal immigrants, many of these stu-
dents have been stratified by a systematic oppression of non-white, low socioeconomic status
personhood, having to traverse the challenges of ethnicity and class as part of their lived experi-
ences. Conger and Chellman (2013) explain that undocumented students exist in yet another
stratified space, noting that their “lack of documentation poses even greater challenges to normal
college pursuits, such as obtaining driver’s licenses, places to live, student identification cards,
financial aid, loans, and employment both off and on campus” (p. 367). In the state of Georgia,
postsecondary educational opportunity is even further restricted, and for DACA students, it is
perhaps done so unlawfully. Considering that Policy 4.1.6 denies all undocumented students
admission to some of the state’s best colleges and universities – including DACA students – we
must examine current federal decisions to determine whether the policy should remain a part of
the current dominant discourse.

Since 2001, a critical piece of federal legislation has played a key role in the immigration
debate. As noted earlier, the Development, Relief and Education for Alien Minors Act (DREAM
Act) was introduced to Congress every year from 2001 to 2011, without passage (Clark-Ibanez,
2015; Palmer and Davidson, 2011). The DREAM Act would have granted conditional permanent
residency to undocumented persons with “good moral character” who arrived as minors, contin-
uously lived in the U.S. for five or more years, and graduated from a U.S. high school (Clark-
Ibanez, 2015). Hu (2014) further notes, “the purpose of the DREAM Act is to allow children
who have been brought to the United States through no volition of their own the opportunity to
fulfill their dream, to secure a college degree and legal status” (p. 33). Olivas (2009) gives a
broad overview of how the DREAM Act extended beyond even the most generous state ISRT
measures attempting to increase postsecondary opportunities for undocumented students, providing the following analysis related to many undocumented young people’s yearning for a legitimate ‘path to citizenship’:

If passed, this legislation would allow ‘alien minors’ to start on the path toward permanent residency and, ultimately, citizenship. It would also address, among other issues, amnesties or legalization and work authorization. Finally, an important provision would render DREAM students eligible for all federal financial-aid programs except Pell (p. 410).

According to Yates (2004), “the two main goals of the DREAM Act are to eliminate section 505 of IIRIRA and permit young people, not yet 21 years of age, to become legal permanent residents” (p. 601), creating for them a path to citizenship. Opponents of the DREAM Act argue that federal and state subsidies result in even higher costs for the students, and that "subsidizing immigrant debt creates more indebted immigrants" (Lorenzi, 2014, p. 4). They go on to argue, “this plan could easily increase the college drop out rate, college student debt, and unemployment for ill-prepared college graduates” (Lorenzi, 2014, p. 4). But these arguments miss the sentient point made by Justice Brennan in Plyer v. Doe (1982) that education so often leads to “economically productive lives” which then benefit us all and maintain our country’s “social fabric” (Lee, 2012, p. 372). The DREAM Act does have its limitations. Current iterations of the bill make it only applicable to undocumented students PRE-enactment and access to federal aid is only in the form of loans (Frum, 2007). Yet, the DREAM Act would still serve as the most sweeping federal legislation ensuring the rights of undocumented persons in the United States in the history of the country. Though this legislation has been introduced more than a dozen times and has yet to pass, it is being re-imagined at the state level for those legislatures interested in advancing equal opportunity and access to postsecondary education in whichever manner they
see fit, but with one very unfortunate and glaring omission—“[state] legislatures cannot propose a path to citizenship” (Clark-Ibanez, 2015, p. 26).

The United States of America has historically been a nation of immigrants. We should thus ask ourselves whether the promises of opportunity and the “American dream” should only be limited to those persons now authorized to be here. Caught within the present policy discourse has been a Latino population often vilified as the face of impending threat of illegal immigration, creating the utmost need to secure our southern border. Chomsky (2014) provides a measure of irony to these assertions, noting that the descendants of the Mexican population living in that part of the United States like to remind us, “we didn’t cross the border; the border crossed us” (p. 19).

Since the Supreme Court’s decision in Plyler v. Doe (1982), states have been given full authority to determine enrollment opportunities for undocumented persons at public universities. Many states have enacted policies similar to the DREAM Act. Olivas (2009) notes, “undocumented students may attend colleges, private and public, but states that wish to enable these students to be eligible for in-state public college tuition must pass legislation allowing them to establish in-state residency” (p. 408).

Unfortunately, there have also been successful efforts to block or repeal ISRT for undocumented students. In 2011, such a measure was successful in Wisconsin, which no longer offers this benefit (Perez, 2014). In 2008, South Carolina became the first state to enact a statute barring undocumented students from attending public colleges and universities, and Alabama's higher education board acted through regulation to do the same (Olivas, 2009, p. 408). Missouri, Indiana and Arizona have also taken legislative measures to prohibit undocumented students from receiving ISRT. New legislation repealing such measures was also considered in Indiana, where SB 345 was introduced in January 2015. It sought to create a state DREAM Act for oth-
erwise qualified undocumented students seeking ISRT at state colleges and universities (Cawthon, 2015). The legislation has yet to pass. In Missouri, additional measures were taken in July of 2015, by the state legislature to include DACA students as part of the prohibition of ISRT to undocumented students (Addo, 2015). According to Addo (2015), "before the rule change, DACA students in Missouri were eligible to receive scholarships. Those who graduated from high school had the added benefit of paying in-state tuition once enrolled in a state college” (8th para.). Surprisingly, some high-ranking college officials opposed the rule change, including then-Chancellor of the University of Missouri-Columbia, R. Bowen Loftin, who stated, "I personally believe human capital shouldn't be wasted. We value every person we have here at the university” (Addo, 2015, 7th para.).

At present, Georgia prohibits undocumented students from enrolling at its top five most selective universities (through Policy 4.1.6) and requires out-of-state tuition for enrollment at all other public colleges and universities (through Policy 4.3.4)3. Ironically, Olivas (2009) informs us that before 2008, the state of Georgia had "a behind-the-scenes waiver system had for years allowed each public college to accord in-state status to undocumented students up to 2 percent of its headcount” (p. 408). But a statute similar to that of South Carolina’s took effect after the 2007 legislative session, and undocumented students were no long able to receive ISRT (Olivas, 2009).

This research study asserts that state policies like 4.1.6 of the University System of Georgia Board of Regents establish a discriminatory doctrine against Latino/a students, and ultimately

3 Policy 4.3.4 requires all USG institutions to verify “lawful presence” of all students seeking in-state tuition rates. "If a student is found to be without documentation, the institution must require them to pay out-of-state tuition rates” (Munoz, 2014, 5). This research study will not provide a critical analysis of Policy 4.3.4; however, the manner in which the “lawful presence” requirement of both 4.1.6 and 4.3.4 is defined and interpreted by the University System of Georgia as it relates to DACAmented students will be an integral part of this critical inquiry.
discourages intellectual development and societal advancement through stunting the undocumented voice in the state’s most selective institutions. Essentially, the state has encouraged a discursive dilemma, given that "access to lower in-state tuition rates is generally justified as providing a benefit to members of the community … to encourage future contributions to the state" (Banks, 2013, p. 1447). Moreover, “access to colleges and universities for those unauthorized migrants who complete high school is an important factor in determining the types of jobs and occupations that those individuals will hold” (Banks, 2013, p. 1451) which can quite possibly lead to a broader and more robust tax base. Considering this issue from a cost-benefit analysis, Gonzales (2009) posits, “the contributions that DREAM Act students would make over their lifetimes would dwarf the small additional investment in their education beyond high school” (p. 4). Hernandez (2012) provides similar analysis:

The short-term savings achieved by denying undocumented students admission and in-state tuition are more than offset by these immigrants' continued presence within the state, their inability to achieve greater financial success, and the concomitant loss of taxable revenue associated with greater financial success. In short, this policy decision trades long-term benefits for short-term gain (p. 565).

**DACA, Prosecutorial Discretion, and Policy Interpretation**

As a result of repeated failures to get the DREAM Act passed by Congress, a new measure was enacted, challenging the immigration policy discourse and impacting the manner in which states can extend higher education benefits to undocumented students in the future. The research in this area is extremely recent, as states continue to interpret federal mandates and craft policy accordingly. Olivas (2015) gives an overview of the executive decision to move forward with a new strategy that would ensure the presence of undocumented persons:

President Barack Obama determined that he would find executive authority to address the inchoate and marginal status where these students found themselves, and in the Summer
of 2011, within six months of the failure of the DREAM Act to attract the sixty votes, his Administration indicated it would simply assign low enforcement priority to DREAMers, and would not remove or deport them if they were caught in the immigration enforcement mechanism, unless they had criminal records or other disqualifying characteristics (p. 384).

The Deferred Action for Childhood Arrivals (DACA) program “allows young people who are undocumented to request temporary relief from deportation proceedings and work authorizations for a period of two years if they meet certain criteria” (Hu, 2015, p. 27). According to a recent Migration Policy Institute publication, “[this] executive action singled out a population that was considered to be politically sympathetic—young adults who were brought to the United States before age 16—and offered them the opportunity to receive temporary protection and work authorization” (Hooker, McHugh, and Mathay, 2015, p. 9). Through the exercise of prosecutorial discretion that makes qualifying applicants a very low priority for deportation proceedings, the program is wide-reaching for undocumented persons that qualify, extending even to young people who may already be facing some sort of removal hearing. As noted by then Secretary of Homeland Security, “[these] students are the future doctors, lawyers, teachers and, maybe, senators, who will make America stronger. We need to be doing all we can to keep these talented, dedicated, American students here, not wasting increasingly precious resources sending them away to countries they barely remember” (Connell, 2012, p. 8). Hu (2014) provides the context in which federal agencies are to use prosecutorial powers, noting that "[the] USCIS will exercise prosecutorial discretion in determining whether to defer action for a period of two years, subject to renewal, in order to prevent low priority individuals from being placed into removal proceeding or removed from the United States" (p. 32). In the following chapters, additional research and data analysis show how the Board of Regents misinterprets this language and its ap-
plication to USG Policy 4.1.6. The motivations grounding their interpretation have been questioned through a variety of variables ranging from oversight and lack of understanding of a federal program to arbitrary and callous refusal to accept a federal mandate. Multiple theories have been offered as a part of this analysis.

The DACA program was specifically directed toward young people who arrived in the U.S. as children and have since lived free of criminal behavior or threat to national security. Furthermore, the author sets forth the approval criteria for DACA applicants, noting that a person qualifies if he/she:

- Came to the United States under the age of sixteen; has continuously resided in the United States for at least five years preceding the date of this memorandum and is present in the United States on the date of this memorandum; is currently in school, has graduated from high school, has obtained a general education development certificate, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States; has not been convicted of a felony offense, a significant misdemeanor offense, multiple misdemeanor offenses, or otherwise poses a threat to national security or public safety; and is not above the age of thirty (Hu, 2015, pp. 30-31).

The Mexican American Legal Defense and Education Fund (MALDEF) explains that DACA “offers an affirmative path for certain immigrant youth and young people to come forward and seek deferred action as well as for those in removal proceedings, having a final removal order, or having a voluntary departure order” (MALDEF, 2012, p. 11). Irrespective of the benefits generated by DACA, it is also important to understand that DACA has a variety of limitations. According to Hu (2015):

DACA does not suspend the enforcement of immigration laws or grant immunity to aliens before they violate immigration laws but instead is a policy announcement that provides a process for undocumented aliens, who were brought to the United States as children and know only this country as their home, to obtain deferred action (p. 48).
Moreover, the primary immigration benefits conveyed by DACA are a work permit, a driver’s license, and a social security number (Hu, 2015). Despite the limitations of DACA, however, Gonzales et al. (2014) inform us that “within the first year of implementation, approximately 61% of those immediately eligible for DACA had applied” (p. 1856), and the “USCIS approved over 98% of processed applications” (p. 1856). According to the USCIS, as of Fall 2016, more than 800,000 young people were approved through the DACA program since it began (www.uscis.gov).

It is also important to note, “DACA is unique among immigration policies in its focus on educational attainment as a condition for eligibility” (Hooker et al., p. 9). By mandating this educational component along with a requirement that applicants cannot have a criminal history, the program reinforces America’s long-standing values in education and civic responsibility. Additional benefits to DACA recipients beyond eligibility for work authorization include social security numbers and a valid driver’s license, establishing what many legislators and policymakers would consider a ‘lawful presence’ within the communities they are currently residing. Olivas (2015) explains further, “in the first twenty-four months, nearly two-thirds of a million eligible applicants were processed, and they received employment authorization, social security numbers, consideration as ‘lawfully-present’, and permission to leave and re-enter the country without detriment” (p. 389). Presenting research done on DACA recipients one year after implementation, Gonzales and Terriquez (2013) noted, “[we] find that the DACA recipients we surveyed experienced a pronounced increase in economic opportunities, such as getting a new job, opening their first bank account, and obtaining their first credit card” (p. 1).

Because DACA does not create a path to citizenship or confer ‘legal status’ upon DACA recipients, but instead gives "only a potential grant of deferred action – with a limited time frame
of two years – subject to renewal" (Hu, 2014, p. 41), states have been tasked with determining how to comply with the public benefits extended by DACA and the potential rights of the DACAmented. But there is a paucity of literature specific to this topic area. Moreover, as it relates to education, only Adams and Boyne (2015) have produced scholarship specific to DACAmented students' access to postsecondary education. And to date, there have been no publications following the plight of DACAmented students in the state of Georgia and the effects of USG Policy 4.1.6 on their opportunities to enroll in public colleges and universities. What is known – and becoming part of a larger discourse – is that Policy 4.1.6 makes no delineation between undocumented and DACAmented students, and as a result fails to recognize DACA recipients as having established ‘lawful presence’ for purposes of admission to and enrollment in Georgia's five most selective institutions. According to a memo produced by the Georgia Board of Regents Office of Legal Affairs and dated August 20, 2012 (just two months after the DACA announcement), "participation in the DHS deferred action program does not change a student's admission status under Board of Regents policies" (Newsome Memo, 2012). Additional justification and explanation of this determination are provided:

The deferred action available under the DHS program is not an award of lawful status, but rather is ‘a discretionary determination to defer removal action of an individual as an act of prosecutorial discretion.’ That is, the decision not to deport a person in unlawful status does not mean that the person is lawfully present in the United States. Indeed, the program guidelines make clear that ‘[deferred] action does not confer lawful status upon an individual.’ Thus, participation in the DHS program does not change the application of Board of Regents' policies to an otherwise unlawfully present student (Newsome Memo, 2012).

At this point, we recognize that USG Policy 4.1.6 specifically prohibits "a person who is not lawfully present in the United States" from admission to certain Georgia public colleges and universities. We must also recognize and delineate between our understandings of ‘lawful status'
and ‘lawful presence’. Adams and Boyne (2015) explain that there is a difference between "lawful status" and "lawful presence", but they also suggest, "under guidelines issued by U.S. Citizenship and Immigration Services (USCIS), receipt of DACA does, in fact, make one ‘lawfully present’ in the United States” (p. 50). Gonzales et al. (2014) provide further clarification, noting that, “DACA does not confer a lawful status, which would allow access to federal financial aid. DACA recipients have lawful presence, interpreted as a temporary authorization by the Department of Homeland Security to be in the United States” (p. 1856). However delineated, the authors primarily support the argument "that DACA recipients are no longer ‘undocumented’ because they have been determined by the federal government to be lawfully present in the United States, irrespective of their immigration status” (Adams and Boyne, 2015, p. 52). It is within this contested space, where the implementation of DACA essentially makes nearly 2.1 million undocumented persons eligible for the program, that we must re-assess the validity of Policy 4.1.6 and its “lawfully present” eligibility provision. Gonzales et al. (2014) guide this particular inquiry in the following passage:

Although DACA does not address many of the problems these young people confront, such as blocked access to financial aid for college, it does allow scholars, policy makers, and community members the opportunity to better understand the effects of policies that aim to widen access for undocumented populations and how that access is differently shaped (p. 1866).

The Board of Regents gives no rationalization for their decision, although they acknowledge (via internal memo) that, "lawful presence is, of course, a question of federal law" (Newsome Memo, 2012). Instead, it sends a message to current students in its system that even if they follow all federal guidelines to establish “lawful presence” under the state residency requirements, they will still not be recognized as Georgia residents and are thus ineligible for
ISRT. It creates a political and administrative conundrum and ethical dilemma for Georgia State University, which must explain to the undocumented students inherited by the institution at its satellite campuses that they are unable to finish their educational aspirations at the very school in which they began their academic pursuit. This is contrary to the notion that institutions of higher learning in Georgia serve as open forums for intellectual engagement where one can discuss the proliferation of social justice and human rights. Rather, such state action silences the voices of more than 400 students arbitrarily removed from the undergraduate process and relegates them back into the proverbial shadows. Finally, the position prioritizes state policy ahead of established federal law, thereby usurping the Supremacy Clause of the U.S. Constitution, and threatening the long-standing principles of “equal protection under the laws” for any and all who have been legally determined to be lawful residents of the United States. "More than 25 years ago, the Supreme Court ruled in Plyler v. Doe (1982) that undocumented children are ‘persons’ under the Constitution and thus entitled to equal protection under the law according to the 14th Amendment” (Gonzales, 2009, p. 11). Gonzales (2009) continues, “the Court held that states therefore may not discriminate against them on the basis of their legal status in the provision of public elementary and secondary school education” (p. 11). Today, Georgia now stands as the only state in the union that prohibits access to certain institutions for DACA recipients, as both Alabama and South Carolina have begun accepting DACA students at all of its colleges and universities (Adams and Boyne, 2015). Adams and Boyne (2015) note, “[although] the bar on undocumented enrollment remains in effect, Alabama law permits DACA students to enroll and pay resident tuition” (p. 60). Such divisive action creates a permanent separation of a group of people from their contemporaries, without recourse or due process, thereby establishing a subclass of the citi-
zenry with little hope for opportunity or mobility beyond the K-12 educational structure. But Weeden (2015) warns:

> When the permanent American underclass is directly linked with innocent minor children who came to the United States with their undocumented parents, equal access to an appropriate education based on the equal protection of the law principle is as relevant in postsecondary education as it is in primary and secondary education (p. 202).

This sentiment is conveyed in the federal lawsuit filed on March 9, 2016. MALDEF is seeking federal relief against the University System of Georgia and its enforcement of Policy 4.1.6. The lawsuit alleged that USG practices "violate the Supremacy and Equal Protection clauses of the U.S. Constitution" (maldef.org, 2016). MALDEF's basic legal argument is as follows:

> The University of Georgia System violates the Supremacy Clause of the Constitution because the policy is preempted by federal immigration law and the federal government's exclusive authority to regulate immigration. Defendants' acts violate the Fourteenth Amendment Equal Protection Clause because they deny in-state tuition to deferred action recipients without a constitutionally valid justification. Under federal law, deferred action recipients are lawfully present and permitted to remain in the United States for a certain period of time during which they may be granted federal employment authorization and a Social Security Number (maldef.org, 2016).

Chapter 4 provides analysis of some of the pending litigation, as well as an explanation of the arguments being made on behalf of DACA students in multiple court actions against the USG Board of Regents.

**Postsecondary Education for Undocumented Students in Georgia: An Uphill Battle**

On March 15, 2015, Georgia State University, in consideration of its impending consolidation with Georgia Perimeter College (GPC), announced its new mission statement, as approved by the Board of Regents. The first paragraph reads:
Georgia State University, an enterprising public research university, transforms the lives of students, advances the frontiers of knowledge and strengthens the workforce of the future. The university provides an outstanding education and exceptional support for students from all backgrounds. Georgia State readies students for professional pursuits, educates future leaders, and prepares citizens for lifelong learning. Enrolling one of the most diverse student bodies in the nation at its urban research campus, at its vibrant branch campuses, and online, the university provides educational opportunities for tens of thousands of students at the graduate, baccalaureate, associate, and certificate levels (www.consolidation.gsu.edu).

The significance of this consolidation, as it relates to the issue of undocumented students will be further discussed in the data analysis section of this study. It is important to note, however, that while GSU recognizes itself as one of the most diverse institutions in the nation, it has been subject to the strictures of Policy 4.1.6 since its implementation. Alternatively, GPC has approximately 500 undocumented students enrolled in its various associate's degree programs. Should we thus consider this new mission statement the beginning of a new legacy for an institution of higher learning established during the time where the deep-seeded vitriol of racial animus was endemic to the American South? With the existence of Policy 4.1.6, can this new legacy see beyond the social stratifications of people of color and the vicissitudes of our understanding of race and color, especially here in the South? What does it mean for GSU to serve "students from all backgrounds" who dream of contributing their own small panel to the tapestry of America if some of those students are not given access to GSU as a result of the consolidation? Chapter 4 explores these questions, as well.

Producing scholarship grounded in critical perspectives reveals the undocumented student voices systemically denied an opportunity for equal access to postsecondary education in the state of Georgia. These systemic processes create obstacles that undermine the liberatory learning so significant to the undergraduate experience. Policies such as USG Policy 4.1.6 are
barriers to those seeking to take part in the experimental amalgamation of the diversity of humanity that is the bedrock of U.S. history. As we seek further understanding of this dichotomy, the literature tells us that part of that experiment includes unraveling the policy discourse maintaining these social constructs.

Gonzales (2008) explains that throughout the 20th century, students stood in protest of war, racism, and oppressive governments in the name of social justice (p. 229). Concerning undocumented students, he further noted, "despite the dangers involved in speaking out publicly, many students become frustrated by the limitation of their status and want to do something to remedy their situation" (p. 236). This research study has found that the issue of limiting access to postsecondary education for undocumented students has reached a point of salience within the state education policymaking discourse. Chapter 4 explains the driving force behind this new conversation is the DACAmented student voice, some of which have been presented in this dissertation. The literature also informs us that students and scholars engaged in social justice practice are demanding that Georgia public colleges and universities live up to the expectation of creating access to a diverse critical discourse without limitation to those able to contribute to that conversation will soon be acknowledged.

As an example, when university police arrested Jessica Colotl, she was transferred from local authorities to U.S. Immigration and Customs Enforcement agents, who then began deportation proceedings for her to Mexico, a country she left at the age of 10 (Munoz et al., 2014). Only after a large show of support from students and administrators on Jessica’s behalf, which included the president of Kennesaw State University (KSU), was Jessica released from an Alabama detention facility and permitted to stay in the country and remain at KSU for her senior year (Munoz et al., 2014). Significant to this story is the statewide conversation created, which pre-
sented very polarizing positions. Further insight into the controversy that arose from this single incident were covered in local papers, but have since created a broader and much more contentious discourse:

Jessica’s arrest sparked controversy among local groups who advocated for the plight of immigrants who are undocumented as well as the general public who expressed outrage against the University System of Georgia (USG) Board of Regents for allowing students without documentation to not only enroll in the state’s public higher education institutions but purportedly pay in-state tuition (Diamond, 2010).

According to group threat theory, “dominant group attitudes toward minority groups are also influenced by fears that minority group members will be favored over their own group members” (Palmer and Davidson, 2011, p. 4). Munoz et al. (2014) expounded upon this point, referencing Hamann (2003), and noting that, “the Latino population was a threat to the anti-immigrant movement, which characterized the population as aliens, cheats, and criminals and created greater anxiety and panic among long-term residents” (Hamann, 2003; Munoz et al., 2014, p. 5). Munoz et al. (2014) explain further, “this panic and anxiety led to greater concerns about who was gaining access to universities in the state, especially the flagship institution” (p. 5).

An important question to consider is whether the outcomes would have been similar had Colotl not been of Mexican descent? The implementation of USG Policy 4.1.6 is direct and concise in its limiting of undocumented students to Georgia colleges and universities. Its enforcement continues, but just what are the perceived issues and concerns with undocumented student enrollment at Georgia’s state colleges and universities? Laura Emiko Soltis, current Executive Director of Freedom University, “a volunteer-based institution of higher education that provides college courses equivalent to those taught at the selective institutions in Georgia” (Munoz et al.,
2014, p. 3), provides analysis of the ‘threat’ undocumented students posed to the university system during this time. “On the same day Policy 4.1.6 was passed, the Residency Verification Committee, which was established by the Board several months before, presented the results of its investigation of undocumented students enrolled in the University System of Georgia” (Soltis, 2015, p. 25). The Committee found that of the 310,361 students enrolled in the University System of Georgia in the Fall of 2010, only 501 were undocumented, accounting for approximately .16% of all students enrolled at these schools (Soltis, 2015). Additionally, the twenty-seven undocumented students enrolled in the top five state universities in Georgia equated to less than one-hundredth of one percent (Quinton, 2010; Banks, 2013; Soltis, 2015). Soltis (2015) offers an alternative theory as to why the policy was enacted, stating that “such laws are responses to recent demographic changes resulting from increased non-white migration into the state and reflect a long history in the United States of criminalizing immigrants and using them as scapegoats during times of economic recession” (p. 26).

There was a large public outcry from policymakers and legislators in various positions of influence regarding the perceived threat of an influx of undocumented students into the university system. The Federation for American Immigration Reform (FAIR) argued that granting in-state tuition to undocumented students amounted to “an unwarranted benefit to people in the country illegally at the expense of taxpayers and really at the expense of other people’s kids trying to get an education at a public university” (Banks, 2013, p. 1442). This sentiment was further illustrated by a statement made by a group of Georgia state senators who drew the dubious conclusion that, “beyond the clear inappropriateness of denying a legal Georgia resident an educational opportunity in favor of an unlawful alien, is the inescapable lack of wisdom in forcing Georgia taxpayers to subsidize the education of a person who upon graduation is not legally eli-
gible to be employed” (Banks, 2013, p. 1442). Perhaps even more disconcerting, some students at the undergraduate level, supported the USG initiative. The student body president of Georgia State University commented, “I know that all illegal immigrants didn’t necessarily create the problem they’re stuck in, but I feel that everyone should have to go through the proper channels” (Banks, 2013, p. 1443). These sentiments are part of a larger discourse “that continues to vilify and criminalize immigrants by insinuating that Georgians need to be protected and positions immigrants as a threat to the state’s economic viability” (Munoz et al., 2014, 5). Moreover, “the rhetoric also labels students without documentation as undeserving and unqualified to reap the same higher education benefits as their documented counterparts” (Munoz et al., 2014, p. 5). Undocumented students thus remain in a subject position, forced to abide by a system that “works by drawing or forcing them into a status deemed illegality” (Chomsky, 2014).

**La Sur Nuevo (The New South)**

Since 1960, the foreign-born population in the state of Georgia has increased thirtyfold (Lopez et al., p. 73). A large percentage of this population is of Hispanic origin, including many families with children who may be set to experience a similar plight as that of Jessica Colotl. Between 1990 and 2000, Hispanic children in Georgia’s secondary schools increased by 322% and Hispanic children under the age of 4 grew by 382% (Kochhar, Suro and Tafoya, 2005). By 2030, the Latino population in Georgia is expected to increase by 70% (Munoz et al., 2014). The literature shows the effects of this demographic shift in the state's once two-dimensional population (Black and White), and the manner in which these changes have shaped policy. "Feelings of threat to one's status can be further exacerbated if majority groups, noting an increase in immigrant populations, overestimate minority group size” (Palmer and Davidson, 2011, p. 4). Such
was the case in the development of Policy 4.1.6, even though the data revealed that there were only 500 undocumented students in the entire university system. Ultimately, Policy 4.1.6 serves as a primary example of how political issues like immigration can play into the fears of a dominant group, resulting in the marginalization of an already underserved group through certain educational policy changes. According to Munoz et al. (2014), “[the] Board of Regents’ decision reflected a larger aspect of state policy initiatives that also included the recent passing of the Georgia Illegal Immigration Reform and Enforcement Act (House Bill 87)” (p. 2), which went into effect in July 2011 and was modeled after other state legislative measures restricting the rights, movement and access to public benefits of undocumented persons. Simons et al. (2009) explain the interplay of this dichotomy in the following assessment:

Politics then is regarded as a messy field of interests, conflicts and power, which is mainly concerned with discussing goals, strategic options and agendas. Policy, on the other hand, refers to the domain of rational decision-making, as well as the efficient allocation of resources and optimal outcomes (p. 20).

If the policy process is premised on rational decision-making made through irrational reasoning, then I argue that negative outcomes will likely be produced, giving credence to Radoff’s (2011) contention that, “the particular intersection between education policy and immigration law in the United States sustains a permanent underclass and reinforces deliberate disenfranchisement” (p. 436). Instead, careful consideration should be given to the potential impacts of these policies on those persons most affected, regardless of their immigration status. Whereas embracing the promising young undocumented students already a product of Georgia’s K-12 system as a potential intellectual and economic engine, it appears that the Board of Regents instead saw fit to craft a policy that eviscerated any reasonable opportunity for access to postsecondary education in the state university system. In analyzing this policy, “critical theory high-
lights hegemonic power which, in policy terms, points to the dominance of macro-level policy elite and strong state control of policy” (Vidovich, 2009, p. 553). Such control became apparent as a result of a routine traffic stop on a college campus. “Indeed, it is the majority group’s perception of threat to their status within the social or political system that influences attitudes toward immigrants and immigration policy” (Palmer and Davidson, 2011, p. 4). Munoz et al. (2014) explain:

The ways in which Latino students and students without documentation have been and continue to be positioned in the South through policy and action are unique as educational and political discourses in Georgia are transforming from a Black and White paradigm to one that includes Brown (p. 7).

As a counter-narrative to this dominant discourse, Palmer and Davidson (2011) advise that, “we must consider immigrant education policy in the same manner we consider other socially inclusive policy, or the result may be a marginalized and uneducated population” (p. 2). Moreover, even when policies are written with seemingly “race-neutral” language, the effects of these policies often result in the tacit disenfranchisement of minority peoples. It is within this context that using CRT and LatCrit methodologies can inform this research study in its critical analysis of Policy 4.1.6. As explained by Delgado Bernal (2002):

CRT and LatCrit explore the ways that so-called race-neutral laws and policies perpetuate racial and/or ethnic and gender subordination. These frameworks challenge dominant liberal ideas such as colorblindness and meritocracy and show how these ideas operate to disadvantage people of color and further advantage Whites (p. 108).

This research inquiry also presents more logical alternatives to Policy 4.1.6, the enforcement of which continues to isolate growing segments of the Georgia population, restricting the access to postsecondary education for undocumented and DACAmented students. Palmer and Davidson (2011) offer the rationale that, “[socially] inclusive policy will aid in immigrant assim-
ilation into the larger culture through means of social mobility, possibly even reducing poverty through participation in the higher-paid segments of the labor market” (p. 2).

There is irony in the fact that a group of just 27 students among a population of 301,600 students could spark such controversy. However, as I have examined some of the overarching themes embedded within the larger debate on access to postsecondary education for undocumented persons, I have also explored the positions of both the proponents and opponents of this policy. I posit that at its most basic levels, the issue of race and class became intertwined with the overall perception of unauthorized immigration, showing how people of color in this country receive limited access to opportunity based on structural challenges created to preserve the dominant discourse. Policy 4.1.6 became an eventuality of this discourse. I have applied critical policy studies as a theoretical proposition to analyze Policy 4.1.6, taking account of the current ethnic composition of the vast majority of undocumented students in the state of Georgia and the ways in which the policy impacts them. Critical scholarship takes “an attitude of unmasking, that is, opening up a space for public concern by describing the effects of policy measures on existing power relations in society or the way policy discourses are linked up with power configurations” (Simons et al., p. 82). The research process revealed a policy discourse that ultimately disadvantages a specific (and growing) group of young people through the exclusion of their voices as participants in the higher education process. This exclusion continues through the re-enforcement of Policy 4.1.6 against DACA students that the data will ultimately show should be exempted from the policy. Simons et al. (2009) [from Ozga (2000)] note:

Policy research should not merely be research for policy but research into policy, and more specifically on the consequences of policy, on issues of power and politics surrounding education and on social justice, equality and individual freedom (p. 19).
Similarly, Torres and Van Heertum (2009) point out that such research “creates a space where individuals become conscious of the social, cultural, and political world around them, as well as the power relations that underwrite those realities” (p. 148). This dissertation explored more fully the power relations that create a unique reality for DACA students in the state of Georgia through enforcement of Policy 4.1.6 against them. Their lived experiences, as a result of this application, became the fodder for the policy analysis conducted in the following chapters.

**Conclusion**

Weedan (2015) reminds us that, "[good] public policy requires expanding higher education opportunities in our country for everyone in America, including undocumented, bona fide residents" (p. 210). Using Weedan’s analysis, I have tried to produce scholarship that further informs Georgia's policymakers of the effect of certain policies related to undocumented students, including how those policies might influence access to public postsecondary institutions in the state. This dissertation has added to the small, but growing research that questions the veracity of race-neutral educational policies that restrict opportunities of verified lawfully present young people seeking to further their education through participation in the undergraduate experience.

The study also explores whether the University System of Georgia created a new legacy of marginalizing the voice of the oppressed in order to placate an irrational response to an isolated incident. If so, then such action is reminiscent of a time when the deep-seeded vitriol of racial animus was indeed endemic to the American South. Finally, the research queries DACAmented voices and how they might challenge this legacy to reach above the social stratifications of “legality” as they pertain to Policy 4.1.6 and the vicissitudes of our understanding of race and class.
Critical theory served as the theoretical perspective for this research, grounded in the researcher's understanding and use of critical policy studies (CPS) and including elements of CRT, CritLat and IPA.

It thus becomes a responsibility of critical scholarship to interrogate the educational policies restricting DACAmented students' access to public colleges and universities. And where such policy frameworks are embedded with discriminatory practice, then critical scholarship should seek amendment or repeal of the policies in place. The data have shown that the political or social capital which may be lost by revoking Policy 4.1.6 is far outweighed by the benefits of allowing undocumented students the opportunity to enroll at all Georgia universities, thereby encouraging greater contributions to the statewide community and economy. This dissertation studied the motivations and interpretations of the administrative bodies enforcing Policy 4.1.6 to gain insight into the current and future role of the policy and its perceived impact on DACA recipients. The research process is described in the following chapter.
CHAPTER THREE

METHODOLOGY

Introduction

This chapter describes the dissertation’s methodological approach, the research questions explored, and the methods used in the data collection and analysis process. Methodology serves as the basis upon which a research inquiry is conducted. It involves an analysis of the principles and procedures used, as well as direction on:

What comprises a researchable problem, testable hypothesis; how to frame a problem in such a way that it can be investigated using particular designs and procedures; how to understand what constitutes a legitimate and warranted explanation; how to judge matters or generalizability; how to select or develop appropriate means of generating data; and how to develop the logic linking problem data generation-analysis-argument (Schwandt, 2015, p. 201)

This research study used the theoretical frameworks of critical theory and interpretive phenomenology to analyze the data and inform my approach to the research. Critical policy studies (CPS), critical race theory (CRT), critical Latino/a studies (LatCrit), and interpretive phenomenological analysis (IPA) shaped my theoretical perspective and were used in my interrogation. Juxtaposing the study participants’ experiences with Policy 4.1.6 onto the Board of Regents’ institutional framework produced this critical policy analysis.

The data analysis incorporates legal proceedings concerning Policy 4.1.6, participant interview data of a group of students directly impacted by Policy 4.1.6, documents analysis of Board of Regents decisions regarding Policy 4.1.6 and available literature surrounding the issue of postsecondary educational opportunities for undocumented students. There is a very subjective reality where policy arbitrarily and systematically discriminates against minority students
that are majority Mexican and Latino/a. The remainder of the study presents a policy analysis grounded in a critical theoretical perspective based on the findings. It incorporates multiple narratives and is interpreted in a critical frame.

The research participants were central to the dissertation, providing rich data that were analyzed in multiple contexts and giving insight into the impacts of Policy 4.1.6, as perceived by them. A description of the research participants is included, providing their perspective on the issue and the various spaces occupied by the multiple narratives presented in the study. I have also included the thematic coding that resulted from the participant interview data, as well as sections of documents and a collection of images that have all been used to inform the research and give a greater context to the various spaces occupied by the narratives presented in the study. Ultimately, these narratives, collected through participant interviews, participant observation, and the collection and review of documents and images, provided the rich data that informed the research inquiry.

The purpose of the study was to gain greater insight of how the University System of Georgia (USG) Board of Regents interpreted the “lawful presence” requirement of Policy 4.1.6 to apply to students who have qualified for the Deferred Action for Childhood Arrivals program. I have also explored the perceptions of some of these DACAmented students on how this policy impacted them. By investigating the multiple viewpoints associated with the enforcement of Policy 4.1.6, I have provided a critical analysis of the ways in which an educational policy could disenfranchise historically marginalized groups, regardless of the race-neutrality with which the policy may be written or enforced.

Two research questions guide this dissertation. First, what accounts for the state’s interpretation of the “lawful presence” requirement of USG Policy 4.1.6, specifically as it relates to
“DACAmened” students in the state of Georgia who would otherwise qualify for full admission? And second, what are the impacts of Policy 4.1.6 on “DACAmened” students in the state of Georgia, as perceived by them?

The Context: The University System of Georgia

The University System of Georgia was officially created in 1931 by Governor Richard B. Russell, Jr., and on January 1, 1932, the Board of Regents was officially organized, consisting of eleven members appointed by the governor, one from each of the state’s ten congressional districts and one at-large member, all of who served at the governor’s pleasure (Fincher, 2003, p. 3). The Board of Regents derives its authority for the state constitution, with its primary responsibilities being “(a) adopting policies to provide general guidelines for governing the University System, and (b) electing the chancellor of the System” (Fincher, 2003, p. 25). Although appointed, the Board of Regents members are expected to act as an independent governing body, free “from political interference by the governor and the state legislature” (Fincher, 2003, p. 25).

Over the last century, the University System has undergone a variety of changes, experienced rapid growth and development, and revised its various policies to remain in compliance with state and federal laws. During the 1950s and into the 1970s, it was transformed into a three-tiered system of universities, senior colleges, and junior colleges that "placed a public institution of higher learning within commuting distance of 90 percent of the state's population (Burge et al., 1989, p. 7). During the time, the University System also experienced decisive changes to its social structures, shifting from a racially segregated educational system to one of equity in its support of predominantly white institutions and its already established historically Black colleges and universities (Fincher, 2003, p. 67).
By the 1970s, "efforts to serve ever-increasing numbers of students, many of whom were educationally disadvantaged, and increasing concerns for the maintenance of academic standards led to major revisions in Regents policies" (Fincher, 2003, p. 73). Funding priorities shifted to low-income and minority students, as well as the adoption of standardized testing, i.e. the SAT, and the creation of the Regents Test, established as a graduation requirement for students earning degrees in institutions of the University System (Fincher, 2003, p. 73). The latter was instituted because of a perception of declining academic standards, inferred from administrative leadership's responses to a system-wide survey which noted, "with the social revolution of the 1960s, many barriers to obtaining a higher education were lowered as stress on access was intensified", and further that the "faculty responded by lowering standards to accommodate these new students" (Burge et al., 1989, p. 171).

It wasn't until 1978 that the Board of Regents introduced a comprehensive desegregation plan, with the intent of removing vestiges of dualism while still preserving institutional identity – i.e. moving away from offering the same programs at predominantly white and predominantly Black institutions to preserve racial continuity. Although little change resulted from the system's efforts, the plan was given "formal unconditional approval" by the Office of Civil Rights (Fincher, 2003, p. 82). In 1979, the Board of Regents issued a statement of eight general goals, including:

Equitable opportunity for individuals to participate in postsecondary education, consistent with their abilities and needs, without regard to race, sex, age, religion, ethnic origin, economic status, or handicap (Fincher, 2003, p. 78).

In 1984, however, there was such a disproportionate failure rate for students at historically black institutions (where the majority of black students in the state actually attended college), that the Board of Regents was forced to make an agreement with the Office of Civil Rights to
significantly improve the resources and assistance available to students failing the test, including establishing reading and writing laboratories, in efforts to increase the overall eligibility for graduation at these schools (Fincher, 2003, p. 74). Five years later, in an assessment provided to the University System, dropouts in minority enrollment was listed as a "major problem," prompting the authors of the report to advise that, "it is the college that is crucially important to advancing prospects for blacks and Hispanic students. We strongly urge that colleges give priority to need-based awards" (Burge et al., 1989, p. 12). A major reason for the disparity in minority enrollment was the high rate of minority high school dropouts in the state of Georgia, leading to decreasing enrollment of minorities at state colleges and universities. As a result of the findings, the Chancellor appointed a steering committee charged with increasing minority participation in public higher education institutions, explaining that the "University System should have no higher priority than to increase both the levels of minority employment and student enrollment at our institutions" (Burge et al., 1989, 439). This led to increases in minority student outreach, as well as concerted efforts to increase Black faculty and staff across the University System, including the creation of summer enrichment programs and administrative internships (Burge et al., 1989, p. 452).

Over the past quarter-century, much of the responsibility of the Board of Regents for shaping the direction of the University System has been ceded to its administrative body, "delegating executive authority to a chancellor who serves the public interest while serving at the board's discretion" (Fincher, 2003, p. 159). As a result, periodic assessments of system operations are conducted to determine how Georgia higher education policy is to be crafted, revised, implemented and enforced, in order to serve the public interest best. With respect to maintaining a diverse and equitable community of students in state colleges and universities – noted many
times as an essential component of the public interest – the assessment provided to the University System in 1989 reflects what should be the current mission of the University System, to be fully implemented each time by vote of the members of the Georgia Board of Regents:

The degree of success in creating equality of educational opportunity (not disparity) relates directly to what Georgians want and will pay for. Our Georgia students, as do most acquisitive populations, want prestige, power, positions and possessions, with honor, and within the scope of acceptable social values and the provisions of the law. Higher education and the University System offer the best training and environments to harmonize existing and future diversities to be found in individual expectations held by our people (Burge et al., 1989, p. 211).

Throughout this study, I have included USG officials and members of the Georgia Board of Regents as the primary policymakers responsible for the dominant discourse. As the research has unfolded, I found additional spaces within the policy framework being interrogated that can and should include other voices. These spaces include not just the study participants and their allies, who are opposed to certain USG policies, but also me, as the researcher and the institution in which my research is grounded, creating an opportunity to provide further insight into the adverse consequences of these policies. King (2016) proposes a responsibility of higher education institutions to recruit and support “scholars whose moral sensibilities as both researchers and advocates can enable them to humanize, democratize and decolonize the research process by working explicitly to dismantle barriers to freedom and democracy” (p. 167). Although I am reticent to assume such a significant purpose for the research presented in this dissertation, I fully endorse King’s assertion that all policy research should be conducted with a belief in and support for the democratic ideal. This belief served as the basis for the methodological approach used in this research study.
Methodological Approach

Critical Policy Studies

In the state of Georgia, undocumented students have restricted access to postsecondary education. Palmer and Davidson (2011) posit, “the undocumented population could provide to our public universities a wealth of diversity in education, yet they are generally restricted as a threat to our national identity and values” (p. 4). Much of these restrictive measures come in the form of various state educational policies developed and interpreted to limit the ability of undocumented students to enroll in state colleges and universities, including out-of-state tuition rates, inability to apply for state aid and scholarships, or bans on admission to certain public institutions. USG Policy 4.1.6 is one such educational policy, and it serves as the focal point of this critical policy analysis. It constructs multiple realities, from which we come to understand the inconsistencies in the effects of the policymaking and enforcement process.

“Critical theory reminds us of the power people have to intervene in the world and the ways the ideology of inevitability becomes a profound tool of the economic and social elite in their global domination and control” (Torres & Van Heertum, 2009, p. 159). At a more personal level, Simons et al. (2009), explain that “critical studies assume that through awareness of contingency (‘things are not necessary this way’), and by taking into account the legitimate rules, goals and/or courses of action, people would be able to liberate themselves and that this would lead to the construction of a more free, just, democratic society” (p. 53). Using a multi-dimensional approach that incorporates a variety of participants spanning the narratives presented in this research study, my analysis explored how policymakers and undocumented students see themselves as actors within a social construct. "From the critical multicultural perspective, what is needed is for educators to be enabled to facilitate the understanding and skills needed to
challenge existing inequalities including those that operate around the social axes of class, race, and gender” (Cribb & Gewirtz, 2009, p. 521). Specific to this inquiry were students who received DACA approval, yet still found themselves on the periphery of opportunity once they’ve traversed Georgia’s K-12 educational landscape. Gonzales (2008) inquires about “the consequences of growing up ‘American,’ yet living with only partial access to the mechanisms that promote social mobility” (p. 224), and Gleeson and Gonzales (2012) recognize that for undocumented students, “their inclusion in the public school system provides undocumented immigrant students with the same social lessons their American-born peers receive about the ideals of meritocracy and American values of citizenship” (p. 5). As we have seen, this creates a duality of existence, disrupting the spaces of normalcy that creating conditional multi-modal conceptions of inclusion and exclusion that is often difficult to understand and reconcile.

Critical analysis is a means of de-constructing hegemonic frameworks, bringing to light the power dynamics endemic to the minimization and subordination of undocumented students through restricted access to postsecondary education. Latour (2004) notes, “critical thought assumes that facts and problems are socially constructed, that this construction involves power, and that awareness of this construction opens up a space for re-construction” (Simons et al., 2009, p. 53). Humans construct the very knowledge that we absorb based on our lived experiences and how those experiences relate to others, the world and ourselves. Crotty (1998) states, “according to constructionism, we do not create meaning. We construct meaning. We have something to work with. What we have to work with is the world and objects in the world” (p. 44). These objects include the laws we create and by which we expect all others to abide. The result is a critical examination of an education policy with singular meaning that produces multiple interpretations.
"Critical perspectives assume that constraints imposed by macro-level policy elite severely limit the agency of policy actors at the micro level" (Vidovich, 2009, p. 553), but a gap in the literature exists at the intersection of those “agentic” policy actors who have created an alternative to the hegemonic discourse and share a common cause, but have yet to converge their interests, thereby creating multiple identities and realities as a result of the same oppressive framework – that of USG Policy 4.1.6. My research study addressed those specific policy actors and their commitment to social justice and policy re-formation while situating the critical policy analysis into larger perceptions of equitability and opportunity. It has explored the lives of the U.S. subaltern – undocumented persons – specifically those who are DACA recipients, and others in their support, who have carried the burden of an uncontrollable “status” for most of their lives throughout an educational process designed to make them believe in something aspirational that they cannot yet obtain legally – the “American” dream.

At the K-12 level, "schools structure students' access to resources by virtue of the programs in which they participate, and their classes, teachers, and peer groups" (Gonzales, 2010, p. 472). This experience can profoundly influence a student's intent to continue study at the undergraduate level. Gonzales' (2010) findings revealed, "postsecondary participation among undocumented respondents is facilitated through their position in school and in relation to teachers and counselors" (p. 473). At the next level of education, however, DACA students find that state and local policy actors on the dominant side of this narrative are now stifling those who have been given hope through a federal mandate. What are the short-term and long-term influences of these actions? Addressing this question also requires us to consider the economic investment already made in these very same students at the primary and secondary level, on which the state of Georgia consistently fails to capitalize by restricting access to postsecondary opportunity. If we
contemplate instead the broader implications of the policy and the potential benefits to be derived from its re-consideration, then we can arise at a different conclusion as to the veracity of the policy itself. "Critical theory thus offers a methodological approach that explores social phenomena within a broader perspective that takes it outside its situated particularity and places it in the larger social, economic and political spheres" (Torres & Van Heertum, 2009, p. 147).

This research study seeks to challenge a current policy framework, instead asserting that everyone should have a universal right to determine his or her own destiny through educational achievement. This study supports the argument that, “policymakers must take stock of … a growing class of undocumented students who have been trained and prepared for careers in the United States and who represent a significant investment of talent that this country may not be able to afford to squander” (Gleeson & Gonzales, 2012, p. 14). Gonzales (2008) eloquently describes the fertile identities from which the data has been drawn:

Unauthorized students have unique circumstances that set them apart from their immigrant parents and their native-born peers. Their lives are profoundly shaped by parallel processes of growing into adolescence and adulthood and acculturating to the norms and standards of U.S. culture. They find themselves between two worlds, betwixt and between their country of birth and the country they call home. In the words of many I have spoken to, they are *ni de aquí, ni de allá* (neither here, nor there). Most of them only know their birth country through their parents’ stories. They may feel a nostalgic connection to their homeland, but do not have the ability to visit without having to make a clandestine crossing in order to return. (Gonzales, 2008, p. 225).

Popkewitz (2009) asserts, “the political activist implores that research serves as an agent of change and social reconstruction. The unspoken principle of this research for ‘use’ is that knowledge is the servant of democracy by giving agency and enabling progress” (p. 534). A task of critical scholarship is producing research that leads to the opportunity for the construction of knowledge by those often excluded from the educative process. Bonal & Tarabini (2009) provide
support for this notion, “in the struggle against poverty, education appears as one of the key mechanisms for facilitating the social insertion and employment of excluded communities, providing them with the abilities they require to be individually independent” (p. 97). “Critical theory provides valuable tools to explore the relationship of knowledge, schooling and the social order and the role schools play in spreading ideology, maintaining or challenging social inequality and serving democracy” (Torres & Van Heertum, 2009, p. 148). Torres & Van Heertum (2009) conclude, “knowledge and ideals advanced by our greatest minds must impact our societies, our social policies, and indeed global practices” (p. 159).

My research is grounded in the epistemological framework of constructivism, presenting “the view that all knowledge, and therefore all meaningful reality as such, is contingent upon human practices, being constructed in and out of interaction between human beings and their world, and developed and transmitted within an essentially social context” (Crotty, 1998, p. 42). Crotty (1998) provides the constructionist viewpoint:

There is no objective truth waiting for us to discover it. Truth, or meaning, comes into existence in and out of our engagement with the realities in our world. There is no meaning without a mind. Meaning is not discovered, but constructed. In this understanding of knowledge, it is clear that different people may construct meaning in different ways, even in relation to the same phenomenon (p. 9).

As the primary researcher, I have embraced the multiple aspects of identity and self-efficacy and adopted the role of the bricoleur, “the notion of a person who makes something new out of a range of materials that had previously made up something different” (Crotty, 1998, p. 50). Crotty (1998) states that the “bricoleur is a makeshift artisan, armed with a collection of bits and pieces that were once standard parts of a certain whole but which the bricoleur now reconceives as parts of a new whole” (p. 50). What becomes of the tapestry created is wholly depend-
ent on the research findings, no matter how minuscule or irrelevant the information may seem, which is then pieced together from a variety of subjective standpoints. According to Harwell (2011), “Qualitative research methods focus on discovering and understanding the experiences, perspectives, and thoughts of participants – that is, qualitative research explores meaning, purpose, or reality” (p. 148).

In a previous research study, Gonzales (2008) found that “undocumented students’ lived realities provide convincing evidence for the assertion that immigration policies hold strong salience in the lives of immigrants, as they have the power to designate statuses and determine who gets what” (p. 226). Radoff (2011) explains “undocumented” as having serious implications to a young person’s identity and self-efficacy, categorizing them in the unenviable and inescapable space of “status” (p. 43). She further notes, “beyond the discursive frames that reduce an individual to only one aspect of their being, even the notion of being undocumented or unauthorized is problematic, because these concepts attach the problem of citizenship status to the individual, rather than acknowledging the larger social and political constructs that frame an individual as such” (Radoff, 2011, p. 43). Thus, a lack of understanding as to the depth of the identity of the undocumented can often reify the social stigmas attached to their ‘legality’. Gleeson and Gonzales (2012) give a conclusory statement on the lives of the undocumented and the impact of their status by noting, “it shapes every aspect of their lives, determining how they are thought of and treated, placing them face-to-face with the limitations of the law, shaping their fates, channeling them in limited and limiting directions, and restricting their social mobility and life chances (p. 3).

The interpretation of this reality by the participants who share in that reality was a primary source of the data extraction, pivotal in the creation of new knowledge. How has USG Policy
4.1.6 impacted their lives, given their current status as DACAmented students? How do DACAmented students then confront policies restricting their postsecondary opportunities while seeing their lifelong American-born counterparts make seamless transitions into an open-access higher education arena? How might their identity be re-constructed within the minds of those undocumented students, many of whom have experienced the same socialization process as their American-born classmates? “Recognising a person’s identity is to see them and treat them in the way the want to be seen and treated. It is what is entailed in treating everyone with equal respect” (Cribb & Gewirtz, 2009, p. 523). As critical scholars, the authors inform us, “recognition makes good pedagogic sense as it increases the chance of learners feeling engaged, involved and interested” (Cribb & Gewirtz, 2009, p. 523). Popkewitz (2009) explains:

The category of ‘immigrant’ is illustrative. The recognition given to include ‘immigrants’ radically differentiates and circumscribes something else that is both repulsive and fundamentally undifferentiated from the whole as processes of abjection. The immigrant is a category of a group and individuals whose status is somewhere not quite ‘in’ – worthy for inclusion but excluded. The immigrant lives in the in-between space. That space requires special intervention programs to access the equity of society and at the same time positions individuals as different and outside by virtue of the child’s or parent’s modes of life (p. 541-542).

Incorporating Critical Race Theory (CRT) and Critical Latino/a Studies (LatCrit)

Many of the documents addressing Policy 4.1.6 show the policy as race-neutral on its face; however, this research study has re-conceptualized the enforcement of the policy and its grossly disproportionate impact on people of color, especially those of Hispanic descent. “Critical perspectives assume that constraints imposed by macro level policy elite severely limit the agency of policy actors at the micro level” (Vidovich, 2009, p. 553). This study uses critical race
theory (CRT) and critical Latino/a studies (LatCrit) to examine the ways in which Policy 4.1.6 has resulted in a discriminatory practice against minorities, specifically limiting the agency of Latino/a undocumented students as policy actors.

According to Taylor (2009):

CRT comes from a long tradition of resistance to the unequal and unjust distribution of power and resources along political, economic, racial, and gendered lines in America, and across the globe, with the support and legitimacy of the legal system which makes possible the perpetuation of the established power relationships of society (p. 1).

Alternatively, LatCrit disaggregates the Latino/a experience from the critical race discourse. Delgado Bernal (2002) postulates that “LatCrit is concerned with a progressive sense of a coalitional Latina/Latino pan-ethnicity, and it addresses issues often ignored by critical race theorists” (p. 108). She goes on, “LatCrit is a theory that elucidates Latinas/Latinos’ multidimensional identities and can address the intersectionality of racism, sexism, classism, and other forms of oppression” (Delgado Bernal, 2002, p. 108). In addition, Parker (2015) explains that "these theoretical frameworks have been conceived as a social justice project that has sought to link theory with practice, scholarship with teaching, and the academy with the community” (p. 200).

The particular spaces of immigrant identity include myriad psycho-social designations worthy of exploration through theoretical lenses which move beyond policy analysis and include issues of race, ethnicity, class, and legal status. Although the focus of the research project rests in educational policy development and implementation, I have incorporated CRT and LatCrit to explore the deeper texts that emerged from the implementation of USG Policy 4.1.6 and its application to DACAmented students. Delgado Bernal (2002) informs that “as theoretical frameworks in the field of law, CRT and LatCrit explore the ways that so-called race-neutral laws and
policies perpetuate racial and/or ethnic and gender subordination” (p. 108). As a result, she stresses “the importance of viewing laws and lawmaking within the proper historical and cultural context to deconstruct their racialized content” (p. 108). An analysis of USG Policy 4.1.6 using CRT and LatCrit perspective can shed light on the disproportionate impact of this policy on students of color, specifically those of the Latino community in Georgia. Moreover, it further explains the manner in which the larger structures of immigration in this country are crafted by policy to maintain current power dynamics. Popkewitz (2009) provides an ahistorical perspective, “to consider the notion of immigrant as a particular cultural space of difference, British and Scandinavians who come to the U.S. are not thought of or classified as immigrant in reform programs” (p. 542).

Aleman (2009) provides the basic tenets of CRT, as devised over the last three decades, since its inception in the early 1980s:

1. Racism is endemic and ingrained in U.S. society;
2. The Civil Rights Movement and subsequent laws need to be critically reinterpreted;
3. Concepts of neutrality, objectivity, color-blindness, and meritocracy need to be challenged;
4. Providing spaces for “voices” of marginalized people to be heard is vital for social transformation;
5. Interrogating the construction of whiteness as the “ultimate property” is critical to CRT analysis;
6. Understanding the interest convergence principle (i.e., change will occur only when the interests of Whites are benefited and subsequently converge with the interests of communities or people of color) is necessary in the study of racism;
7. Counter-storytelling is a method used to refute and to re-tell the majoritarian ways of knowing that dominate discourse, history, and media representations of reality; and,
8. A commitment to social justice and an interdisciplinary perspective to these tenets are required (p. 185).4

Lopez and Lopez (2010) further explain the premise of CRT, noting that "rather than focus on explicit acts or incidents of racism, CRT scholars instead focus on subtle, hidden, and insidious forms that operate at a deeper, more systemic level" (p. 9). An education policy that systematically excludes an overwhelming number of students of color from the opportunity to pursue postsecondary education, regardless of its race-neutrality, must be called into question concerning its racially polarizing effects. In addition, Mansfield (2016) explains:

In CRT, researchers place race at the center of their analyses, enabling a fuller understanding of whether educational policy adequately addresses the concerns of minoritized populations to bring about effectual change (p. 4).

By examining USG Policy 4.1.6 through a racialized lens, and providing counter-narratives of those most affected by it, this study seeks to re-interpret the current dominant discourse surrounding access to public colleges and universities for undocumented and DACAmented students in the state of Georgia. “Counterstories have been applied to educational challenges to understanding better how minorities experience and respond to racism in school settings” (Lopez & Lopez, 2010, p. 10). In fact, Lopez & Lopez (2010) explain that CRT is situated within education asks four critical questions:

1. How do racism, sexism, classism, and other forms of subordination shape the experiences of students in the U.S.?
2. How do institutions of education maintain race, gender, class and immigration status (alienage) discrimination?
3. How do students respond to racism, sexism, and classism and discrimination status?
4. How can education work as a tool to remedy these problems? (p. 10).

The data derived from the research participants in this study has provided valuable insight into these questions, providing clarity on the lives of undocumented students seeking access to the state’s most selective colleges and universities. The data has also explored the significance
of the DACA program in the daily lives of DACA students, as well as the perceived impacts of Policy 4.1.6 on these students’ higher education aspirations.

In this dissertation, the inclusion of the LatCrit theoretical framework provided an additional layer of critical examination of race and systemic processes, specifically as they relate to the subordination of the Latino/a population (Lopez & Lopez, 2010; Delgado Bernal, 2002). Lopez & Lopez (2010) further explain, "LatCrit centers the richness of Latino identities and experiences in order to develop an activist-oriented discourse that promotes social justice for Latinas and Latinos” (p. 10). Recognizing common interests among people of color, “LatCrit theorists also contend that LatCrit compliments CRT work, never supplanting its central tenets” (Aleman, 2009, p. 185). Approximately 77% of all undocumented persons in the U.S. are Latino/a (Lopez et al., p. 4). The percentage of Hispanics for those eligible under the DACA program is even higher. Of this group, Mexicans comprise more than half, creating a very distinctive identity for the nearly 12 million undocumented persons living in this country. Such dynamics bring issues of race and class to the forefront of the conversation, thus creating a need for a LatCrit perspective to elucidate the underlying text found in the policy discourse.

The dominant discourse that has existed since the passage of USG Policy 4.1.6 has been one of preserving the rights of legal residents in the state of Georgia through the denial of postsecondary benefits to their undocumented counterparts. This narrative remained throughout the implementation of the DACA program, creating a unique storyline for newly DACAmmented students seeking access to Georgia state colleges and universities. Only a critical analysis of the multiple narratives emanating from this particular policy’s development and enforcement can inform us of its actual outcomes, intended or otherwise, and provide new scholarship grounded in the processes of social justice and liberatory learning.
The discourse around USG Policy 4.1.6 fails to recognize the racial constructs it creates by prohibiting postsecondary access to students who are deemed to be in the state unlawfully, and who might seek to gain admission to state institutions that have a selective admissions process. The essential argument is that such access unfairly disadvantages U.S. citizens and legal state residents. Moreover, public officials point out that extending entry takes slots at state colleges away from citizens. They argue that "states have limited resources and in-state tuition rates and admission to public colleges and universities are coveted benefits that states cannot afford to extend to non-members" (Banks, 2013, p. 1441), and that "extending in-state tuition rates, or admission, to undocumented students rewards or encourages unlawful activity" (p. 1441).

As a result of these positions, USG Policy 4.1.6 has been effective in prohibiting undocumented students from enrolling at many of Georgia's higher education institutions. The rationalization of this policy position includes DACA students, but little attention has been given to these affected voices in the current body of literature. These counternarratives have thus become the focus of my research study, applied to the policy discourse, to allow policymakers, educators and administrators an opportunity to understand the perceived impact of Policy 4.1.6 on the lives of DACAmented students. Roe (1994) provides the necessary insight for this argument:

Many public policy issues have become so uncertain, complex, and polarized – their empirical, political, legal, and bureaucratic merits unknown, not agreed upon, or both – that the only things left to examine are the different stories policymakers and their critics use to articulate and make sense of that uncertainty, complexity, and polarization (p. 3).

Interpretive Phenomenological Analysis (IPA) Approach

The most productive way to inform qualitative research is through the examination of the lived experiences of others. This dissertation has been informed through incorporating the stories of policymakers and their critics in the analysis of Policy 4.1.6. The study participants in this dis-
sertation provided valuable insight into both overt and more nuanced effects of Policy 4.1.6. A detailed analysis of their feedback was a centerpiece of the data findings and required a phenomenological inquiry to seek the rich data that best informed the study. Smith et al. (2010) explain that IPA is “concerned with the detailed examination of human lived experience” (p. 32). It is situated within the larger context of the phenomenological approach to qualitative research, which, according to Crotty (1998), suggests that, “if we lay aside, as best we can, the prevailing understandings of those phenomena and revisit our immediate experience of them, possibilities for new meaning emerge for us or we witness at least an authentication and enhancement of former meaning” (p. 78). Heidegger, a stalwart in phenomenological methodology, believed that "humans are embedded in their world to such an extent that subjective experiences are inextricably linked with social, cultural, and political contexts" (Lopez and Willis, 2004, p. 729). Inquiry into the phenomenological method is what led me to authors' analysis of Heidegger's notion of 'interpretive phenomenology,' which states, "it is the interpretations of the narratives provided by participants in relation to various contexts that is foundational" (Lopez and Willis, 2004, p. 729). Smith et al. (2010) provide that IPA "also pursues an idiographic commitment, situating participants in their particular contexts, exploring their personal perspectives, and starting with a detailed examination of each case before moving to more general claims" (p. 32). As such, "phenomenological research of this kind emerges as an exploration, via personal experiences, of prevailing cultural understandings" (Crotty, 1998, p. 83).

My research also explores Heidegger's concept of “situated freedom,” explained as "an existential phenomenological concept that means that individuals are free to make choices, but their freedom is not absolute; it is circumscribed by the specific conditions of their daily lives" (Lopez and Willis, 2004, p. 729). Exploring how this freedom existed in the daily lives of my
research participants serves as a basis for my inquiry. I am further informed by Hycner (1985) on best practices in doing so, recognizing that I must make meaning out of the collected data through the critical process of phenomenological reduction, essentially looking at the lived experiences of my participants as a series of phenomena, each of which offering an opportunity to elicit units of general meaning (p. 279). Quoting Keen, one of the preeminent scholars in this field, Hycner (1985) further elucidates the point, noting, “[anybody] can hear words that were spoken; to listen for the meaning as they eventually emerged from the event as a whole is to have adopted an attitude of openness to the phenomenon in its inherent meaningfulness” (p. 280).

The theoretical approach of IPA played a prominent role in my analysis of the interview data collected during the research process, providing the basis upon which I would inform my second research question: What are the perceptions of “DACAmented” students in the state of Georgia of how Policy 4.1.6 impacts them? Moustakas (1994) explains, "in phenomenological research, the question grows out of an intense interest in a particular problem or topic" (p. 104). My connectedness to this topic came out of first, my inquiry into higher education policies that seemingly create racially discriminatory practices in modern-day society and second, my legal background and understanding of how such policies can be misinterpreted, leading to adverse consequences for certain demographics within populations. Speaking with the participants in this study and observing them in their attempts to address and subvert Policy 4.1.6 gave me an acute awareness of these phenomena. This awareness, according to Moustakas (1994), “is essential in the formulation of a core question that will remain viable and alive throughout the investigation” (p. 105). Moustakas (1994) further elucidates this assertion by explaining that an effective research question related to human science has definite characteristics, which include the following:
1. It seeks to reveal more fully the essences and meaning of human experience;
2. It seeks to uncover the qualitative rather than the quantitative factors in behavior and experience;
3. It engages the total self of the research participant, and sustains personal and passionate involvement;
4. It does not seek to predict or to determine causal relationships;
5. It is illuminated through careful, comprehensive descriptions, vivid and accurate renderings of the experience, rather than measurements, ratings or scores. (p. 105)

Situating the research question within the surface level beliefs regarding Policy 4.1.6, as well as the deeper meanings and impacts of the policy as perceived by the research participants, provides the proper context for interpretative phenomenological analysis of the data. Smith et al. (2010) explain:

Phenomenology is concerned in part with examining something which may be latent, or disguised, as it emerges into the light. But it is also interested in examining the manifest thing as it appears at the surface because this is integrally connected with the deeper latent form – which it is both a part of, and apart from (p. 24).

A Visual Approach to Data Analysis

In order to situate Freedom University into this dissertation, I provided a visual context for the organization and its students, at least as I have personally witnessed during my critical analysis of the policy. Stanczak (2007) explains, “visual approaches to understanding and inquiring about aspects of the social world need not fall outside the parameters set by the epistemological assumptions and rigors regarding how we collect valuable information” (Stanczak, 2007, p. 8). Moreover, Emmison et al. (2012) state, “images – in their numerous manifestations – are perhaps the most basic form through which we experience the visuality of contemporary life” (Emmison et al., 2012, p. 62). And as a methodology, Stanczak further notes that, “visual research reveals new insights that our conventional methodologies can miss” (Stanczak, 2007, p. 13).
Multiple images and videos were taken during the observation phase of the research. This visual data was added to what I collected from online resources. As I approached the analysis, it was difficult to reduce these experiences to written description, especially when trying to describe the dynamics of power relationships embedded within the acts of social protest and civil disobedience that I observed. Burkholder provides further justification for this approach, stating “participatory visual methodologies need to be situated in an understanding of power, and in the political realities in which the research is undertaken in order to advocate for, and perhaps instigate, real social change outside of the research conditions” (Burkholder et al., 2015, p. 9).

**Methods of Data Collection and Analysis**

In this critical examination of Policy 4.1.6 and its perceived impacts on DACA students, data were collected from three primary sources. Official documents have been obtained which highlight the policy discourse surrounding Policy 4.1.6, as well as documents related to the creation and execution of the 2012 Deferred Action for Childhood Arrivals program. Some of these documents were procured through Open Records Requests for Information made directly to the Board of Regents. On more than one occasion, I requested materials, some of which was never received, specifically the transcripts of a presentation given by a student leader, which according to the BOR meeting minutes dated May 19, 2015, specifically requests that DACA students not be included under Policy 4.1.6 or 4.3.4. The lack of compliance to this request regarding this particular audio file was neither expressed nor explored. Instead, I chose to analyze the data I collected and convey as complete an analysis as possible from the information received. Additionally, images and notes were taken and procured by the researcher, primarily as part of a participatory observation process that included Board of Regents Meetings and weekly classes at Free-
dom University. Images not taken by the researcher were found online, either from Google images, the *Atlanta Journal-Constitution* or through the Freedom University Facebook page. Data was also provided by USG and the Board of Regents, through documents analysis and real-time media coverage of public statements, which proved seminal to providing an explanation of the purpose, development, implementation and continued enforcement of Policy 4.1.6.

Roulston (2010) explains, "at the most basic level, researchers must show reports from their studies that the methods chosen to generate data for a study will provide data to address questions posed" (p. 86). The method for data collection in this study is a combination of participant interviews, participant observation, and document analysis. Each of these methods will explore the issues raised by the research questions and are intended to provide the context, text, and consequences embedded within the inquiry. The source material may, at times, seem to emanate from polar opposite positions. As the researcher, I have done my best to present all sides of the narratives created as a result of Policy 4.1.6, ensuring the veracity of the data collected, thus providing for unencumbered spaces in which to conduct the data analysis.

*Participant Interviews*

Using the semi-structured interview technique for individual participant interviews created a measure of open dialogue with the participants and follow the interview through its natural process. According to Smith et al. (2010), “the aim of an interview is largely to facilitate an interaction which permits participants to tell their own stories, in their own words” (p. 57). In addition, Roulston (2010) requires that "interviewers using semi-structured interviews must have highly developed listening skills to be able to both ascertain whether the research topics have
been addressed by the interviewee, and when and how it is appropriate to follow up on the accounts given” (p. 15). The participant interviews that took place were voice-recorded and transcribed by the researcher. Each recording and transcription was kept in a secured, password-protected digital format, using the atlasTI qualitative research database. Brinkman (2013) argues that "semi-structured interviews can make better use of the knowledge-producing potentials of dialogues by allowing much more leeway for following up on whatever angles are deemed important by the interviewee" (p. 21), and that this technique "also [gives] the interviewer a greater chance of becoming visible as a knowledge-producing participant in the process itself" (p. 21).

The author provides the working definition of the research conducted, noting:

Such interviews are structured by the interviewer’s purpose of obtaining knowledge; they revolve around descriptions provided by the interviewee; such descriptions are commonly about life world phenomena as experienced; and understanding the meaning of the descriptions involves some kind of interpretation” (Brinkman, 2013, p. 24).

After much deliberation, I concluded that it would be unlikely to procure participant interviews with USG officials. Moreover, given the sensitivity of the policy being interrogated, the ongoing litigation surrounding the policy, and the position being taken by the BOR and USG, I found it difficult to develop participant recruitment materials that might convince certain officials to further explain their position. I also gave consideration to the risks involved in administrative participation in this study and the difficulties that might arise in ensuring the anonymity of those who might be willing to participate. After a thorough review of the available literature, I made the decision to instead focus on the voices that had been “othered” by the existing policy framework, and it became more and more apparent, as the data collection process unfolded, that

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5 Additional information regarding the researcher’s decision to forego participant interviews with USG officials is further discussed in the Researcher’s Note.
the voice most informative of this study was that of DACA students in Georgia, given the limited policy discourse thus far and the seemingly purposeful exclusion of DACA student representation from the decisions derived therefrom. As a result, the majority of the data regarding the Board of Regents and the University System of Georgia was obtained from BOR meeting minutes, USG policy manuals, and memos obtained through open records requests.

With respect to the participant interview data in this study, the DACAmented students provided insight into their perceptions of the ways in which enforcement of USG Policy 4.1.6 impacted them. Selection of the participants was based first on their having obtained DACA approval. Additional selection criteria included: 1) an interest or intent to enroll in postsecondary education, 2) current residency in the state of Georgia which would otherwise qualify them for admission and ISRT but for their immigration status, and 3) a willingness to participate in the study through the disclosure of facts and information regarding their undocumented experience. Because of the multiple entry points associated with the research topic, recruitment for participation covered multiple campuses and environments, including Perimeter College at Georgia State University and students at Freedom University. In addition, DACA students involved in both the previous and recently filed lawsuits seeking equitable access to Georgia state colleges and universities were recruited, via email, to participate in the study. All of the participants volunteered for the interviews and completed a screening form that asked the following questions:

1. Are you a foreign-born national currently residing in the state of Georgia? Yes/No
2. Did you graduate from a Georgia high school? Yes/No
3. Have you applied to the Deferred Action for Childhood Arrivals program? Yes/No
4. Have you been given DACA approval? Yes/No
Each of the interviews lasted between 75-90 minutes. The interviews were semi-structured, open-ended questions related to five or six topics of inquiry: 1) interviewee background, 2) being undocumented, 3) educational experience, 4) becoming DACAmented, 5) experience at Perimeter@GSU (only for those that were currently or had been attending GPC), and 6) USG Policy 4.1.6. The structure of the interviews allowed for a ‘rich data set’ from which I could extract the data necessary to inform the primary research question.

The interviews took place during the week of the presidential election, four before (or on Election Day) and three afterward. Although DACA students do not have the right to vote, there was a general recognition of the stakes at play at this time and the political rhetoric being bantered about regarding immigration in general and the undocumented population in particular, including promises to rescind the DACA program. Regardless, I followed the guidance of Aleman (2009), “providing a space for the voices of these participants to be heard and portraying their stories and experiences as activist projects in an inherently complex political setting” (p. 188). All but one of the interviews took place in a quiet and secluded setting, allowing for open and honest communication without distraction or concern of being overheard. Due to scheduling conflicts, one interview took place in the Starbuck's section of a Barnes & Noble bookstore, which did create a large amount of ambient noise making it relatively difficult for the transcription process but did not, in any way, affect the interview process. The interviews were transcribed, and a copy of the transcript was sent to the students for review and feedback to ensure the accuracy of the transcription. The entire interview protocol is included in the appendices.

The interview process served as a significant contribution to my research, providing the first-hand perspectives of the participants’ struggles for equal access to postsecondary education,
as well those of the officials tasked with maintaining the policy being interrogated. As such, all necessary protocols were followed, including:

Appropriate preparation; demonstration of appropriate respect for participants, intensive listening on the part of the interviewer; development of thoughtful interview guides that used appropriate question formulation with fewer, rather than more, questions; posing of short, open-ended questions; flexibility on the part of the interviewer to deviate from prior plans when necessary; and effective use of follow up questions within interviews to elicit the participants’ understandings of topics (Roulston, 2010, p. 178).

DeWalt & DeWalt (2011) further warn that "the basic rule in carrying out interviewing or conversing during participant observation is that the researcher is intent on following the lead of the informant, exerting only minimal impact on the topic and flow of the interaction" (p. 137). This was an important concept for me, as the researcher, given the bias with which I have approached this inquiry. I have made no illusions as to my position on USG Policy 4.1.6, and I must account for this position within the interview process. Roulston (2010) explains:

The bias of the researcher is addressed by asking questions that do not lead the interviewee; open-ended questions are asked in particular sequences, usually from general to specific, with sensitive topics approached at a later stage in the interview after sufficient rapport has been developed between the interviewer and interviewee (p. 87).

In addition, the utmost discretion has been used to preserve the identity and anonymity of all participants, even those who had been identified through alternative social media outlets and from pending litigation court records. Informed consent was procured for all participant interviews, providing a detailed explanation of the research study and how the interview data would be used. Dewalt & Dewalt (2011) explain, "the principle of informed consent not only includes disclosure of the goals of research, but also the honest assessment of the researcher as to the risks and benefits of the research" (p. 216). In addition, alternative names were assigned to each, and the transcriptions used only the participants' initials, to ensure the privacy of all those involved.
The study recognizes the sensitivity of the data, the far-reaching political and legal implications of its disclosure, and its potential impact on the policymaking process, and "every effort possible must be made to protect the anonymity of people and sometimes of communities if they so desire" (Dewalt & Dewalt, 2011, pp. 218-19).

*The Study Participants*

The study participants were seven Mexican-born and undocumented youth who have been granted deferred action through the DACA program. They are all at various stages of their postsecondary educational journey. Four were enrolled in classes at Perimeter College at Georgia State University. One was enrolled at Emory University. And two were not enrolled but had already taken college courses and were well on their way through an accredited degree program. The students come from a wide array of family dynamics, with most growing up in mixed-status households – that is households with one or more siblings born in the U.S. Only one of the participants had any memory of their birth country, while the rest were brought to the U.S. by their parents at very young ages. All study participants were simultaneously recruited from Perimeter College @ Georgia State University – Dunwoody Campus and the Freedom University student network.

The participants shared other commonalities, which did not become a part of the data analysis but is offered for context and insight in the review of the data findings discussed in Chapter 4. First, all of the participants acknowledged themselves as Mexican, though many noted an Americanized socialization process that has somewhat disconnected them from the country of their birth. In addition, each of the study participants carried a very close connection to their families – their parents in particular – and expressed a high level of expectations put on them by their
parents with respect to academic performance, with varying levels of oversight during their K-12 experience. As a result, many of them were high achievers, and none of them expressed any doubt as to their intellectual capacity or ability to complete the undergraduate process.

Finally, and as will be seen throughout the data analysis process, each of these students understood the tenuous nature of their status, as undocumented persons and DACA students, emblematic of the 1.5 generation discussed throughout the body of literature. They were all children brought to this country before a time when they could even fathom any notion of “illegality,” let alone appreciate the nuances of how it applies specifically to them. For the participants in this study, representative of the approximately 2.1 million undocumented children all over the nation, this is their country, and they, too, sing America.

*Participant Observation*

The focus of this study brings the researcher in contact with young people primarily from different countries and cultural realities, sharing their own language, values, and traditions. It was imperative that throughout my participant observation process, the learning and engagement of the participants as disturbed as little as possible by my presence, recognizing the limited role I play in their understanding of the research I am presenting. In addition, full awareness of any potential stresses to those participating must be acknowledged at all times, even when there was no expectation of adverse consequences. Dewalt & Dewalt (2011) provide a synopsis of how participant observation provides several advantages to conducting qualitative research:

First, it enhances the quality of the data obtained during fieldwork. Second, it enhances the quality of the interpretation of data, whether those data are collected through participant observation or by other methods. Participant observation is thus both a data collection and an analytic tool. Third, it encourages the formulation of new research questions and hypotheses grounded in on-the-scene observation (p. 10).
I found myself in such a situation on February 1, 2016, (this date is in no way coincidental and is discussed in the data analysis section), when I observed students from Freedom University coordinating and participating in sit-ins with students from other colleges and universities (both private and public) on the campuses of Georgia Tech, the University of Georgia in Athens, and Georgia State University's downtown campus. One of the participants explained that "the best Georgia colleges are segregated, and the sit-ins we … organized was a way for us to integrate a classroom with documented and undocumented students" (Maxouris, 2016, p. 3).

As a then-graduate assistant in the Office of Undergraduate Studies, I felt somewhat conflicted, believing in this movement but feeling like an informant and administrative threat to demonstration process. I left my job the next day, recognizing that serving as a participant observer would require an unencumbered commitment to the entire process of calling into question the purpose of USG Policy 4.1.6. Roulston (2010) provides guidance on the need for the researcher to establish a high level of trustworthiness amongst the study participants:

The researcher might also demonstrate that by spending a long time in the field, sometimes as a participant within the setting, they have established their credibility to understand and interpret insider perspectives, and have established sufficient rapport with participants to generate quality data (that is, rich, detailed descriptions of authentic selves of the participants) (p. 88).

Conducting research on an area of study that moves with such fluidity created new issues and additional literature that required examination almost on an almost daily basis. I routinely ventured into the spaces where the research took me, including the classified locations of Freedom U classes, as well as other social protests conducted by more and more students sympathetic to the cause of undocumented and DACAmented students in the state of Georgia and their ques-
tion of higher education. The study also led me to the publicly held meetings of the University System of Georgia Board of Regents to observe their discussions, especially on this divisive issue. I sought voices like that of Jaime Rangel, a Dalton State University junior, who was a special guest at the BOR meeting on May 19, 2015, and "spoke against the current tuition policy for those deemed not legally present in the United States, citing the mandatory out-of-state results in a higher cost for classes and bars such students from a decent chance at education" (www.usg.org).

Finally, it was my intention to observe the legal proceedings instituted by the Georgia Latino Alliance for Human Rights (GLAHR), on behalf of DACAmented students and against every member of the Board of Regents of the University System of Georgia and each of its institutions’ presidents, filed in the U.S. District Court for the Northern District of Georgia on March 9, 2016. The Plaintiffs claim that Defendants’ actions of restricting DACAmented students' access to certain state colleges and universities, as well as denying them in-state tuition at all other institutions, violate the Supremacy Clause and the Fourteenth Amendment Equal Protection Clause of the U.S. Constitution (www.maldef.org). Research into Policy 4.1.6 and its interpretation of federal law provide important guidance as to whether the policy indeed violates the ‘supremacy clause’ of the U.S. Constitution, which establishes the primacy of federal over state law. Moreover, according to Weedan (2015), “the marginalization of undocumented immigrants presents constitutional equality issues under the Equal Protection Clause for undocumented, bona fide immigrants residing throughout America” (p. 203). Although I did not witness the legal proceedings, I did obtain legal filings in multiple cases related to these restrictive BOR policies, which provided rich data for critical analysis. As both a researcher and an attorney, I believe that these cases may ultimately conclude in a landmark decision in the area of immigration law, re-
verberating throughout the nation and setting new standards on how states provide access to postsecondary education for undocumented persons.

**Documents Analysis**

Documents played a significant role in this research study, including minutes, memoranda, proclamations and legal filings. Prior (2003) guided my understanding of the manner in which documents are used in social research. He proffers that "documents are essentially social products. They are constructed in accordance with rules, they express a structure, they are nestled within a specific discourse, and their presence in the world depends on collective, organized, action" (Prior, 2003, p. 13). Though little research has been conducted on the ways in which DACA has impacted the lives of undocumented students' access to postsecondary educational institutions in the state of Georgia, there is a wealth of documentation related to the development, implementation, and enforcement of USG Policy 4.1.6. For example, the memorandum sent by the USG Vice Chancellor for Student Affairs, dated August 20, 2012, discusses the then-recent implementation of the DACA program. The memo provides an analysis of why immigrant students accepted into the program may not be treated as “lawfully present” for purposes of BOR admissions policies (Newsome, 2012). A deeper inspection of the document also reveals the underlying concerns expressed by “many in the University System,” who think differently of the program. Prior (2003) explains:

One major task of the social scientific researcher is to study the manner in which ordinary people recognize and impose order on events as they unfold in the everyday world. That is to say, a study of the ways in which members of society make sense of the situations that they encounter, the ways in which they manage to classify them (and the ways in which they consequently organize them as ongoing accomplishments (p. 38).
The discourse evolving from the implementation of USG Policy 4.1.6 has created multiple texts and documents, primarily out of the offices of the University System of Georgia, much of which is available through Public Records requests. These documents include internal memos regarding undocumented student enrollment at state colleges and universities, statements and analysis of the Deferred Action for Childhood Arrivals program, minutes of USG Board of Regents meetings (along with accompanying audio files), and correspondence between USG offices and institutions regarding the admission and enrollment of undocumented and DACAmented students. In addition, multiple USG policy manuals outline the criteria for establishing lawful presence and the process that USG institutions must follow to verify lawful presence. These documents produced rich data in the data analysis process, providing clarity to the superficial neutrality of the policy analysis and the relevant counter-narratives that result. As explained by Prior (2003):

> Documents not only are produced in accordance with rule-governed procedures, but always exist as resources in schemes of action. They both express and represent a set of discursive practices. As such, they can be recruited as allies in various forms of social, political and cultural struggle (p. 13).

Documents related to the restrictive measures exercised against DACAmented students in their pursuit of public postsecondary education played a pivotal role in the data analysis process in multiple ways. First, much of the data procured from the Board of Regents reflects the dominant policy narrative that has left little room for other voices since the implementation of USG Policy 4.1.6. Response to this data, however, was specified by federal guidelines and memoranda used in this study, which gives clarity as to alternative interpretations of the DACA program, and how the restrictions and discretions provided therein and operating as federal mandate, should be
enforced at the state and local level. Further study and analysis of this documentation are explained in the following chapter.

**Ethical Issues and Trustworthiness**

When considering the ethical issues emic to this research study, the vast and varied experiences and perspectives of a very vulnerable population in our society must be of paramount importance. Undocumented students face "multiple levels of inequality, including that which arises from their racial and class status" (Gonzales, 2008, p. 224). Recognition of these circumstances is important. "The unique social, community, economic, and policy contexts facing undocumented immigrant youth shape the educational preferences and informational knowledge that guide college choices" (Darolia & Patochnick, 2015, 513). I must always recognize that many of the participants in this study are a part of the ‘1.5' generation, brought into consciousness here while being born somewhere else and existing 'neither here nor there.' Still, "[they] have high aspirations, encouraged at home and in school, yet are at risk of being forced into the margins of society" (Gonzales, 2008, p. 8). With guidance from my committee, I carefully weighed – from the start of this project to its conclusion – the manner in which I gleaned information from the study participants regarding their perceptions of the social constructs that marginalize their existence. Dewalt and Dewalt (2011) also provided some measure of guidance:

> Researchers must be aware of the ethical considerations of research from the point at which they choose the question to be asked, through the choice of a population in which to study it, the methods to be used to collect data, the recruitment of informants, and publication (p. 211).

Conducting a successful critical policy analysis requires that I confront my biases as a threat to the validity of the research, while at the same time recognizing that the researcher's sub-
jectivities that can also enhance the overall process. Chiseri-Strater (1996) explains the various positions of researchers within the confines of their research, finding them:

Positioned … by age, gender, race class, nationality, institutional affiliation, historical-personal circumstance, and intellectual predisposition. The extent to which influences are revealed or concealed when reporting data is circumscribed by the paradigms and disciplines under which we train, work and publish (from Roulston, 2010, p. 115).

Giving fair representation to each of the narratives presented in this study strengthens the validity of the research, regardless the position I, as the researcher, have taken in the data analysis process. The extreme sensitivity of the data analysis contained within this research study and its political implications for those empowered to direct and enforce the policies that serve as the focus of this inquiry, must also be acknowledged. As a graduate student at GSU, I believe that institutions of higher education, such as my own Georgia State University, should be challenged to ensure their mission to create a place dedicated to providing an opportunity for the betterment of all students, even if demanding these actions limits my own future opportunities as a higher education administrator. I further believe that it is incumbent upon every student, faculty member, administrator and support staff person that traverses the now six GSU campuses (main and satellite) to do their part in preserving GSU’s fundamental doctrine as a symbolic representation of the “American Promise.” This includes standing for those who cannot stand for themselves and joining the fight against injustice and indignity through exclusive practices that silence the human voice.

Such a position may very well call into question the veracity of the research presented by those who share differing opinions regarding USG Policy 4.1.6. Moreover, repeal or amendment of Policy 4.1.6 before the conclusion of this research study will undoubtedly change both the tenor of data, as well as the possible outcomes of the research publication. It does not, however,
change the spirit or intentionality of the research any more than the outcome of the 2016 presidential election or the recent decision of the Board of Regents to remove two institutions from the authority of Policy 4.1.6. The inquiry remains a critical analysis of a restrictive state policy that marginalizes a recognized and significant subset of the state's population. Delving into how such policies influence those most affected by them further informs pedagogical practices in our pursuit of liberatory education.

Finally, much of the literature researched for this study has a decidedly Latino/a perspective tied to it. The research presented herein, as much as possible, attempts to provide a broad-spectrum analysis of undocumented students and the effects of policies that restrict their access based primarily on their ‘legal’ status, as opposed to their racial identity or cultural ethnicity. This creates a larger generalizability of the research, extending beyond the seven study participants that provided the interview data. I also acknowledge, however, that a variety of sociocultural factors influence the policy discourse, and that the undocumented experience is not monolithic. Thus, there is an expectation that different ethnicities and cultural norms create different realities for those sharing the same legal status. Analysis of the ways in which these factors and others influence the policies served as the locus of this study, but additional areas of research are open for interrogation and are addressed in Chapter 5.

**Role of the Researcher**

I have struggled with determining how I fit into the body of my research. Most of my professional experience has been in higher education administration. It also happens that I am a practicing attorney, but over the years, I have found that in the higher education arena, my Juris Doctorate was repeatedly met with trepidation and disdain amongst my more “appropriately doc-
tored” colleagues and supervisors. So how is it that I now find myself conducting research on the systemic enforcement and impact of a higher education policy on the lives of undocumented and DACAmented students in the state of Georgia?

I readily admit that it had not been my intention, upon entering this doctoral program, to conduct a critical analysis of a policy that has little impact on my life or the educational aspirations of my children. Until I began this research inquiry, the level of my ignorance regarding the plight of undocumented students was quite profound. The research presented in this study is the product of a history of injustices committed against people of color since the inception of this nation. It is a critical analysis of modern-day policies borne out of the lingering memories of imperialism, colonialism, slavery and legalized segregation. I am a product of this history, since birth a dichotomy of cultures that have never existed on level planes. This experience shaped my views on race and informed my theoretical perspective in the research process.

Growing up as a “mixed” kid in southwest Atlanta in the ‘70s and ‘80s was a much different reality than the one that exists today. In a city "too busy to hate," the vitriol levied at my Whiteness (from Black people) and my Blackness (from everyone else) was almost all I knew about the South's largest city. And at a time when integration had only just begun to shift from ideological to implementable, I found myself quite isolated from the two worlds that comprised the vast majority of my present surroundings. In a sense, I was “ni de aquí, ni de allá” (neither here, nor there), wanting only to fit in somewhere but often unable to do so anywhere.

The long corridor stretching through the center of Northeast Atlanta where I grew up and was once a collection of predominantly white communities has since become one of the most diverse areas in the entire city. Over the last thirty years, increased migration from all over the world, brought on by an array of social, economic and governmental influences, has transformed
this area, creating small pockets of tight-knit ethnic enclaves interwoven around other, but not within each other, all co-existing as part of the ever expanding panoramic of the region.

Over the last two decades, my perspective on raced, classed, and gendered discussions has gone through quite a few iterations, but my belief in the very real possibility that a single person can change the human social discourse – at least in the way that we see the world – remains as strong as the very first day that I stepped onto the campus of Oberlin College, seeing myself as such an individual. Today, it seems as if I am still seeking opportunities to effect positive change in this world. During my doctoral program, I held a graduate fellowship at the Joseph & Evelyn Lowery Institute for Justice & Human Rights, and my frequent engagements with one of the world's most lauded civil rights pioneers – his body of justice work totaling more than seven decades – often reminded me of the role each of us can play in raising the consciousness of our great society.

This research process forced me to acknowledge the fallibility of my ideological constructs, many of which continue to divide society by race, gender, class, religion, sexuality, politics and other acculturating signifiers. Out of this experience, I have learned that one of the most pressing issues of education policymaking is the manner in which policymakers view and engage immigrants in the United States. People who have arrived here from all over the world have shaped this nation, but what does it presently mean to be "illegal"? Furthermore, what is the "undocumented" experience, and how does this designation impact those who must carry it? As a researcher, I examined the ways in which a policy influences the lives of undocumented students living and working in the United States. As a U.S. citizen, I was unaware of how much I was imbued by the reassurance that I belonged here more than many of my current neighbors. I selfishly believed that this was "my" neighborhood. Atlanta was “my” hometown. Even the state of Geor-
gia was “my” South. According to Palmer and Davidson (2011), “cultural objects such as language, race, religion, and socioeconomic status are embedded in the social system and solidify the concept of a unique ‘American’ identity by giving citizens a reference for their identity” (p. 3). I was the citizen. I was better. I was educated. I was legal. I was “American.”

I am offering this context not so much for justification of my inability to fully recognize the changes that have taken place around me. Instead, it is explanation that even those of us with measures of just nominally above average intellectual capacity and accomplishment can still be ignorant of the nature of human migration and its impact on our communities. This point proves valuable in the analysis of the data regarding the implementation of USG Policy 4.1.6 and its perceived impacts by DACA students in the state. The dissertation did not uncover some deeply hidden, undisclosed or subliminally situated policy about which no one was aware. My role as the researcher was much simpler, and I needed only present verifiable scholarship that unveiled the grossly disproportionate and disparate impacts of reactionary politics applied to public institutions of higher education and certain groups seeking admission to them.

Assumptions & Limitations

The policy critique presented in this research study is specific to a specific educational policy that exists only in the state of Georgia. Still, its generalizability can be applied to similar policies in other states that establish restricted access to postsecondary education for undocumented students. What should be called into question is the researcher’s assumptions that the terms, “undocumented” and “DACAmented,” are sometimes presented as interchangeable, with the capacity to be equally and collectively interrogated by the theoretical lenses implored in the study. Because of the paucity of applicable research on the DACA program, I have often taken
the liberty of grouping undocumented students with those who have since become DACAmented. The data reveal a different interpretation of the two, and these findings are presented in Chapter 4. The study design utilized strategies that attempt to validate findings through triangulation of the data gathered from participant interviews, observation, documents and images. The fluidity of the research topic during the research process, however, also created new avenues of exploration almost on a daily/weekly basis, and this dramatically influenced not just the collection and analysis process, but it also played a significant role in the policy discourse.

There are also limitations with the study participants on either side of the policy discourse. Truthfulness and objectivity on the part of USG officials and DACAmented students participating in this study are concerns, given the volatility of the issue and the polarizing effect USG Policy 4.1.6 has had on the parties involved. Current and past litigation may also heavily influence which persons can participate in the study and the reliability of the data thus produced. My goal is to conduct critical policy research that, in the same or similar circumstances and utilizing the same research strategy, produces the same or similar results (Prior, 2003). Prior (2003) notes that "the concept of ‘reliability' in social research refers to the requirement that the ‘findings' of any research programme are independent of the particular circumstances in the research was carried out” (149). Only future research studies conducted on this (or similar policy issues) will determine the legitimacy of the research contained herein.

**Coding the Data through IPA**

Following Heidegger's notion of interpretive phenomenology, as discussed earlier, the interview data presented herein provided the foundational data for the research study. Moreover, an organization of the data was done to present a deep and thorough understanding of the lives of a group of DACA students in the state of Georgia and how they perceive their opportunities to
access postsecondary education under the looming presence of Policy 4.1.6. I was further informed by Hycner (1985), who advises best practices for phenomenological inquiry, and explains that I must make meaning out of the collected data through the critical process of phenomenological reduction, essentially looking at the lived experiences of my participants as a series of phenomena, each of which offering an opportunity to elicit units of general meaning (Hycner, 1985, p. 279). The author further explains, “[anybody] can hear words that were spoken; to listen for the meaning as they eventually emerged from the event as a whole is to have adopted an attitude of openness to the phenomenon in its inherent meaningfulness” (Hycner, 1985, p. 280).

It is these units of general meaning that served as the foundational analysis of the phenomena being explored. Each of the participant interviews was an open, co-constructed process of inquiry into and analysis of a variety of life experiences, including i. the meaning of “undocumentedness,” ii. growing up undocumented in the state of Georgia, iii. the experience of applying for and receiving DACA, iv. academic achievement, v. efforts to attend college in the state, and vi. purpose and perceived impacts of Policy 4.1.6. Phenomenology “requires us to engage with phenomena in our world and make sense of them directly and immediately” (Crotty, 1998, p. 79). The tenets of phenomenological methodology, the participants' words, reflections, and stories serve as the fundamental basis of the research process, and as such, they bring with them a "rich set of experiences into the interview" (Moustakas, 1994, p. 108), which establishes what Heidegger calls “co-constitutionality,” making the participants “co-researchers” in the process. “This concept indicates that the meanings that the researcher arrives at in interpretive research are a blend of the meanings articulated by both participant and researcher within the focus of the study” (Lopez and Willis, 2004, p. 730). Acknowledging my participants as co-researchers allowed me a greater understanding of how to better construct my research question and better un-
derstand my research design and the methods through which I would conduct my analysis. As such, the participant interviews became an experience unto themselves, allowing me, as the researcher, to gain a glimpse of the lives of the participants, creating a very personal and intimate engagement connected to the research question and informing the critical inquiry. Hycner (1985) explains, "the researcher addresses the research question to the units of general meaning to determine whether what the participant has said responds to and illuminates the research question" (Hycner, 1985, p. 284).

According to Miles et al. (2014), the phenomenological method “tends to look at data thematically to extract essences and essentials of participants meanings” (p. 8). And Moustakas (1994) explains, "organization of data begins when the primary researcher places the transcribed interviews before him or her and studies the material through the methods and procedures of phenomenal analysis" (p. 118). Part of this procedure is reading and re-reading the transcripts, exploring a ‘holistic understanding' of the transcript's entirety. Once I found a level of competence within the interview text, I then followed closely the procedures set forth by Moustakas (1994) and noted as a modification of the Van Kaam method of analysis of phenomenological data, explained as:

The procedures include horizontalizing the data and regarding every horizon or statement relevant to the topic and question as having equal value. From the horizontalized statements, the meaning or meaning units are listed. These are clustered into common categories or themes, removing overlapping and repetitive statements. The clustered themes and meanings are used to develop the textural descriptions of the experience. From the textural descriptions, structural descriptions and an integration of textures and structure into the meanings and essences of the phenomenon are constructed (Moustakas, 1994, pp. 118-119).

The following table presents the coding used in the policy analysis and includes the clustering and thematization used to horizontalize the participants’ comments. This process allowed
me to identify the individual textural and structural descriptions within the data, the composite textural and structural descriptions of the collective experience, and an understanding of the synthesis process of the data that provides the essences of the experiences explored. I numbered the quotations during the coding process, and I kept a record of each quotation used in a separate document. A complete list of the coding, cluster themes and participant comments associated with each thematic code are included in the Appendix.

### Table 3: Research Study Thematic Coding

<table>
<thead>
<tr>
<th>Code</th>
<th>Clustering/Thematization</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Undocumentedness</strong></td>
<td>• Being undoc’d</td>
</tr>
<tr>
<td></td>
<td>• Struggle of undoc’s</td>
</tr>
<tr>
<td></td>
<td>• Knowledge of undoc’d</td>
</tr>
<tr>
<td></td>
<td>• Fears of undoc’s</td>
</tr>
<tr>
<td></td>
<td>• Living as undoc’s</td>
</tr>
<tr>
<td></td>
<td>• Documents of undoc’d</td>
</tr>
<tr>
<td></td>
<td>• Limitations of undoc’s</td>
</tr>
<tr>
<td><strong>Being a Childhood Arrival</strong></td>
<td>• Border crossing story</td>
</tr>
<tr>
<td></td>
<td>• Coyotes</td>
</tr>
<tr>
<td></td>
<td>• Reasons for Coming/Coyotes</td>
</tr>
<tr>
<td><strong>Parents/Family</strong></td>
<td>• Familial relationships</td>
</tr>
<tr>
<td></td>
<td>• Parent expectations of children</td>
</tr>
<tr>
<td></td>
<td>• Discussions of undocumentedness</td>
</tr>
<tr>
<td></td>
<td>• Importance of education</td>
</tr>
<tr>
<td></td>
<td>• Sacrifices</td>
</tr>
<tr>
<td>Category</td>
<td>Themes</td>
</tr>
<tr>
<td>--------------------------</td>
<td>------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>Family struggles</strong></td>
<td>• Family struggles</td>
</tr>
<tr>
<td><strong>Language</strong></td>
<td>• English language learners</td>
</tr>
<tr>
<td></td>
<td>• Understanding/Adapting new cultures</td>
</tr>
<tr>
<td><strong>Identity</strong></td>
<td>• Class status</td>
</tr>
<tr>
<td></td>
<td>• Not born of, but grown up in</td>
</tr>
<tr>
<td></td>
<td>• American ideology</td>
</tr>
<tr>
<td></td>
<td>• Being Mexican</td>
</tr>
<tr>
<td></td>
<td>• Being Georgian</td>
</tr>
<tr>
<td></td>
<td>• Hispanic/Latino Values</td>
</tr>
<tr>
<td></td>
<td>• Living in Fear</td>
</tr>
<tr>
<td></td>
<td>• Shame/Frustration/Hopelessness</td>
</tr>
<tr>
<td><strong>Living in Georgia</strong></td>
<td>• Politics</td>
</tr>
<tr>
<td></td>
<td>• Fairness</td>
</tr>
<tr>
<td></td>
<td>• Policies</td>
</tr>
<tr>
<td></td>
<td>• Racism</td>
</tr>
<tr>
<td></td>
<td>• Lack of Opportunity</td>
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<tr>
<td></td>
<td>• Fear of Change</td>
</tr>
<tr>
<td></td>
<td>• Feeling Unsafe in the South</td>
</tr>
<tr>
<td><strong>High School Experience</strong></td>
<td>• Academic performance/rigor</td>
</tr>
<tr>
<td></td>
<td>• Achievement/Qualifiers</td>
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<tr>
<td></td>
<td>• Creating networks</td>
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<tr>
<td></td>
<td>• Counseling/Advising for undocs</td>
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<tr>
<td></td>
<td>• College narrative</td>
</tr>
<tr>
<td></td>
<td>• Getting discouraged</td>
</tr>
<tr>
<td></td>
<td>• Lack of access to colleges</td>
</tr>
<tr>
<td></td>
<td>• Extracurricular activities</td>
</tr>
<tr>
<td></td>
<td>• Shame/Fear of Telling</td>
</tr>
<tr>
<td><strong>Life After High School</strong></td>
<td>• Georgia as barrier</td>
</tr>
<tr>
<td></td>
<td>• Dealing with rejection</td>
</tr>
<tr>
<td></td>
<td>• Working to support family</td>
</tr>
<tr>
<td></td>
<td>• Working to pay for education</td>
</tr>
<tr>
<td></td>
<td>• Affordability</td>
</tr>
</tbody>
</table>
| Going to College | • Value of Degree  
|                  | • 1st generation  
|                  | • Dream Schools in GA  
|                  | • Willingness of Sacrifice/Determination to Attend  
|                  | • Struggle for Opportunity  
|                  | • College application process  
| Lack of Access to Georgia Schools | • Counselor/Advisor Knowledge Prep  
|                                | • Limited Options  
| Paying for College Funding Opportunities | • Out-of-State Tuition rates  
|                                               | • Working while in school  
|                                               | • Lack of Access to Financial Aid/HOPE/Pell  
|                                               | • Effect/Impact on grades  
| Understanding DACA | • Registration process  
|                          | • Expectations of program  
|                          | • DACA as control  
|                          | • Costs associated  
|                          | • Legitimacy  
|                          | • Privileges/Benefits  
|                          | • Educational Opportunity  
|                          | • Ownership/Taxpayer  
|                          | • Freedom from Fear/Safety  
|                          | • Legality of Lawful Presence  
| Lawful Presence  
| Lawful Status |  
| USG Policies on DACA students | • Participant understanding  
|                                         | • Purpose of DACA  
| Citizenship | • Identity  
|             | • Opportunity  
|             | • Support of Family  |
### Perimeter @ GSU Experience

<table>
<thead>
<tr>
<th>USG Policy 4.1.6</th>
</tr>
</thead>
<tbody>
<tr>
<td>• participant understanding</td>
</tr>
<tr>
<td>• relationship to DACA students</td>
</tr>
<tr>
<td>• policy impacts</td>
</tr>
<tr>
<td>• purpose of policy</td>
</tr>
<tr>
<td>• fairness of policy</td>
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<tr>
<td>• fighting against policy</td>
</tr>
<tr>
<td>• views of associated schools</td>
</tr>
<tr>
<td>• accessibility of education</td>
</tr>
<tr>
<td>• race as a factor</td>
</tr>
</tbody>
</table>

### Role of Race

- Being a foreigner
- Legacy/History of race in the South

### Freedom University

<table>
<thead>
<tr>
<th>Claims from the Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>A total of six claims are offered in the data findings. The claims are presented in a manner that attempts to provide a phenomenological understanding of the lived experiences of undocumented/DACAmented students in the state of Georgia. The claims have also been constructed to offer the full breadth of the life cycle of USG Policy 4.1.6 from the critical perspective. The basis for understanding the discourse surrounding Policy 4.1.6 in this critical policy analysis is set forth by Seddon (2009):</td>
</tr>
</tbody>
</table>
Discourse users are identified as dominant groups who deploy policy discourse as they drive market reforms in education. Subaltern groups are identified as subject to policy discourse and therefore perform policy effects. The binary construction of powerful-powerless is lined up with the binary of policy use-policy effect. The effect of the analytical frame is to confirm a story about the power of the powerful and, in the process, fail to properly unpack agency and the space for challenge within policy discourses” (p. 260).

As both researcher and attorney, I have become vested in the continued enforcement of Policy 4.1.6 and fully aware of its discriminatory underpinnings. I have also recognized the efforts of those in power to perform the duties of their appointments to the best of their ability and seemingly with the best interests of the state of Georgia (and its student population) in mind. Because of the research provided herein, I have also accepted that part of my responsibility should be holding accountable the Georgia Board of Regents when evidence suggests that they have not met their duties accordingly, especially with respect to fulfilling the educational mission of the university system. I note the following statement to the Board of Regents at a recent meeting when outgoing Chancellor, Hank Huckaby, advised them:

As essential as our role is for the future economic well-being of our students and our state, there's another equally important role we play. We not only teach and train students for work, but we prepare them for life, regardless of their career path. We educate students to work with others, often, with different nationality, thoughts and culture, which pose students of their responsibility as citizens and community life. In short, education is essential to sustaining a vibrant, responsible and moral nation (RZM fieldnotes, 11/10/2016).

These words are associated with the critical consciousness that developed while the research was conducted, and the process led me to a succinct conclusion regarding the analysis presented herein: A policy was implemented. It is a bad policy. The Board of Regents should rescind the policy.
CHAPTER FOUR
DATA FINDINGS AND ANALYSIS

Introduction

A critical policy and a phenomenological interpretive analysis of the documents, interview data, and participant observation field notes facilitated the analysis and the resulting claims that are being made in this chapter. This chapter describes and discusses the findings derived from the analysis and interpretation of the data collected during the research process. Each claim addresses one or more aspects of the underlying research questions and draws on multiple data sources to support it. The claims are listed in Table 4 below, followed by a detailed description and discussion of the claims and the evidence that supports them.

Table 4: Overview of Claims

<table>
<thead>
<tr>
<th>Claim</th>
<th>Research Question</th>
<th>Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>#1: There were a variety of consequences resulting from the implementation of Policy 4.1.6.</td>
<td>What are the impacts of Policy 4.1.6?</td>
<td>Documents Analysis Interview Data</td>
</tr>
<tr>
<td>#2: The experience of being DACAmented, according to the study participants, differs from being undocumented.</td>
<td>What accounts for the Board of Regents interpretation of “unlawful presence”?</td>
<td>Interview Data</td>
</tr>
<tr>
<td>#3: The data show that DACA establishes lawful presence; therefore, the BOR should not apply USG Policy 4.1.6 to DACA students.</td>
<td>What accounts for the Board of Regents interpretation of “unlawful presence”?</td>
<td>Documents Analysis Interview Data</td>
</tr>
</tbody>
</table>
The participants perceive USG Policy 4.1.6 as having had an array of adverse impacts on them, sometimes beginning in their middle and high school experiences, and extending into a lack of opportunity for postsecondary education in the state of Georgia.

What are the impacts of Policy 4.1.6?

Interview Data

The participants believe that there is no other reason for applying Policy 4.1.6 to DACA students but “race.”

What accounts for the Board of Regents interpretation of “unlawful presence”?

Interview Data

A direct effect of Policy 4.1.6 is the creation of subversive voices in the policy discourse.

What are the impacts of Policy 4.1.6?

Interview Data
Images
Documents Analysis

They Can’t Come Here (Claim #1)

The data show a variety of consequences resulting from the implementation of USG Policy 4.1.6 and its application to students who are “unlawfully present” in the U.S.?

The first major claim being made in this study is that there were a variety of consequences that resulted from the implementation of Policy 4.1.6 and its application to all students who are “unlawfully present” in the U.S. These consequences include a response by social justice organizations questioning the fairness of the policy, a failure to effectively disseminate information regarding the policy to secondary and postsecondary institutions, a misapplication of the policy by certain USG constituent schools, and feelings of uncertainty amongst the study participants and undocumented students throughout the state regarding their opportunities to enroll in Georgia’s postsecondary institutions, including some that considered leaving the country to pursue their college dreams. Though the data show that the initial intent of the policy was addressing the
Board of Regents’ previously stated concerns regarding the presence of undocumented students in the most selective institutions in the state, the policy adversely impacted the postsecondary educational process of the research participants and other undocumented students. Document analysis and participant data give insight into the overall development of the policy, how it was constructed and information about it disseminated to secondary and postsecondary schools, and some of the reactions to and effects of the policy.

In the spring of 2010, Jessica Colotl unwittingly became the centerpiece of a policy discourse amongst educators, policymakers and human rights groups revolving around the issue of immigration. On either side, battle lines were ultimately drawn as each position highlighted the significant potential opportunities or threats posed by undocumented young people throughout the nation, and specifically in the state of Georgia. Under express guidance of a recently formed Residency Verification Committee, the Board of Regents voted to pass a series of policies designed to address growing concern over Georgia’s university system being “swamped by thousands of undocumented students” (Redmon, 11/25/2016). Although there was no such threat, this watershed moment heavily influenced a policy discourse still being discussed today.

USG Policy 4.1.6 was passed to specifically prohibit any person who is “unlawfully present” in the U.S. from attending Georgia’s most selective institution. It was adopted by the Board of Regents as one of equity in disallowing those not lawfully present in the U.S. enrollment to any school that did not admit qualified applicants for two years prior. Minutes from the meeting adopting the policies provide the following information:

In order to ensure that no lawfully present citizen of the State of Georgia is denied admission in favor of a person not lawfully present in the United States, the Board adopted the following as Policy 4.1.6 of The Policy Manual of the Board of Regents:
4.1.6 Admission of Persons Not Lawfully Present in the United States

A person who is not lawfully present in the United States shall not be eligible for admission to any University System institution which, for the two most recent academic years, did not admit all academically qualified applicants (except for cases in which applicants were rejected for non-academic reasons).

All present Board members voted in favor of this action, except for Regents Jenkins and Tucker, who voted against the proposal. (BOR Minutes, 2010, p. 27)

Understanding the significance of Policy 4.1.6 must also take into consideration Policy 4.3.4, passed in conjunction with 4.1.6, and which mandated a verification of lawful presence for all students seeking residency tuition rates at all other public colleges and universities. The meeting minutes note:

In order to ensure that no person who is unlawfully present in the United States receives a benefit or privilege reserved solely for lawfully present Georgia residents, the Board adopted the following as Policy 4.3.4 of The Policy Manual of the Board of Regents:

4.3.4 Verification of Lawful Presence

Each University System institution shall verify the lawful presence in the United States of every successfully admitted person applying for resident tuition status, as defined in Section 7.3 of this Policy Manual, and of every person admitted to an institution referenced in Section 4.1.6 of this Policy Manual.

All present Board members voted in favor of this action, except for Regents Jenkins and Tucker, who voted against the proposal. (BOR Minutes, 2010, p. 27)

In conjunction with the adoption of the policies, the USG issued a statement explaining its intent and justification of the new measures. Regent James Jolly was quoted as saying, “we are an educational agency in the business of preparing individuals for careers requiring knowledge and skills; we are not in the immigration business, nor are we equipped to serve as the immigration authorities,” (www.usg.edu/news). He went on to explain that the new policies, “do strengthen our ability to ensure proper tuition classification for all students – a process and a
commitment the System has undertaken and met since being formed in 1931” (www.usg.edu/news).

In February, 2011, then-USG Chancellor, Erroll Davis, gave testimony on HB 59 (a measure presented in the Georgia House that would effectively ban undocumented students from all state colleges and universities). He was responding to lawmaker concerns that undocumented students had flooded the university system and were taking seats away from legal Georgia residents. A thorough reading of Davis’ two-page statement (included in the Appendix) shows that there was little, if any, concern on the part of the USG Administrative body regarding the presence of illegal students in state institutions. Davis himself referenced that the total number in the system was less than two-tenths of one percent. He explained:

We have thousands of students throughout the System that will experience during the course of their college attendance the inability to take a particular class at a desired time at a desired place. This phenomenon is hardly driven by undocumented students. The much greater driver is the lack of resources to meet exploding enrollment (Davis Testimony on HB 59, 2011, p. 2).

Davis further explained that the policy measures taken by the Board of Regents were in direct response to lawmakers concerns over improper student classification, while highlighting the fact that forty-nine states permit undocumented students to attend their public colleges and universities.

What is apparent in the data is that the Board of Regents, as a group, addressed a very insignificant issue of undocumented student presence in the university system with sweeping policy measures resulting in the exclusion of all undocumented students from certain state institutions, as well as the severe restriction of higher educational achievement at most others. According to the data, the discourse was inclusive of just a small group of policymakers, those partici-
pating in a Residency Verification Committee, which “was formed and charged to oversee the review of student tuition classification and to develop and propose any needed recommendations to the full board” (www.usg.edu/news).

With respect to Policy 4.1.6, and as a result of its adoption, there were multiple groups of scholars, activists, faculty and administrators throughout the state of Georgia who created a counter-narrative to the Board of Regents, expressing their concerns and displeasure with the policy framework. Although the policy remains in place today, it is important to explore the multiple voices and viewpoints that have arisen out of the policy discourse, as provided primarily by the study participants, as well as additional documents collected in the research process. One such document is a letter issued by the ACLU immediately following the adoption of Policy 4.1.6 to Board of Regents requesting that the policy be rescinded. In it, the ACLU states:

On behalf of the American Civil Liberties Union (ACLU) Foundation of Georgia, I am writing to ask that you take immediate steps to repeal Board of Regents (BOR) Policy 4.1.6, Admission of Persons Not Lawfully Present in the United States, which denies access to higher education for undocumented students at the five most selective institutions in the University System of Georgia (USG). As set forth below, Policy 4.1.6 is contrary to principles of fundamental fairness and public policy and, as confirmed by the BOR’s own findings, unnecessary to address concerns about eliminating costs to taxpayers and preserving seats for lawfully present students (Shahshahani, 2011, p. 1).

In addition, the faculty of what was then Georgia Perimeter College (GPC) passed a resolution condemning the actions of the Board of Regents and demanding its immediate repeal. Their statement if provided, in part, below:

The GPC Faculty Senate requests the BOR remove the ban on undocumented students as outlined in the BOR Gen Policy 4.1.6. The Franklin College Faculty Senate, as well as other Faculty Senates across the state, have already opposed the ban, and rightly so. The Franklin College Faculty Senate voted unanimously on October 18, 2011, to forward a resolution to the BOR. Furthermore, Georgia Students for Public Higher Education (GSPHE), a coalition of students across the state of Georgia who believe that education is
a right and should be affordable for all, has stated that “The Regents continue to make harmful economic and political policies that attack students and their communities. [The GSPHE] demand[s] education, not deportation. [The GSPHE] demand[s] quality higher education and will fight for our libraries, our departments, our professors, our workers, and [students themselves]! (Wallace, 2012, para. #1).

The data also show that little information on Policy 4.1.6 was disseminated to the state’s colleges or universities, nor any of its secondary institutions (public and private) regarding the policy’s application. In addition, it was found that several USG institutions not designated under the policy had begun requiring verification of lawful presence for acceptance or registration, causing confusion that would “mislead students as to the requirements of admission and registration at USG institutions” (www.aclu.org). The following statement from Keseel provides an example of how such a lack of information about the policy without any formal directive to high school counselors created an adverse impact on undocumented students seeking guidance as to the postsecondary educational opportunities availed to them in the state of Georgia.

They didn’t – they don’t have the information, so they’re … they don’t know, they just kind of treat you as a regular student. They tell you, yes, you can apply to this, and you can do that, and, you know, and then, you start doing it, and – [IR: You realize it doesn’t apply to you –] The doors start, the doors start closing because they start telling you no, you can’t, you’re, you’re … you’re undocumented. You’re illegal. You can’t do it. So … it makes it even harsher I think … because you begin with this … idea, this hope … that … it’ll be just as easy as, with anyone else … who is documented, but you end up figuring out that it’s not. [IR: Was your … performance, your academic performance affected by this?] I think so. [pause] I think so, mostly after I left … or after my junior year of high school. Because you start getting discouraged … [IE begins crying] so, you think … I mean … [IR: Why bother?] What for? (Kessel_Quotation #7)

Even for those most promising students, the prospect of going to college was put in serious doubt as a result of Policy 4.1.6, regardless their academic performance while in high school. Consider the following statements made by some of the study participants, reflecting a wide
range of emotionally challenging experiences while attempting to figure out their postsecondary plans in the wake of this exclusionary rule.

We’re just not allowed to attend school. You’re not allowed to further your education. You’re not allowed to ... have the privileges you should have ... only because you don’t need a paper regulation ... when you could have all the potential you can ... yet, some high authority wants to tell you, you can’t. (Paul(a)_Quotation #20)

(Referring to Policy 4.1.6) Basically, what I get out of that is just like, even though we weren’t born here, that we don’t deserve the best education. That’s how I see it. Cause they’re limiting us to go there. We could qualify for it. We could get all the requirements done, and they – for them to be like, no you can’t go here – I think it’s absurd, because I feel like, if you work really hard, then you should have the opportunity to receive the best education you can get. So not being able to receive the best education in Georgia is kind of upsetting. (Laura_Quotation # 23)

As an undocumented, um, come to college, I knew I couldn’t apply to UGA, Georgia State, um – [IR: How’d you know that?] The news. [IE laughs] I always hear, like, oh, 416 just passed, and it doesn’t allow students to – undocumented students to go to UGA, this college, and I’m like, oh, that’s Georgia. Good ol’ Georgia. [IE laughing] (Larry_Quotation # 12)

According to the participants, Policy 4.1.6 created a vacuum for undocumented students in the state of Georgia, severely limiting the prospects for college enrollment without providing guidance or documentation as to how these particular students would be able to pursue higher educational opportunities. Myriad adverse outcomes resulted from this one specific policy measures, and it is arguable that some of those outcomes could have been prevented through more attentiveness to the foreseeability of those disparate impacts. As agents, actors and subjects, the Board of Regents should have been intimately aware of the confusion, disconnectedness and misunderstanding that would come about from the implementation of Policy 4.1.6 (and others adopted at that time), and steps should have been taken to minimize the negative conse-
quences and unfavorable results from the policy’s implementation, similar to those suggested by the ACLU’s Shahshahani in her letter to the Board of Regents. Those measures included:

- Issue a formal directive to all USG institutions as to the proper application of Policies 4.1.6 and 4.3.4;
- Mandate uniform, model language for USG institutions that are not covered by Policy 4.1.6 to inform prospective applicants of Policy 4.3.4 in their admissions and registration materials and websites;
- Direct USG institutions that are not covered by Policy 4.1.6 to review and revise their admissions and registration procedures, materials, and websites to properly implement Policy 4.3.4;
- Direct USG institutions to inform all pending applicants of the proper application of Policies 4.1.6 and 4.3.4, both via its website and email and/or direct mail;
- Issue a memorandum explaining the application of Policies 4.1.6 and 4.3.4 to all school superintendents, high school principals, guidance counselors, and other state and county education officials responsible for advising students on the college application process; and,
- Monitor and record USG institutions’ implementation of Policies 4.1.6 and 4.3.4.

(Shahshahani, 2011, p. 4)

A review of Board of Regents meeting minutes and policy measures taking place shortly after receipt of this letter show that no action was taken to address these concerns. Instead, USG institutions were allowed to develop their own processes for verification of lawful requirements for purposes of granting in-state tuition, in accordance with the USG Policy Manual. As a result, Don(na) gives an analysis of her experience seeking admission to the University of Georgia shortly after Policy 4.1.6 took effect. She details her initial intent to apply early decision, the lack of understanding amongst her and the UGA admissions officer as to her rights and opportunities as an undocumented student, and her concerns and fears of remaining postsecondary opportunities given the result of the experience.

I think, because around when I was a junior, sophomore, junior in high school, I started realizing like more the limitations of my status, is when it started affecting me more, so when I was going – I remember because I was really ambitious and I wanted to, like, I
was a junior in high school and I was already ... I knew that I wanted to go to the University of Georgia, like, that was my dream school. And I started, I know, I think at that time, UGA offered this option that you could apply early decision as a junior, and then you'd have your, like, notice and then basically your whole senior year of high school, you wouldn't have to worry because you'd already be accepted to college – [IR laughs] and that's what I wanted to do. I was like, I know I wanna go there. (Don(na)_Quotations #7)

Don(na) continues …

So I started the application, like I started looking into the application process, um, as a junior, and my parents actually even took my sisters and I on a college tour of UGA’s campus when I was a junior in high school, and so, I remember going there and falling in love with it and being like, oh, this is awesome, okay I’m so excited ... I was like, wow, and so, um, I was super excited, and then, it wasn’t until I started the application process for UGA that, um, and UGA was one of the banned schools at this time, and I didn’t know anything about the ban, but it had actually just gone into place, I think, and into law, I think a year prior to when I started, in 2011, I think it went in, and it was probably like 2011 when I was doing this, um ... and so, I remember filling out my college application to UGA, and once I got to the question where it asked, what’s your legal status, um, I had to ask my mom. I was like, mom, what do I put for this, and then, she was like, um, just put NONE. I was like, there’s no NONE option, Mom –

She concluded …

I was like, and so I kinda just left it blank, and it was one of those applications online, it wasn’t the common app, but it was their own application, and they wouldn’t let me continue, because I didn’t answer this one question, and I was just like, um, it just, it like, blocked out the button, it didn’t let me continue, and I was just like, what am I gonna do, like I can’t lie on this application ... it’s like ... college. [IE chuckles] And so I actually called the Admissions Office, and I was like, I spoke to one of the admissions counselors and I was like, so, I’m at this question, and it won’t let me continue it, it won’t let me do it, um, and then she was like, well, what did you put, and I was like, NONE, and she was like, um ... I don’t ... I don’t know if ... she, like she also didn’t really couldn’t give me a straight answer, but she was just like, I don’t ... think ... you could ... come to this school if you don’t have any legal status, and I was just like, what, what does that even mean? And so it was, it was right at that time that, um, I was kinda like, so does this mean that I can’t go to school? I was just like, I couldn’t really understand what that meant, and it started affecting me, because ... I was like, I wonder if all schools are like this, or like, what if, like, I couldn’t really, um, I didn’t really know where to turn for more infor-
mation about that, and I feel like it started affecting me ... in school, because I liked, I wanted to know ... what I was gonna do after school … (Don(na)_Quotation #8)

This lack of clarity extended far beyond the 35 constituent colleges and universities that made up the University System of Georgia at the time of the policy’s enactment. There is also no record of any information regarding Policy 4.1.6 being disseminated to Georgia’s public and private high schools. As a result, middle and high school teachers and counselors in the state had little information regarding the “new” college application process for the growing number of undocumented students in many of their schools. Such a circumstance inevitably created a feeling of discouragement and frustration, as evidenced in the following statement from Laura, who provides a sentiment that I believe is shared by many thousands of undocumented students during this time. She states:

I can’t even go to school, because I was born in Mexico, cause that was even before DACA was [IR: Right] created, so there was no form or basis for me to say I could go to school. So that’s when I kinda started getting even more discouraged, and also, when you take the PSAT’s or stuff like that, they’re like, how you can vote, and are you a US citizen, and it was kinda upsetting ... you have to press no, and it’s not like – you don’t wanna blame your parents, cause they were looking out for you, they wanted the best for you, and that’s why they brought you here, but it still kind of influences you, cause you’re like, oh, if I was born here, things would be so different, but yeah, it was kind of upsetting in that sense, but, that’s why my motivation, kind of, for school, kinda went down. Cause I was like, there’s no point in me really succeeding or doing anything if it’s not gonna be taken, accounted for, cause I’m not gonna be able to go to college after high school. (Laura_Quotation #4)

Such a reality can often lead students to give up entirely on the pursuit of higher education, as in the case of Don(na), who earlier it was explained had sought admission to UGA. She spent four years out of school after high school graduation. In the following passage, she dis-
cusses how her frustration grew regarding her lack of understanding as to what kinds of college opportunities existed for undocumented students in the state of Georgia:

Yeah, I definitely wanted, like I wanted to, but, because I didn’t know where I could go, I kind of thought, maybe I can’t go anywhere. And so, it was like, I feel like – and this is something like my personality – like whenever I feel like I, I’m one of those people that tries to avoid challenges, like I don’t like challenge, like … I think … if it’s too hard, I try to shy away from doing things, and so for me, it was really crippling to be like, oh you can’t go to this school that you wanted to go to, so I was just like, uh huh, what do I do? I was like, I, I, I feel like I wasn’t … I didn’t know where, like the answers weren’t just like, given to me, so I didn’t … know where to look for them, and so I just kind of put it off, and put it off, and put it off, and … and I kind just kind of assumed, and I never really did any research. Like, I did some, but then I didn’t really find a lot, and so I kind of figured that there was just no information … (Don(na)_Quotation #10)

Another outcome arising from the implementation of Policy 4.1.6 was a consideration amongst some of the participants to leave the country and attend college in Mexico. At the height of her frustration, Don(na) explained that she had come to an agreement with her parents to return to Mexico and pursue undergraduate work there, even though she had not been to her native country since her early childhood.

Because I didn’t really know what I was gonna be doing after high school, my parents and I had started discussing the possibilities of possibly moving back to Mexico, because they were like – [IR: For the purposes of doing what?] Of going to school, because they were like, if you can’t go to school here, we want you to, you know, at least go to school in Mexico because … um, so they had actually discussed that like, after graduation, that we might move right away or maybe wait until like December and move or something like that, and so that was kind of like, on my radar. (Don(na)_Quotation #13)

Doreen shared a similar sentiment, providing anecdotal analysis of considerations she and her friends were making as a result of the limited access undocumented students had to any postsecondary opportunity. The following is her explanation of the value of a college education
and the lengths to which she was literally willing to travel in order to better her own circumstances.

We’d make ... we’d do stuff like, oh well, if we can’t go to college in the US we could go to Mexico and probably get like scholarships over there or something. Yeah. So we like planned on, if we can’t go to school here, then we could move back to Mexico and like, teach English, save money up, and like, possibly get scholarships and save money for college. (Doreen_Quotation #12)

Upon hearing Doreen’s initial response and readiness to return to Mexico after having lived in Georgia for her entire life, I pondered my own high school experience and my college selection process. Until that moment, I considered my choice to attend college out-of-state as leaving everything I knew for the promise of something better. Juxtaposed against a decision of moving to what would essentially be a foreign country without the promise or likelihood of returning, I was immediately aware of the stark differences between those two realities.

Kessell also made plans to return to Mexico, but at the last moments changed her mind. The impetus for changing her decision serves as the primary focus of this research study and will be further explored in the next section of the data analysis.

I figured out that it was going to be much more difficult for me … to go to college, and it was going to be a heck of a lot more expensive … my parents and I decided that I was going to go back to Mexico and do college over there, because it was going to be a lot cheaper if they were here, working, and I was just there going to college, if they would be able to afford it a lot easier. So initially, I did not take my SAT or my ACT, because the plan was for me to leave, so there was no need for me to. [IR: right] But … in 2012, which is the year that I graduated, that was the year that DACA started … so, um … [IE very emotional] the plan changed completely. (Kessell_Quotation #9)

Larry provided perhaps the most honest and endearing impression of all of the study participants when asked his thoughts on Policy 4.1.6. Although comical in his immediate response, his genuine impression of the policy were unabashed in what he felt were its true motivations.
Moreover, the multiple meanings taken from his brief statement established additional avenues of exploration in this study, including race, class, identity, and xenophobia, which will be discussed in upcoming sections. Consider the following exchange:

I feel like it’s baloney. [IR: Why?] Cause it’s just an excuse not to let undocumented or DACA recipients or minority go into colleges where ... they can get an education. I’m like, you know ... college is like, everybody feels like education important. Education gives you power, gives you some type of better understanding of how everything works, and ... it ... makes you feel ... makes you feel a way that ... they don’t want you to have ... to overcome ... your lifestyle, or become ... someone important, become someone that might take their kid’s office, might take their kid’s chair, and I’m like ... or somehow ... it’s ... it’s just ... it’s just there ... [IE laughing] (Larry_Quotation #20)

Finally, one of the most direct outcomes of the implementation of Policy 4.1.6 was the establishment of Freedom University. The evolution of Freedom U and its indelible and intricately intertwined existence with Policy 4.1.6 will be explored through a visual analysis method in a latter portions of this study. With respect to the students of Freedom U, I noted in my participant observation process a very succinct and powerful statement given by FU’s current executive director at the beginning of its Fall semester, “everyone has a border crossing story” (RZM field-notes, 9/11/16). It is within this context that the next section of the analysis is explored, providing a closer examination of what it means to be undocumented and its perceived differentiation from having DACA status.

The “Being” of Undocumentedness (Claim #2)

Another major finding of this study is that the experience of being DACAmmented, according to the study participants, differs from being undocumented.

At the heart of this section is an exploration of the notion of “undocumentedness” and its differentiation from those who have been given approval by the federal government through the
Deferred Action for Childhood Arrivals program (DACA). Through the participant data, we are offered a connection to “undocumentedness” as a permanent way of life, and we can discern differences between living as an undocumented person and being a DACAmented student. DACA students expressed feelings of safety from deportation, increased self-worth through better employment opportunities, greater economic capacity and ability to provide for one’s family, and an overall sense of legitimation through receipt of a driver’s license, social security number, and work permit, regardless the temporary status associated with each. As will be seen, these sentiments differed greatly from study participants’ recollections of growing up undocumented. This section of analysis attempts to fully interrogate the meaning of “lawfully present,” as required under USG Policy 4.1.6. It is addressed here through document and image analysis, and participant interview data on the subject. The data show that the differences between these two realities are substantial, and present elements of status, identity, legality, opportunity and citizenship. It is important to understand these differences and the depths of both undocumentedness and the specificity of the DACA program within this segmented part of the undocumented community.

DACA is very limited in the larger policy discourse centering on the approximately 12 million undocumented persons and what to do with them. Policymakers on both sides of the argument often criticize it, either as an overreach by the Executive office and doing too much, or as a compromise and doing too little for too few. In either case, the data show that DACA has had a significant impact on the participants in this study, especially when they discuss opportunities for higher education. Kessel’s statement below is evidence:

If it hadn’t been for DACA, I wouldn’t be here anymore. I would be in Mexico ... pursuing my college education over there. [pause] And I’m very grateful that I’m not, that I was able to stay here. (Kessel_Quotation #13)
The DACA program was designed to address the needs and concerns of undocumented young people brought to this country as young children and have lived in the U.S. since their arrival. Essentially, DACA re-prioritizes deportation proceedings for childhood arrivals that meet certain criteria, giving them instead, an opportunity to establish lawful presence in the country that is renewable every two years. In her memo to the agencies mentioned above, then Secretary of DHS, Janet Napolitano, provided clarity as to how they would exercise prosecutorial discretion against “certain young people who were brought to this country as children and know only this country as home” (Napolitano memo, 2012, p.1) and specifically noted that “as a general matter, these individuals lacked the intent to violate the law and our ongoing review of pending removal cases is already offering administrative closure to many of them” (Napolitano memo, 2012, p.1). The main criteria for the program are illustrated in full by the following image, Figure 1, provided by the USCIS and covering the myriad steps and considerations each undocumented person must review in the application process.

What the image shows are the multitude of steps, requirements and processes needed in order to complete the DACA registration process. In addition, a $465 application fee is required each time the paperwork is submitted. Kessel volunteered a first-hand account of the registration process, noting the difficulties obtaining the various documents needed after having determined her own eligibility.
It was a bit difficult, because they … of course they asked for a lot of documentation, a lot of … make sure that you have record that you’ve been here for the amount of years that they ask for and that you have proof of that. So, we had to make a binder, like a two-inch binder, with everything, all the documentation, my grades from when I was back in Mexico, birth certificate, grades from here, from ev- for every single year … any diplomas that I had received, any awards … and just records that I had been here, something that would show that I had been here every single year. We had to pull down Facebook posts, anything … [IR: Wow] Yeah … it was … it was time consuming. It was a bit complicated because of everything that they asked for … but we managed to get it (Kessel_Quotation #21)
This level of documentation required for entry into the program speaks to the meaning and purpose of “lawful presence,” and as the data show, transitions the participants from undocumented into the DACAmented framework. The most recent data provided by the USCIS show that as of the end of 2016, a total of 861,192 DACA applications had been accepted, and of those, 667,287 have already been renewed. In the state of Georgia, the USCIS had accepted more than 28,000 DACA applications, as of June 2016 (http://www.migrationpolicy.org/programs/data-hub/deferred-action-childhood-arrivals-daca-profiles). The study participants are representative of this group, exploring their undocumentedness with a stronger sense of connection to the U.S. than to their native country.

Almost all of the participants in this study have only the U.S. as a reference point for “home.” In essence this is the only country they’ve ever known, and as far as the participants in the study, they have every inclination to remain. Consider the following exchange between Larry and me, as he lamented his upbringing in Georgia.

Georgia will be Georgia, but it’s still my home. It’s been twenty, about to be twenty-two years, in December since I got here to Georgia, and I’m like, it’s twenty two years that I, this is my only home been. I can’t say … Mexico’s my home. [IR: Why can’t you say that?] Because I didn’t, I have no memories from Mexico. I have a house there, but it’s not my home. Because I can’t say, oh, I remember getting … getting into a fight with some random kid over here or I used to kick the ball over here with my friends or, or, oh, this is the high school I graduated or … just stuff that you grow up with … memories (Larry_Quotation #23)

This discussion also factors heavily into what can only be described as a dichotomy of identity for many undocumented students, balancing the knowledge of the U.S. as the only home they’ve known with the reality of living in the shadows of their own communities, constantly bombarded by the political rhetoric and resulting policies that limit so much of what they can do in their everyday lives.
Unfortunately, for the many thousands of young people living in Georgia, their existence seems to be even more severe, as immigration laws like HB87 and BOR Policies 4.1.6 and 4.3.4 create for them, a new normal, that operates as the very small box alluded to earlier by Sachin, and historically offering little assistance at bettering themselves. The notion of “undocumented-ness” becomes for them, more than just a way of life. It is a part of their identity, oftentimes reviled and revered all at once. In the following exchanges, I found an array of emotions, experiences, understandings and realizations revolving around life as an undocumented person in the state of Georgia.

It’s difficult. It’s scary. [IR: Why?] Because ... it’s a constant paranoia of ... driving ... and seeing a police car behind you or getting off on the same exit as you – that you are – and thinking, oh my god, what do they see me in? You know. Think, oh, she seems like she’s not documented. Let me trail behind her and see if she does anything that I can stop her for. That has happened to many people that we know. Coming home late, or leaving home late, on a weekend, and being worried that there might be a checkpoint somewhere, and you may get stopped ... because you don’t have a license. I have a license now, thankfully, because of the DACA program, but my parents don’t. So ... it’s difficult. My dad got stopped on his way to work ... many times while he was leaving home, because they would do checkpoints right outside of our neighborhood, because they knew that in our neighborhood, no one but undocumented people lived ... (Kessel_Quotation # 3)

Knowing that I’m undocumented in the South, I feel a lot more unsafe. [IR: Why do you feel that way?] Because ... because the South is a lot more, like, I don’t know, like right now, I feel generally safe, because my main areas that I live in are like Atlanta, which is more of a liberal space, but every time I go back home to Gwinnett, I know it’s a lot more ... I guess conservative area, and although I’ve never personally experienced outward racism towards me, I know it’s there. And I know that now because of the national, like, everything that’s going on nationally, like, I’m just scared that ... that something’s gonna happen ... to like my family. But I think on the day-to-day, I can live my life, like totally normally, and, and not have it affect me, but there are certain things that are always in my radar because I am undocumented ... (Don(na)_Quotation #4)

In school, it was pretty hard cause they’re always asking you for your social security, and stuff like that, and I would have to press no. You know you kinda feel bad. [IR: Em-
barassed?] Yeah, a little embarrassed, I would say, sometimes, cause then, you know kids, their parents shape them in their views, and so sometimes it’d be they’d talk bad about immigrants, or say bad things about them when, coming from an immigrant family, I know that they didn’t want – I know they didn’t come here to ruin other peoples’ lives or anything. They wanted the best for their children, as I’m sure every parent here, or anywhere in the world, wants for their children. So, it did get to a point where it was kind of embarrassing or kinda scared, I guess, more the word, scared, not embarrassed, it would be more scared, because what am I supposed to be doing here? What should I do?

(Laura_Quotation #7)

Georgia. In terms of Georgia. You ... you ... you always gotta be careful. Georgia’s like, when you’re a kid, you’re here, and you’d be like, oh you gotta, your parents would be like, look, we’re gonna, don’t open that door, be careful when you open the door, like you don’t know if it’s a cop or immigration ... it’s like ... there’s was a time when they were doing, um, [illegible word] they call em, um, where they catch people in their houses, or try to get people who had felonies or stuff like that, and people would be like watch out, you don’t wanna be, just caught in the wrong place, in the wrong time, it’s like, sometimes you won’t even go out ... for ... for a whole week. You would just have to stay home, and not ... not be able to go out with your friends, or go out certain places ... (Larry_Quotation #7)

This state of alertness described by Larry is the same feeling Kessel describes as “constant paranoia,” and it is a reality that permeated the participant interview process in this study. This was also true with Laura, as she re-characterized my assertion of undocumentedness as an “embarrassment” into what she described as being “scared.” As I reviewed the data, I tried to understand this way of life, existing on the fringes of societal structures, never getting past the fear of being discovered by the authorities that would rather you be removed from them. But I also found a sense of empowerment in the words of some of the participants as they described undocumentedness as an ineradicable part of their identity. Even with having to be on alert day in and day out, Larry was still able to find a level of self-awareness within that struggle. In a similar way, Paul(a) describes how her family provided guidance on how to overcome the limita-
tions of her legality, using an age-old adage that has been said to overachievers in almost every immigrant group arriving to this country. Consider the following:

Being an undocumented person ... has shaped my life, has made me the person who I am, right, today. And I like the person I am. And ... I’m like, maybe if I would’ve been documented, then I wouldn’t be the person I am. I wouldn’t be as conscious to certain things about what I know right now, and maybe, I wouldn’t appreciate those little things I have in life. (Larry_Quotation #6.1)

IE: Ever since middle school, my dad would always tell us, that it was gonna be harder for you, so ... he’s always got this phrase saying, don’t act like you’re American, because, you know, at any moment they could like, throw us out and I’m like –

IR: Don’t act like you’re American – [IE: yeah] that’s what he was saying? [pause] Why do you think he would say that?

IE: Just so we’d remember where we came from, and to work hard. And that things weren’t going to be as easy for as they were for ... friends of mine that, you know, were born here. (Paul(a)_Quotation #3)

Perhaps the most significant statements about the actualization of undocumentedness came from Don(na) and Kessel. Each beautifully explored a wide range of emotions and considerations in the understanding and acceptance of it as a part of their identity. This is an important juncture at which to arrive, and the idea of “embracing undocumentedness” is an area of research worthy of much more interrogation. For purposes of this study, it provides additional context as to the significance of the DACA program and the shifts in identity experienced by the participants as a result of receiving DACA status, which will be shown in the next section of analysis as akin to a metamorphosis of being. Both Don(na)’s and Kessel’s self-analysis are presented below as the precursor to the exploration of many of the DACA students’ transmutations:

I think how I felt before and how I feel now are completely different. Before, I didn’t understand it, and I didn’t, I didn’t, obviously, growing up in like a space where you can’t
really tell people you’re undocumented, um, just not, I don’t know if anyone ever told me, you can’t tell anyone you’re undocumented, but because I didn’t know I was undocumented, I wasn’t gonna be like, well I’m undocumented, um ... but now, I think I, after knowing about, like what my status is, and what it entails, and how it came to be, how this whole term of like, or whole status, you know, the whole sector of people became undocumented, and like, who made us undocumented ... um ... I think now I ... I embrace it a lot more, like, I feel like I can’t ... it’s really definitive of me. I felt like I definitely, understanding what my identity is, where my status has really shaped my identity, and so now I feel like it’s these two things that are intrinsic to each other, but like, I can’t be ... me without being like, oh, I’m undocumented - [IE chuckles] I don’t know ... I definitely don’t feel like it defines me. Like it’s not exactly everything I am, but it’s like a huge part of my life that would not make me who I am without those experiences – [IR: right] and so now, I totally like, understand it, and I embrace it a lot. (Don(na)_Quotation #3)

It’s part of who I am. It’s … it’s part of what defines me … fortunately or unfortunately. But that’s how it is, so … why try to hide it? Why … not tell people about it? People need to know, and … people have to be informed, as well, so … even at my job … when they … now when they, when the voting for the presidential elections were going on, or even when they asked me about school … they tell me … so what school are you gonna go to, so what are your plans? And so I tell them, well, my plans are this, but because of such and such law, or because of such and such, that’s not gonna happen, so … I have to find something else, figure something else. And they’re like, whoa, but why? Well, I’m undocumented. But why are you working here, then, if you’re undocumented? And so … it’s an opportunity to inform other people about our situation … and what’s going on. So, that’s why I try to be more open about it. Because once you tell people, they start asking more questions – [IR: right] and they see that you’re not uncomfortable speaking about it, and you’re able to … inform them more. And I think that’s a good thing. (Kessel_Quotation #8)

So, what then does it mean to be DACAmented? Each of the participants in this study all noted at various stages of our conversations the three most significant benefits that come from achieving DACA status: 1) a valid driver’s license, 2) a social security number, and 3) a valid work permit. Later on in our conversation, Kessel discussed the sweeping changes in her life after having received her DACA approval, providing the following very emotional summation:
Oh there’s a lot of differences. I’m able to work. I’m able to work at ... what I think is the best public hospital that we have in the whole state. I’m able to be able to get experience in the field that I want to eventually ... pursue ... by working there, and then I don’t think I – I would not be able to do that if I did not have DACA. I’m able to drive legally, I’m able to get a license. So, kind of that fear of ... being stopped by the police is not ... is definitely not as strong as it was before having DACA. [pause] It’s just made it easier, in general. I’m able to help my parents a lot more. I’m able to make my parents life a lot easier, because now ... I can get better jobs. I can help them more financially. I can ... have credit now ... a better credit. I have a social security number, so I can have bills under my name. I can be able to purchase, make big purchases ... furniture, things like that ... and that – before that, we weren’t really able to do that, because most stores ask you for a social security number. My parents don’t have to drive as much, now. I can drive. We don’t have to be worried about it. (Kessel_Quotation #11)

Much of the literature analyzing the effects of the DACA program presents data related to these three areas, and the relative improvements in economic circumstances that have been made in the lives of these students based on receiving these benefits (Gonzales & Terriquez, 2013). As I reviewed the interview transcripts, I found similar data presented by the participants. But I also found an underlying sense of legitimacy woven throughout their stories and speaking to a larger aspect of improvement in social emotional condition. I can only describe it as ascension from undocumentedness into a more stable plane of existence. In many of the participants’ stories, there was a sense of validation, unique in their descriptions of becoming DACAmmented but all connected by this greater sense of efficacy and, most important, legitimacy. This is evidenced in the following passages:

Like right now, I have a driver’s license with DACA, so that’s important for me. I’m like, I really, really glad – grateful to have that, and ... it’s something at least to get me mov-mo-be able to move around, at least got without being worried about being pulled over, getting arrested, being deported. DACA’s a help at least for that. (Larry_Quotation 6.2)

Larry continues …
It’s more about not worrying about being pulled over, and actually having being able to have a job, and not worrying about, one day, showing up, and ICE might be there ... [IE laughing] and it’s, there’s a big difference, there’s like, it’s less stressful, for sure. It’s less worrying about ... certain things, but ... there’s still that worry, but it’s less. [IR: less]

Yeah. I’m able to help my family out more. My parents ... being able to get an apartment under my name, paying, having the car insurance under my name, having, being able to get tags, you know, everything, less worry, um ... (Larry_Qotation #6.2)

I feel like more liberated, so I feel like, I don’t really have to watch over my shoulder. And I feel like nobody can really step over me. I feel like a lot of people who don’t have some kind of status feel like any American person can just trample all over you and you can’t do anything about it, so I feel like I have that upper hand that, not at the legal status kind of way, but I feel like we’re at the same level. (Doreen_Qotation #14)

I just feel like I don’t have to hide in the shadows as much. And I feel more comfortable of disclosing – or, and even job-wise, like it helped me get out of ... the crappy jobs that I was in, and it help- it’s helped me with healthcare, and ... even through nursing programs that I’m doing right now with the January one, where they require a social, it’s kinda like, without that, I couldn’t do anything ... (Paul(a)_Quotation #14)

So DACA, at least, with DACA, I can work now, like legally, and have like, a license, and especially ever since e-verify happened, like, it became a lot harder for you work and do anything without those. So I remember, my parents, like my parents never wanted to teach my sisters and I how to drive without having, like a permit, at least, like they never, cause they were like, we don’t have a license, y’all don’t have a license, there’s just too much legal stuff going on here – [IR laughs] so they never felt safe enough to teach us without being able to have a permit at least, and so, when DACA, when I was able to get DACA, I was able to get my permit, and so then that’s when I started to be able to, like, my parents started teaching me to drive, when I ... when ... I finally got DACA. And so, for me, it changed a lot, because it allowed me to have like mobility now, and being able to have a job now, and because I didn’t, I wasn’t like going to school anymore, like, it gave me something to do ... um ... like, you know, also contribute a little bit to my family, like money-wise. (Don(na)_Quotation #15)

Some of the participants in the study discussed the additional educational opportunities that were provided to them by the DACA program. In one instance, Doreen discusses her ability to get a better job and save money in order to attend school. In the other passage, Laura and I
discuss how going to college was just as significant (if not more so) as receiving the other standard benefits that all the participants noted receiving as a part of their DACA status.

Once I graduated from high school, I had the DACA papers, so I was able to work, so I took a year off so I could save money and then, um, once I had enough money and I was like, oh I can continue going for this amount of years, that’s when I went, that’s when I came back to school and started, 2015, the Fall of 2015. (Doreen_Quotation #27)

I have a social security, and even though I don’t have all the benefits of a citizen here, but at least I’m able to be here. I don’t fear that any moment they can take me back to Mexico. I don’t have to fear that. I also am able to work. I have a work permit, where I can work anywhere – and, you know, social security not being a problem, which is why I work at Honda parts, right now, and it’s good to know that they basically check your social security and your background, so it’s good that I’m able to have that opportunity to work there, cause if I didn’t have DACA, I wouldn’t be there. I wouldn’t be in school. School is definitely the main one. Being able to do – [IR: So if you didn’t have DACA, you wouldn’t be in school?] I wouldn’t be able to go to college, no. (Laura_Quotation #13)

In seeking approval for my site research, a concern was expressed to me as to why I was differentiating DACA students from undocumented students. This was a question I repeatedly pondered, coming to understand that every DACA student had experienced a life of undocumentedness, and thus, shared in that identity, as evidenced in previous musings by the study participants. For purposes of this research study, however, I have tried to present DACA as a legitimating process, establishing a measure of “lawful presence” for those who receive it and allowing them to more fully participate in Georgia’s economic, socio-political and, most important, higher educational institutions. This differentiation is explored more thoroughly in the next section of analysis that seeks to explain why DACA establishes the lawful presence required under Policy 4.1.6 to attend certain public colleges and universities in the state of Georgia.
Being ‘Unlawful’ and the Supremacy of Laws (Claim #3)

The data show that DACA establishes lawful presence; therefore, the BOR should not apply USG Policy 4.1.6 to DACA students.

On October 16, 2015, the Supreme Court of Georgia held a special session to hear oral arguments in the case of Olvera et al. v. University System of Georgia’s Board of Regents et al., involving a group of undocumented students with DACA status seeking access to and in-state tuition for Georgia’s colleges and universities (Olivas, 2015, p. 392). Georgia denies such access and benefits to undocumented students, and redress was being sought through declaratory judgment from the courts to determine the students’ legal rights as DACA recipients, since DACA does not specifically provide any provision for a substantive claim for relief regarding public benefits, including postsecondary education. Thirty-nine DACA recipients sought legal recourse in the state court, however both the trial court and the appellate court dismissed the action based on the state’s claim of sovereign immunity (Adams and Boyne, 2015). A review of the court docket shows the following facts of the case:

Miguel Angel Martinez Olvera and other non-citizen college students who are beneficiaries of the federal deferral program, brought a lawsuit against the Board of Regents seeking a “declaratory judgment” from the trial court that they are “lawfully present” in Georgia and are therefore entitled to in-state tuition. The Board of Regents claimed that the students’ lawsuit was barred by “sovereign immunity,” and that the students in the deferred action program are not in “lawful status” in this country. The Board filed a motion asking the court to dismiss the case, which the trial court did, finding that the Board of Regents was immune from the lawsuit based on sovereign immunity, which is the legal doctrine that protects the government from being sued. The students appealed, but the Court of Appeals upheld the lower court’s decision. The students now appeal to the Georgia Supreme Court, which agreed to review the case to determine whether the Court of Appeals erred in ruling that a legal action seeking a declaratory judgment was barred by sovereign immunity.

The legal arguments in this case involved two different types of legal remedies. “Injunctive relief,” or an injunction, usually involves an order by the court to do something or to
stop doing something, depending on what the plaintiff is requesting. A “declaratory judgment,” on the other hand, is a judgment by the court that declares the legal rights of the parties but that does not award damages or order that any action be taken or stopped (Hanson, 2015).

The Court in this case rendered a decision on February 1, 2016, in favor of the USG Board of Regents. The Court accepted the Board of Regents claim that it was protected by sovereign immunity and dismissed the case, finding no merit in plaintiffs’ claim for declaratory judgment that would clarify their rights as deferred action recipients. The important part of this decision is that when the Court did not consider the plaintiffs’ argument for declaratory judgment, it also did not allow plaintiffs to further argue that their deferred action status had, in fact, established them as being “lawfully present” in the state, thereby qualifying them for an opportunity to request in-state tuition, as well as – and for purposes of this research study – seek admission into any state college or university.

As a result of the Olvera case, additional lawsuits were filed in state and federal court, arguing against the Board of Regents decision to classify DACA students in Georgia as out-of-state residents for purposes of in-state tuition. At issue in each case is whether deferred action establishes the lawful presence required in order to receive the in-state tuition benefit. Additionally, Policy 4.1.6 also requires lawful presence in order to receive admission and enroll in the state’s most selective universities. I believe that in both instances, it does. The participants in this study believe so, as well. And the data show that having DACA status does, in fact, establish lawful presence.

In the early part of 2016, the Georgia Latino Alliance for Human Rights (GLAHR) partnered with the Mexican American Legal Defense and Education Fund (MALDEF) to initiate a civil action in federal district court against the University of Georgia Board of Regents and each
of the 25 university system presidents seeking challenging the Board of Regents’ policy of denying in-state tuition to DACA students (www.maldef.org). A copy of the Complaint was procured for purposes of documents analysis. Later in the year, MALDEF filed a separate suit in federal district court against the same seeking injunctive relief specifically from Policy 4.1.6. A copy of that Complaint was procured as well for purposes of documents analysis. In addition, documents related to the other cases mentioned were also examined. It is important to note that the primary basis for the legal arguments presented in all of the cases center on whether deferred action recipients have established lawful presence as a result of receiving DACA status.

Citing precedent and statute, the first Complaint notes that, “deferred action is a form of discretionary relief, developed internally by INS, under which the agency ‘may decline to institute proceedings, terminate proceedings, or decline to execute a final order of deportation’” (GLAHR et al. v. Dean et al., 3/9/2016, p. 27). The Complaint also notes that deferred action recipients are authorized to remain in the U.S. for the period granted and are “authorized not only to reside in the United States but to work here” (GLAHR et al. v. Dean et al., 3/9/2016, p. 28). As supporting evidence, the plaintiffs point directly to the guidelines and directives issued by the USCIS on their website, which states that “deferred action recipients are authorized by DHS to be present in the United States and therefore considered by DHS to be lawfully present during the period deferred action in is effect” (www.uscis.org). The image below is taken from the Frequently Asked Questions section related to DACA inquiries and provides a full accounting of the federal government’s position of how deferred action recipients (that include DACA students in Georgia) are considered. As can be seen in the image, the USCIS delineates between lawful presence and lawful status, which is significant to the enforcement of Policy 4.1.6, given its tacit language of ‘those unlawfully present’ may not seek admission, but in multiple legal filings, the
plaintiffs argue that “only the federal government has the power to classify deferred action recipients, and it defines them to have lawful presence” (GLAHR et al., v. Alford, 5/23/2016, p. 8).

Figure 2:

<table>
<thead>
<tr>
<th>Q1: What is deferred action?</th>
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<tbody>
<tr>
<td>A1: Deferred action is a discretionary determination to defer a removal action of an individual as an act of prosecutorial discretion. For purposes of future inadmissibility based upon unlawful presence, an individual whose case has been deferred is not considered to be unlawfully present during the period in which deferred action is in effect. An individual who has received deferred action is authorized by DHS to be present in the United States, and is therefore considered by DHS to be lawfully present during the period deferred action is in effect. However, deferred action does not confer lawful status upon an individual, nor does it excuse any previous or subsequent periods of unlawful presence.</td>
</tr>
</tbody>
</table>

Retrieved online at: https://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process/frequently-asked-questions

Moreover, the plaintiffs argue that the Board of Regents’ denial of the in-state benefits is a preemption of federal law, both through the Supremacy Clause and under the Equal Protection Clause, as had already been suggested earlier in this study. Each of those arguments is provided below:

**Plaintiffs’ Supremacy Clause argument**

80. Defendants’ classification of deferred action recipients as ineligible for in-state tuition benefits conflicts with, frustrates, and serves as an obstacle to federal immigration law, goals, and policies and thus is preempted by federal law.

81. The Supremacy Clause, Article VI, Clause 2, of the U.S. Constitution, mandates that federal law preempts state law where Congress expressly or impliedly has reserved exclusive authority to the federal government, including where state law conflicts or interferes with federal law. Similarly, the Supremacy Clause constitutionally reserves exclusive authority to the federal government regarding the regulation of immigration, among other areas” (GLAHR et al. v. Dean et al., 3/9/2016, p. 32)

**Plaintiffs’ Equal Protection Clause argument**

84. The Fourteenth Amendment to the U.S. Constitution provides that “no State shall … deny to any person within its jurisdiction the equal protection of the laws.”

85. Defendants’ denial of in-state tuition to individuals granted deferred action violates the Equal Protection Clause of the Fourteenth Amendment.
86. Defendants’ acts permit noncitizens and citizens who are similarly situated to deferred action recipients to establish eligibility for in-state tuition yet discriminate against deferred action recipients by barring their eligibility for in-state tuition. Defendants cannot establish that their policies and practices have any valid justification to withstand constitutional scrutiny (GLAHR et al. v. Dean et al., 3/9/2016, p. 33).

In the second complaint, three individual plaintiffs seek declaratory and injunctive relief and compensatory damages against the defendant Board of Regents for applying Policy 4.1.6 to deferred action recipients, thereby barring them from admission to certain public colleges and universities. Plaintiffs argue that, “Defendants’ misclassification of deferred action recipients as ineligible for admission to University System institutions conflicts with, frustrates, and serves as an obstacle to federal immigration law, including the Immigration and Nationality Act, goals, and policies and is thus preempted” (Estrada, Alvarado, and Umana v. Becker et al., 2016, p. 20). Plaintiffs’ arguments are also based on violations of Equal Protection and the Supremacy Clause and claim that the ban from Georgia’s top-level institutions has caused emotional distress (Estrada, Alvarado, and Umana v. Becker et al., 2016, 20). It is important to recognize the wording of “Georgia’s top-level institutions” alluded to in the document, as the Complaint also shows that two of the three plaintiffs are currently attending college out-of-state. Plaintiff Diana Umana is enrolled at Smith College, one of the top women’s liberal arts colleges in the nation. Plaintiff Salvador Alvarado is enrolled at Dartmouth College, an Ivy League institution in Hanover, New Hampshire, that boasts myriad governors, U.S. Senators and Representatives, and one Vice President as part of its historical alumni network. It can be inferred that these plaintiffs would undoubtedly qualify for admission to the likes of the University of Georgia and Georgia College and State University, but for their deferred action status.
It is difficult to imagine that even in the face of such overwhelming argumentation, and for reasons yet to be determined, the Board of Regents continues to deny that DACA recipients in Georgia have established lawful presence for consideration of in-state tuition purposes (Policy 4.3.4) or for admission into the state’s most selective institutions, per Policy 4.1.6. Their rationale is primarily based on a legal interpretation provided by then-Vice Chancellor for Legal Affairs, Burns Newsome. The memo was obtained via a public records request to the Board of Regents. It is dated August 20, 2012, a mere two months after the DACA program was announced and only five days after the application process began. Regardless, Newsome provided information to all Chief Academic and Admissions Officers in the system on behalf of the Board of Regents, which ultimately required each public college and university in the state of Georgia to modify their admissions and tuition policies accordingly. The relevant portion of the memo regarding the state of Georgia’s interpretation of lawful presence is highlighted by black box in the image of the memo provided below:

**Figure 3:**

Board of Regents’ policies provide that students and applicants for admission who are not lawfully present in the United States may not be granted resident tuition status and may not be admitted to certain USG colleges and universities. Lawful presence is, of course, a question of federal law. The deferred action available under the DHS program is not an award of lawful status, but rather is “a discretionary determination to defer removal action of an individual as an act of prosecutorial discretion.” That is, the decision not to deport a person in unlawful status does not mean that the person is lawfully present in the United States. Indeed, the program guidelines make clear that “[d]eferred action does not confer lawful status upon an individual.” Thus, participation in the DHS program does not change the application of Board of Regents’ policies to an otherwise unlawfully present student.

Please do not hesitate to contact the Office of Legal Affairs if you have questions about the DHS program or about Board policies. Thank you for your assistance in this regard.

Received from: University System of Georgia through Public Records Request, RZM, 2016
Although the memo acknowledges, “lawful presence is, of course, a question of federal law,” it also makes clear that DACA recipients are not to be considered lawfully present with respect to the application of Board of Regents’ policies. Codifying this position, the Board of Regents revised its *USG Manual for Determining Tuition Classification and Awarding Out-of-State Tuition Waivers* to note that, “individuals granted DACA are not considered lawfully present in the United States” ([www.usg.edu](http://www.usg.edu)), and that “any individual granted DACA by the Department of Homeland Security is ineligible to be classified as an in-state student, granted a USG out-of-state waiver, or to be admitted to any institution falling under Policy 4.1.6” ([www.usg.edu](http://www.usg.edu)). An image of the entire statement is provided below for further clarification of the Board of Regents position on DACA students:

**Figure 4:**

![USG Manual for Determining Tuition Classification and Awarding Out-of-State Tuition Waivers](image)

**DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA)**

In 2012, the U.S. Department of Homeland Security began granting deferred action for a class of individuals unlawfully present in the United States and meeting certain criteria under a program known as *Deferred Action for Childhood Arrivals*, or DACA. Per the August 20, 2012 memo provided by the USG Office of Legal Affairs, individuals granted DACA are not considered lawfully present in the United States. Any individual granted DACA by the Department of Homeland Security is ineligible to be classified as an in-state student, granted a USG out-of-state tuition waiver, or to be admitted to any institution falling under *Policy 4.1.6, Admission of Persons Not Lawfully Present in the United States*.

In Georgia, individuals granted DACA are eligible to receive a limited-term Georgia driver’s license or state-issued ID. In some cases, an individual granted DACA may not have a license or state ID with the limited term notation, but the license/ID will be issued for a period of less than two years. As a result, as noted on the *USG Lawful Presence Verification Methods Chart (Appendix D)*, a Georgia driver’s license or state-issued ID with either the limited term notation or issued for a period of less than two years cannot be accepted for the purpose of verifying lawful presence for the purpose of the USG policies.

A student whose documentation is queried in the SAVE program, and the response indicates the student has been granted deferred action or DACA, cannot be considered lawfully present in the United States.

Important in this statement is the reference to DACA students’ eligibility to receive a Georgia driver’s license/state-issued ID, which is one of the documents required for verification of lawful presence for tuition purposes. I was initially struck by the Board of Regents’ differentiation of the license as one of “limited term”, considering that all Georgia driver’s licenses/state-issued ID’s are “limited term.” Seeking further clarity, I obtained a memorandum from Georgia’s then-Attorney General, Samuel Olens, to Georgia Governor Nathan Deal, dated August 22, 2012, just two days after the Burns Newsome memo was distributed to all Chief Academic Officers in the university system. In the Olens memo, I found that the issue of federal deferred action had previously been addressed by the state General Assembly, allowing for the issuance of “a temporary license, permit, or special identification card,” upon presentation of “valid documentary evidence” (O.C.G.A. § 40-5-21.1(a)(5), 2005).

Olens goes on to state in the memo that, “while I do not agree with the actions of the President in issuing the directive, it has been implemented by the Department of Homeland Security, USCIS, and state law recognizes the approval of deferred action status as a basis for issuing a temporary driver’s license or identification card” (Olens memo, 2012, p. 2). I have interpreted this statement as a clear message that although the state would rather omit DACA recipients from driver licensing processes, they are bound by state and federal to do so. In responsive legal filings attached to the first Complaint discussed, the plaintiffs argue that the Board of Regents “have regulated immigration by creating their own classification of deferred action individuals when they define them as unlawfully present” (GLAHR et al. v. Alford et al., 5/23/2016, p. 11). They go on to argue that, “because Defendants [the Board of Regents] have no power to regulate immigration by creating their own immigration classifications, it makes their acts no
less illegal simply because they do so in the context of running their state colleges” (GLAHR et al. v. Alford et al., 5/23/2016, p. 11).

It has been difficult for me, as researcher, to deconstruct the multiple meanings and intents presented in the state’s argument that deferred action recipients are in some way NOT lawfully present for purposes of consideration under Policy 4.1.6. On the one hand, state agents acknowledge that lawful presence is a matter of federal law, and therefore, the state should comply with federal documentation proving deferred action status. On the other hand, state policies seem to be interpreted and re-interpreted in a manner inconsistent with federal law, and instead differentiate such status as non-compliant with state regulation. It seems to be a quandary between politicization and legality, dictated by socio-cultural practices reminiscent of the segregationist practices that once served as the socio-political framework for much of the South and concentrating power into legalized white male privilege. Still, as both researcher and attorney, I am more swayed by the plaintiffs’ overall arguments in the fact that DACA students have indeed satisfied the Board of Regents current criteria for establishing lawful presence for purposes of access to the state’s public institutions operating under Policy 4.1.6.

It is also vital to recognize that the state of Georgia stands alone in this particular line of analysis. Although not all states provide an in-state tuition benefit for DACA recipients, Georgia remains the only state in the nation that denies admission to certain public colleges and universities, as previously noted (Adams and Boyne, 2015). In later sections of this analysis, I explore some of the perceived impacts of these interpretations, as well as attempt to ascertain the motivations as to how and why these particular interpretations were created. First, however, it is important to gain greater insight as to how DACA students perceive “lawful presence” and how it is they view the state’s analysis of whether DACA students have established lawful presence.
All of the study participants discussed the various levels of legitimacy they had gained as a result of DACA. As part of the interview process, they were asked to review the Board of Regents interpretation of the DACA program, being shown the statement for the *Tuition Classification Manual* discussed earlier in this section, as well as a copy of USG Policy 4.1.6. I asked them to discuss whether they believed that they had been given “lawful presence” through DACA and whether they believed the program had given them the requisite documentation to qualify under Georgia’s strict lawful presence requirements. They were also asked how they felt about Georgia’s interpretation and whether Policy 4.1.6 should apply to them. Some of those responses are included below:

So we’re not considered lawful, but were able to be here legally. So ... basically what I see is they let us be here, but they don’t let us do things that other people can do. Like I told you, we can’t travel, we can’t travel to any other country. We can travel within the US, but we can’t go to another country, because we’re not officially legal, we’re just able to be here. They won’t deport us back to our home country. Also by legal presence, we’re able to work and have health care – the simple stuff like that – work and go to school, but we don’t have the, all the benefits from someone that is legally present here.

(Laura Quotation #16)

Laura struggled with understanding the nuances between lawful presence and legal status, one of the topics that were discussed in this section of the interview. As can be seen above, she found it somewhat difficult to reconcile the new privileges and benefits that she gained from DACA with the differentiations of legality posed by the Board of Regents’ interpretations. Upon seeing a copy of Policy 4.1.6, she seemed to be much more succinct in her position as a DACA student. She provides the following observation:

The very first sentence is a person who’s not lawfully present, but we are lawfully present. So I don’t know. It’s kind of, it’s very contradicting, cause according to DACA, we’re at least legally present here. The first sentence to be a person who is not lawfully
present – that does not include us. That does not include DACA, because we are considered to be here lawfully. And it says that you’re not able to go to any college at all, if you’re not lawfully present here. I don’t know. It’s just kind of contradicting. (Laura_Quotation #24)

Don(na) and Doreen gave similar interpretations when considering the notion of lawful presence, presenting arguments discussed at length in the review of the court cases above, and within the text of this study. Their statements offer a variety of observations on perceived contradictions in the policies, the legitimating benefits of DACA, and the technicalities in the language of the policies that are significant to the Board of Regents’ interpretations.

So, the legal status versus lawful presence, um ... it affects me, because ... especially in terms of like, going to school, that’s something, that’s basically what the whole ban on undocumented students is based on, like the whole legal presence versus, um, like they, the ban was ... um, the whole basis of it, it say that you can’t go to this school if you don’t have lawful presence in the United States, um, and it doesn’t say anything about legal status, actually, and like a lot of the schools interpret it as legal status, but, they say that like, now with DACA ... because we do have lawful presence ... it shouldn’t apply to the ban, because the ban physically says lawful presence, so ... that’s kind of like something that ... is really important in like, wording-wise. (Don(na)_Quotation #17)

The exchange with Doreen …

To me they sound the same. Cause how can you have lawful presence without being like a resident type thing, ya know. How can you be lawfully present here in the United States, but ... you’re not considered documented? (Doreen_Quotation #15)

[IR: Do you believe you’ve been given lawful presence by DACA?] In a sense. I mean ... I’m able to get a license versus my parents. I’m able to go to school, because now I have a social security number, and I’m able to work for whatever company, that, you know, employs me because I now have a social security number, so ... and as a citizen, you have to have a social security ... you get a social security number, you’re able to get your license, so the fact that they’re saying we’re not is kinda like ... weird. (Doreen_Quotation #19)
As I reviewed the data, I pondered further the Board of Regents’ position, wondering what exactly should DACA students be classified as, if not lawfully present. This sentiment was then aptly echoed by Paul(a) in her assessment of the Regents’ position:

It seems like a counter-statement, counteractive statement, because it says, granting individuals unlawfully present, and then, it was saying, we’re not considered lawfully present. So then what are we? Just floating in the air? [extended long pause and reviewing document] For the purpose of verifying lawful presence ... it cannot be. So, I guess the question that ... I’ve always been asked, or I’ve asked is why does it seem like ... we’re just nothing? (Paul(a)_Quotation #19)

Larry felt that the legal status/lawful presence debate was essentially an exercise in futility, as he chose instead to inform me of how DACA, even in its conveyance of much wanted benefits, was still a measure of control being exerted over undocumented students. Until this moment, I had not considered DACA as an additional form of stratification over a segment of the population that had, as previously discussed, become accustomed to systems of arbitrary and exclusionary tactics. Larry’s feelings about DACA are seen here:

I feel like, it’s probably the same that ... I wanna say that ... here’s the ... but I don’t, we don’t consider you ... legal person, they still, they’re trying, I feel like, it’s a way ... to still ... oppress a little bit ... to just tell you that ... you still don’t have ... that much, you don’t have the freedom ... as a citizen. It’s a way to ... to tell you that ... you better be careful what you do, what you ... what type of things, I feel like it’s more of a control. [IR: So you think DACA is a form of control?] Yes. Like, the whole situation, I can’t, you can’t ... go out of the country, and so, you’re obligated to stay here. And, I’m like, unless you get permission, but only for a couple ... days, but you kind of like ... I feel like you’re always tip-toeing around to make sure you don’t get in trouble, to make sure you don’t do anything ... dumb, and ... you know, you’re always watching your back. I feel ... that’s ... I feel that way, even though I’ve had a license, it’s a little bit more where I can at least go different states, go visit different city, but ... I still feel like I need to ... always ... be careful what I do, make sure I’m not in the wrong place, wrong time, or ... like ... a little bit ... cause it’s ... I wanna say, it’s like ... I just feel like ... like ... I feel like the government’s saying, like ... we know you’re here, but we don’t want you yet ... to ... have documents. (Larry_Quotation #17)
Some of the participants didn’t think there should be a differentiation between DACA and other similarly situated undocumented students. This was a point made earlier, brought to life by Don(na) and Sachin, who instead reminded me of the meritocracy built into our public K-12 education systems and our insistence that good grades earn college opportunities. In Georgia, however, this has proven itself more difficult for undocumented students, even though many believe that such should not be the case. Consider the following exchange I had with Don(na). It is then followed by Sachin’s much broader perspective on who should really be afforded opportunities for postsecondary education …

[IR: As a DACA student, do you believe that Policy 4.1.6 should apply to you?] No, I don’t, because … the, like, it goes back to the whole wording of like, lawfully present versus legal status, and the wording specifically said for all students who are not lawfully present, um, it didn’t say anything about, like, legal status, and so, I definitely believe in the whole efforts to like … change that to definitely allow DACA students, but, I also have like moral, or like, you know, personal reasons why like … I … I wanna, like I would support … it being more accessible to a lot more students, but at the same time, morally I would feel wrong just being like fighting for some students that happen to be, you know, happen to qualify for this program, so I have – [IR: You talking about students who don’t have DACA?] Yeah. So it’s like I wouldn’t want to leave students out, either. Like, of course I believe that like, they’re, like, I wanna support something that provides, um, you know, accessibility to education for a lot of students, but at the same time, we’re still leaving students out, so it’s like, morally, like, personally, I would like, be like … I do support it, but at the same time, I wouldn’t want to be like, yeah, and that’s fine, and I would, there still like, even if there, they did decide, like, DACA students are eligible, or like DACA students don’t have to abide by the policy, I would still not be like content, or be like, okay, fine, because that’s not like, the issue is all students should have the ability to go … regardless. (Don(na)_Quotation #25)

I believe that students … well DACA students and undocumented students that have been here since they were young children, who have been through elementary school, been through middle school and high school … somebody has to know that we’re here, because somebody let us in the country. So even though we went through all three basic education, when we get to college, I believe that they should let us go, because we have worked and made the effort to get there. A lot of Hispanic teenagers drop out of high school or don’t even wanna finish high school, and those students who do stay and who do fight to
get to college should be able to get that resource available to them. (Sachin_Quotation #11)

Larry echoed a similar sentiment about Policy 4.1.6, discussing in-depth the importance of education in the lives of young people, regardless of documentation, and how an educated populace in pursuit of intellectual inquiry is the pinnacle of one’s humanity.

I feel like it shouldn’t apply to anybody. I feel like it shouldn’t apply if you’re undocumented or DACA recipient, cause it’s ... education should be ... a way for people to have a documented status, a way ... to overcome their situation, to have knowledge. I feel like education, everybody should be able to strive for it, have an opportunity to get it, and not put ... obstacles in our way, instead. I feel like ... education ... people should think about more about having more educated people around you, instead of less educated. I feel like it would be a better world if more people knew about ... what goes around today’s world, have a better understanding about certain things, have better understanding ... that’s why education’s important to me, and I feel like ... it’s something ... that I think I will always want more of ... cause I feel like it’s a human ... thing that you always ... want to learn more. You’re always curious about things, always thinking, what else can I, I better myself. (Larry_Quotation #22)

In the ongoing litigation process, DACA students are arguing that by directing public colleges and universities in the state of Georgia that deferred action recipients are not lawfully present, the Board of Regents misinterpret the law and place undue immigration-related burdens on DACA recipients. They state:

Defendants impose illegal burdens on Individual Plaintiffs by denying them equal protection under the law, and cause GLAHR to redirect resources to address these illegal acts. Defendants’ policies and practices treat Individual Plaintiffs, and all deferred action recipients, disparately without sufficient basis to do so when compared to other similarly situated individuals who are lawfully present in the United States (GLAHR et al. v. Dean et al., 3/9/2016, p. 31).

One of the study participants, Paul(a), explained during our conversation that she was actually involved in one of the lawsuits discussed earlier in this section, and she provided some in-
sight into the court proceedings, including how the court was interrogating the question of lawful
presence. Her account of this process is below:

I am part of a lawsuit with MALDEF for in-state tuition, and the judge has asked the
same thing, over and over, and it’s kinda like, lawful ... legal status ... [IR: lawful pres-
ence] lawful presence, it’s kinda like ... to me they both sound the same. They both to me
are the same. And trying to define them differently, I’m not huge in politics, but, I just ...
as a person who’s had the kind of education that I’ve had, to me, it’s kinda like, they’re
the same. Why are ... it’s an argument that they – I’ve seen it happen in court all the time,
and it’s kinda like, the judge will ask them, do they pay taxes, do they do this, do they,
and the answer is yes. I’m like ... but ... I don’t think it’s, they’re two different things.
They’re the same thing. (Paul(a)_Quotation #15)

These are critical questions to be asked of the Board of Regents. In fact, it is critical to this study
that the state of Georgia, through its higher educational policy structure, be interrogated as much
as possible to provide a greater understanding of the unintended (or arbitrary) consequences of
these processes.

The study participants were also asked to ponder this fact, and each offered a wide array
of thoughts and feelings toward Georgia higher education policies and processes, specifically
that of Policy 4.1.6. Many of our exchanges brought back memories of my own academic expe-
rience in the late 1980s, during which I simply came to understand then that the notion of “fair-
ess” didn’t always find its place in Georgia’s educational processes. Indeed, power distributions
embedded within notions of unfairness became a common theme in this portion of my conversa-
tions with the participants. Laura provides a modern-day context for this reality:

Georgia actually is the state with one of the most DACA students, so it’s not like Georgia
can say, it doesn’t affect that many people. Yes, it does, and I don’t remember the num-ber exactly, but it’s a pretty big number. Cause there’s people here, when they see how
their parents struggle, they want the best. And speaking for me, it’s like, I would do any-
thing to get to the higher education and just because I can’t go, it’s kinda like, you’re lim-
ited. So I consider it very unfair. I feel like it doesn’t apply to me, cause even though I
did have a point in my life where I’m like, why am I even in school, but it changed, and I
tried bettering myself. And for me not to be able to go to the big schools is kind of like, just because I was born in a different country, and I don’t think that’s fair.  
(Laura_Quotation #28)

Laura continued …

I understand that every state has its own laws, and like the government can say something, but each state has its own laws, and I just don’t think that it’s fair that Georgia is doing this policy, because it’s one of the states that has the biggest DACA students in the country. And I’m not even asking – we’re not even asking for financial help. All we’re asking is at least to be able to go to their schools, because we would be paying them either way. It’s not like we’re gonna go to those schools for free. And we would have to pay more, but it would be nice to know that I have a choice in going to the best schools here in Georgia. (Laura_Quotation # 29)

In my conversation with Sachin, she spoke candidly about how the cascading effects of Georgia’s education policies continue to keep her in this proverbial box. She emotes about just how difficult it then becomes to emerge out of it. She explained in the following exchange:

Here in Georgia, I feel like … people don’t want me to succeed. [IR: And why do you feel like that?!] Because there’s always these rule and regulations, um, trying to stop you, or trying to make sure that you don’t meet their requirements. Like, for the longest time … for the longest time, for these past couple months, I felt like, as if I were in a box … because … I tried to apply to a college, and they tell me, oh we need your … we need to know what your status is, and of course, I don’t fit in their, um status, I guess, regulations (Sachin_Quotation #5)

A Legal Postscript

In an unexpected turn of events, Superior State Court Judge, Gail S. Tusan, found in favor of a group of ten DACA students seeking relief from the Board of Regents (Downey, January 3, 2017). The facts presented in the judge’s Order were laid out in the following manner:

1. The federal government has made clear that DACA recipients are lawfully present in the United States.
2. The Board of Regents has a policy which requires lawful presence in the United States in order to receive in-state tuition status.
3. The Board of Regents refuses to accept the current lawful status that Plaintiffs have been granted.
4. Under the facts asserted in Plaintiffs' complaint, this constitutes Defendants' failure to perform a clear legal duty. (Hernandez, Santillan et al. v. Alford et al., 2016, p. 3).

The Order also recognized current Georgia law (O.C.G.A. §20-3-66(d)), stating “a specific statutory requirement that noncitizen students shall not be classified as in-state for tuition purposes unless the student is legally in this state and there is evidence to warrant consideration of in-state classification as determined by the board of regents” (Hernandez, Santillan et al. v. Alford et al., 2016, p. 6). In her ruling, the judge found that the Board of Regents had essentially created a standard for in-state tuition and then chosen not to abide by it, and she explained, “to create such a standard and then ignore the federal definition of it, which is the only legally proper definition, is wholly unreasonable” (Hernandez, Santillan et al. v. Alford et al., 2016, p. 6). Still, the Board of Regents disagreed with the judge’s decision, saying that, “[we] believe our policy follows the law” and “as the Superior Court’s decision will remain on hold during the appeals process, our current in-state tuition policy will remain in effect” (Redmon, January 3, 2017). The Board of Regents’ obstinacy in the face of clear legal doctrine is, of course, to be expected, but regardless of the length of the process, it should be argued that the proverbial bell has been rung, and the state of Georgia’s position regarding its exclusionary policies has indeed been weakened. As the additional federal cases continue to work their way through the legal process, I expect that the courts, irrespective of the political rhetoric that has lead to new national administrative directions, will make similar findings. As for the DACA students in the states who are seeking postsecondary education, at least one judge has made clear the logical outcome of the data presented herein, in stating that:
Defendants [Board of Regents] have refused to accept the federally established lawful presence of Plaintiffs and many other similarly situated students—students who are Georgia taxpayers, workers, and graduates of Georgia public high schools pursuing an affordable option for higher education. Such refusal of a faithful performance of their duties is unreasonable and creates a defect of legal justice that has already negatively impacted thousands of Georgia students” (Hernandez, Santillan et al. v. Alford et al., 2016, p. 7).

It is important to explore the study participants’ perspectives on the various impacts of Policy 4.1.6, as perceived by the study participants. It might also be safe to assume that their perceptions are shared by many of the more than 28,000 DACA students still here in the state, living, working, paying taxes and making Georgia a better community of people. Those stories are shared in the next section of the data analysis.

The Reality of Perception (Claim #4)

The findings also show that the participants perceive USG Policy 4.1.6 as having had an array of adverse impacts on them, sometimes beginning in their middle and high school experiences, and extending into a lack of opportunity for postsecondary education in the state of Georgia.

A review of the participant interview data revealed a number of perceived impacts of Policy 4.1.6. Every student in the study had/has dreams of getting a college degree, believing that DACA should provide a pathway to postsecondary education and that Policy 4.1.6 greatly inhibits this opportunity. Additionally, the ban on undocumented students from Georgia’s most selective institutions generated discouragement – beginning in high school and even middle school – caused some students to abandon their belief in a meritocratic academic process, while other participants saw Policy 4.1.6 affecting their identity and opportunity, oftentimes causing a reversion to the spaces of undocumentedness discussed earlier in this analysis. Also significant were the
perceptions of the study participants at Perimeter College, where Policy 4.1.6 reinforced feelings of stigmatization from a lack of access to GSU’s main campus. And finally, the ban caused some of the participants to pursue education outside of the state’s university system, creating a loss of current and future intellectual capital and income derived from a more educated state community.

More DREAMS deferred

Each of the study participants should be viewed as student scholars and student leaders. They are fascinating young people, and their ambition, drive and belief in themselves is extraordinary. Many of them discussed the importance of obtaining a college degree, some having made plans for their postsecondary education in the earliest stages of the elementary educational process. Others expressed views that one of the purposes of DACA is to provide an opportunity for undocumented students to pursue postsecondary opportunities. As the data show, this deep desire to attend college is gravely threatened by the existence and enforcement of Policy 4.1.6. Consider first the expectations Sachin placed on herself in being the first person in her family to go to college, and then, how her plans were changed when she was made aware that she would be unable to attend the college of her choice.

Since I was the first one in my family to even graduate high school, they had big expectations for me. They expected me to go to college. And even now, they have big expectations on me. They expect me to be … the highest person I can ever be. My … my highest person for me is to be a neurosurgeon, so they have that expectation on me to become a doctor or to become a nurse. You know, to become somebody … not just another working person in a working area. (Sachin_Quotation #6)

My plan was to go to Georgia State, and to live on campus … of course in Atlanta … and work my way into being a neurosurgeon. And I wanted to do all these things. I wanted to travel, as well, cause I wanted to do research in other countries, and of course, being a DACA student, you can’t go to Georgia State, and sometimes it’s difficult for children –
not children but for DACA students to travel out of the state … I was just, like, I just have to re-route everything. (Sachin_Quotation #4)

Paul(a) also commented on not being able to attend the school of her choice, even after having graduated with a 3.94 and #15 out of more than 500 students in her senior class. She provided the following response after being asked about Policy 4.1.6:

The fact that the school that I really want to go to says that they don’t want me … when they don’t give me a better reason that just because of my immigration status … cause everything else, I’m more than eligible. [IR: That’s Georgia State?] Uh, hm. [pause] And don’t get me wrong, if I would have wanted to go to Georgia Tech, I would’ve wanted it too, but you know, it’s kind of like, where you want to go to school. It’s not just, oh I know I could never, you know, make it through Georgia Tech. No. If I wanted to, I wouldn’t been able to, but that’s just not the school that I saw fit for me, but the one that I do see fit for me just tells me … you can’t be part of this because you know you don’t meet the regulations. But yet I see people just like me, but do have that paper whatever, that are in there striving and, you know, making great accomplishments. So why me that, just because this stupid, simple paper, can’t do what they’re doing? (Paul(a)_Quotation #22)

In the next two exchanges, Larry speaks candidly about his own status as undocumented, as well as his belief in the connection between DACA and education. He then spoke about college as a potential pathway to “something better,” recognizing his own parents’ struggle with undocumentedness and his responsibility for doing something more.

My immigration status. It made me more determined to get an education, because, I’m like … you … I felt like if I wouldn’t gotten and education, then I would – able to get a better immigration status, and I’ve – that’s why it drove me when I was in high school, I was like, I’m like, eventually I wanna get a license, I’m like, keep … putting the work, and I’m like, I’m gonna get … papers somehow, and … and that helped me stay in school, and giving my effort, and get good grades. And I got DACA. [both laughing] (Larry_Quotation # 8)

The conversation continued …
I was like, hm, I should go to college, I should, um, try to … be someone, try to … have an education, have a better life for my family, have … a … nice home, something … something better, than … a … two-bed apartment. I’m like, and, I was like, I just want a better life for my family, that’s the biggest thing. (Larry_Quotation #11)

Finally, Don(na) talked at length about her high school experience in an upper-middle part of Gwinnett County, and the expectations placed on everyone regarding their postsecondary education plans. After having been rejected by UGA in her junior year, she explains her senior year journey, and the unknowingness she experienced during her class’s collective college application and acceptance process …

College was like, really, and especially at my school, like people were, you know, encouraged to go to college. [IR: right] That was the general thing, and I remember in high school, there was this big wall, in like, the whole senior hall, where like, all the seniors had their classes, there’s this wall, and like, as the year progressed, people like, you had to talk to your counselor, and you’re like, once you got accepted to college, they put your name up on the wall, and they put where you were going to college, and I remember – [IR: So there was a senior wall?] Yeah, and so, it was like, the road to college or whatever, and then like, as people got accepted, um, they would put their name up there, and then like, what school they’re going to, and I remember as the year progressed, that wall would just fill up and fill up and fill up, cause more people started getting their, you know, acceptance letters, and I was just like, I would see it, and I would be like … I don’t know, I was just like, I don’t know how I felt about it, like, I wanted to be on that wall, but at the same time, I was like … where am I gonna go … (Don(na)_Quotation #11)

This “road to college” is an integral part of the K-12 educational process, endemic to the ever-changing landscape of neoliberal policies shifting from No Child Left Behind to Common Core to Race to the Top, all in an effort to create college and career ready high school graduates. In the state of Georgia however, Policy 4.1.6 operates as an impasse to the state’s most prestigious and selective public institutions, creating frustration, discouragement and disappointment
amongst its thousands of foreign born, but homegrown undocumented and DACA students. As stated by one such student speaking at a Board of Regents meeting in 2011:

Policy 4.1.6 has caustic rippling effects that cannot be portrayed through numbers and research. You cannot count the broken dreams and hopes of students who have given up, seeing that even if they give their best, they do not have the chance to attend the top universities of Georgia (Shahshahani and Washington, 2013, p. 1).

Sadly, as convincing as the words of this student may be, the minutes from that meeting reflect that the Committee on Organization and Law did the following:

- The committee heard a presentation from students opposed to Board Policy 4.1.6, which prohibits attendance by undocumented students to certain University System institutions.
- The committee took no action. (BOR Minutes, November 2011, p. 8)

For all but one of the study participants, their stories of life in the US began more than two decades ago. But they have existed in a liminal state for much of that time, walking lines of legality that too few of us understand. Much of the data has already shown that deferred action status can further legitimatize the undocumented, but what happens when educational policies are instituted and seemingly directed at one’s very existence, without the opportunity to present a case of merit for acceptance into the higher educational institution of his or her choice? This is the dilemma faced by too many students in the state of Georgia as a result of Policy 4.1.6, including our study participants. Consider Doreen’s consciousness toward this country and the quandary she faces daily, because she happened to have been born elsewhere:

I might not have been born here, but I was definitely raised here, as far as I can remember, like ... I lived in the United States and that’s all I know. It was ... it’s definitely hard, especially because I can’t exactly go to the school I wanna go, and I ended up coming here [referencing Perimeter College] cause it was way cheaper than all the other colleges ... around. (Doreen_Quotation #2)
Paula discussed with me how she felt during her own college application process, around the same time that Policy 4.1.6 was implemented. She notes that on top of the feeling of rejection, she also faced challenges identifying scholarships that did not use U.S. citizenship as a basis for award …

It became more evident in high school when it was time to apply to colleges and when the 4.1.6 thing came out … it was kinda like, wow, just crushed me, like, okay. I think I was still a – in eleventh grade … so barely applying for scholarships, and um … all these list of really nice scholarships, but all of them had that little tiny … um, you know … and it was like, okay, whatever … on to the next one, on to the next one (Paul(a)_Quotation #4)

During my conversation with Laura, I noticed a profound sense of loss, as she discussed her network of friends and associates during the college selection process. She had worked hard to bring up her GPA during her last three years of high school, but still found herself on the outside of the college-bound circle. Her story is also a reminder of how the dynamics of race and class factor into the experiences of undocumented young people, which are two very palpable social constructs over which deferred action exercises no measure of control.

I would talk to almost everybody, so when I see the popular white kids, my friends, the girls, they’re going to the really big schools, like UGA, and like South Carolina, Alabama. So, when I would tell them about what I was planning to do, they were kind of like, it’s kind of sad, you know. They get to go to these really big schools, because of their parents, because they have money, and because they were born here, and everything, and their grades, you know, they’re able to get to those schools. I was kinda … I guess a little embarrassed, I would say embarrassed was the right word for that, cause they’re like, oh, you’re just gonna stay here. You’re not even even gonna live in the school. They would tell me, Laura, you need to fly, you know, and I’m like, no, I wish I could, but it’s not because I don’t want to. (Laura_Quotation #11)

Reflecting on the forthcoming anecdote provided by Larry, I am reminded of the way many of us choose to endure pain and embarrassment by simply laughing through. Such is his
case, as I found his demeanor more pragmatic than anything else. Regardless his own struggle, he often took the proverbial, “it is what it is” attitude, even when approaching delicate material that could, for many, create a profound sense of embarrassment, frustration and shame. This is perhaps my favorite story gathered during the entire interview process, a small part of which is shared in the following exchange. It is the truest sense of how Policy 4.1.6 can become an active agent in the lives of undocumented students and the emotional incapacitation it brings with it. Those instances make us understand that in some situations, we are faced with such a deep level of powerlessness that we can only smile and genuflect on the lessons learned from the humility endured.

What way does this (Policy 4.1.6) affect me? It affects me in the way that ... I can’t apply to these colleges ... that are literally only ten minutes away, like Georgia State, Tech, where I can just hop in my car and just get there fine. Or ... it’s ... more, it affects me more, it’s like ... we’re ... like your friends growing up, like the people, like the friends that are citizens or residents, they’re able to go to these schools, and I’ve seen where I once took a girl on a tour to Georgia State for her freshman year, where I ... and I helped her out, picked classes and everything, and I’m like, wow ... I can’t, I can’t even ... apply here. [IE laughing] (Larry_Qotation #21)

Beyond the comedy, however, are often the deep and overwhelming impacts of a policy perceived to be so sinister that you could only understand the pain it exudes if it was you who had to experience it. That is the opinion of Sachin, who provides all of us – as researchers, scholars, administrators and policymakers – with the truest understanding of the battle being waged as a result of the brutal attacks of Policy 4.1.6.

If you were in my shoes, you could be able to understand the frustration that sometimes people feel. I know, myself, I get frustrated a lot, because I feel like I am not able to do anything. And I feel like there’s these hoops that I have to jump through every single time whenever I wanna get something done. So, I feel like, telling you, if you really saw what we experienced, you would feel the same way. I feel you would feel our frustration. And if the Board members were to really see what – see and go through what we went
through, I feel like they would feel upset, because if you work so hard, and then you
don’t get rewarded at the end ... I feel like they would be upset too, cause you feel like,
you work so hard, and then you get nothing. And your parents teach you, like, if you
wanna get something done, you need to work for it. If you wanna ... reach higher educa-
tion, you have to go and fight for it, and that’s kind of what we’re doing right now. We’re
fighting for education. (Sachin_Quotation #15)

The GPC/GSU Conundrum

Georgia State University (GSU), until November 2016, was listed as one of the five
schools from which undocumented students were banned by Policy 4.1.6. Its consolidation with
Georgia Perimeter College (GPC) in March 2015, however, presented an interesting quandary, as
GPC has the highest enrollment of DACA students. A question arose as to whether those undoc-
umented and DACA students at GPC would be allowed to continue their education after receiv-
ing their associate’s degree. The Board of Regents simply answered, “we anticipate the policies
for the respective campuses will not change” (consolidation.gsu.edu). GSU, through its Admis-
sions website portal, was the primary source (and one of only a handful of sources) for infor-
mation specific to DACA students, providing the following statement taken directly from the
website:
More than half of the participants in this study were enrolled at Perimeter College at the time of their interviews. Also important is the fact that the interviews with these participants took place just weeks before the Board of Regents announced that GSU (along with Augusta State University) no longer met the requirements of Policy 4.1.6 and was thus being removed as one of the institutions that DACA students were prohibited from attending. It is reasonable to suggest that because of this decision, the Board of Regents might argue that the timeframe from the GPC/GSU consolidation to the GSU removal from Policy 4.1.6 was of such inconsequence that few, if any, students were affected by the policy statement seen in the image above. It is also reasonable to suggest that any data derived from the perceived impacts and outcomes of the consolidation with respect to DACA students’ inability to transition to GSU-Atlanta campus
from Perimeter College would also be of little consequence. Instead, I am deeply troubled by the sheer audacity in telling any student that they can begin their college education on the campus of a university, but they cannot finish their college education at that same university. How might I have reacted in a similar situation, faced with having to endure such a discriminatory policy because of my sincere desire to obtain a college education? This dilemma is brought to bear in the following image taken on November 7, 2016, after the GPC/GSU had been completed. It was the first day of my participant interview process, and as I approached the Perimeter College campus, I was dumbstruck at the irony of the marquee sign before me. GPC had indeed become a part of GSU, but for a select group of students, there were still “signs in the shadows” reminding them of the limitations that would saturate their Perimeter College experience, as evidenced by the image below:

Figure 6:

Image taken by Ryan Z. Maltese, 11/7/2016
The study participants had a variety of thoughts regarding GPC’s absorption by GSU and the issues presented by their lack of access to GSU-main campus. What I found interesting was some of the participants’ concerns that because of the consolidation, they would no longer be able to attend Perimeter and could possibly lose credits. The following passage shows Laura’s delayed reaction upon hearing about the merger …

So I know when I was looking at – after I enrolled at Perimeter, I heard about Georgia State merging with us, but I didn’t really pay much attention to it. And then when I started thinking about what school did I want to go after I get my associates, I kinda started looking and then I was reminded that I’m not able to go to the top five colleges. It was kind of ironic cause Georgia State was in there. So when we merged, I’m like, so they’re gonna kick me out? Or can I even continue getting my associates here? I don’t know. That’s a problem that arised to my mind. I’m like, so I can’t continue college here, so I’m gonna have to go to another one. Cause you know, Georgia State doesn’t consider us legal, so we’re not able to go there, not even attend there. Like, money’s not an issue. It’s a matter of not being able to go at all. (Laura_Quotation #21)

A short time later, Laura explained how the Board of Regents’ decision to keep Policy 4.1.6 in effect with GSU seemed to her and the effect it had on her …

So it’s basically saying, you can go to a two-year one, but you can’t – you can go to the two-year college, but you can’t go to a four-year college. And it’s kinda like a barrier there, cause you can get some college, but we’re not gonna let you get your full-on college here, and so it’s like – so the whole thing of DACA is for us to even go to school. So, it affects me cause I can’t – I don’t have – I’m not able to go to those colleges even if I qualified for them. (Laura_Quotation #25)

I found Doreen’s remarks to be much more ambivalent, accepting the policies for what they were, and simply ensuring that her higher educational process would continue undisturbed. In the following exchange, Doreen discusses her inquiries into what exactly her “status” would be as a Perimeter College student at Georgia State University.

IR: Okay. So when Georgia Perimeter consolidated with Georgia State, did you inquire, um, about how that affected you as a Georgia Perimeter student and a DACA student?
IE: I definitely asked the international administration if that would affect me, or anybody that I knew that only had DACA, and ... [IR: What was the response?] They basically said no, but you won’t be able to go to Georgia State. So it wouldn’t affect us cause we were already enrolled and they wouldn’t just like kick us out, which that was what we were thinking of and got scared for, um ...

IR: So you were concerned that you might get kicked out of Perimeter?

IE: Yeah, and then like, all of the classes that I took wouldn’t even count. Yeah, I was kinda scared that they would like, just kick us out, because we were now at Georgia State and Georgia State is one of the schools that won’t let a DACA student go into Georgia State, so, yeah, I was kinda scared. (Doreen_Quotation #18)

For the students whose primary goal was to attend GSU-main campus after completing their Associate’s, they provided a wealth of valuable data as to their perceptions of the impacts of having that goal halted by Policy 4.1.6. Sachin, who was unaware of her undocumented status until she began the college application process, offered what I considered to be a brilliant compromise after reading the GSU statement on DACA students.

It impacts me by not allowing me to go to the university that I’ve wanted to go. As well, if DACA gives students that two years to be here, even though they don’t consider us lawful presence, but others do, I believe that the university should let them ... be there. And, if for some weird awkward reason that they can’t renew their DACA status, that would be on them, because they didn’t go and renew it. It wouldn’t necessarily be on the university. Plus, the university, I believe, would be making a whole lot more money, because there are student out there who have and who are willing to pay the out of state, like me, students like me, who I’m willing to pay out of state. I’m willing to get my education and go to class everyday, and I’m pretty much, like, I’m forcing them to take my money, and they still don’t wanna take it. [IR giggling] It’s like, learn when you’re winning, kind of situation. (Sachin_Quotation #12)

Paul(a) similarly found herself in a good space, moving beyond disappointment and toward optimism (that eventually became clairvoyance). Below is our exchange, first concerning
her transfer to Perimeter and belief that she would ultimately end up at Georgia State, and then a
latter part of the conversation, where we discussed GSU’s persistence in keeping her from at-
tending main campus:

What’s funny is that every time people ask me at Rein-, at um, Perimeter, once I trans-
ferred there, they’re like, so where were you planning on transferring? I would always
say Georgia State? No matter what, I always – I knew ... like I’m gonna get it. They’re
like, that’s great, me too, I’m like, good ... we might be going to school together. [IR: Right] But I never put in my head, like you can’t do it, like ... it’s kinda like, always
whenever they tell you, you can’t do something, I’m like, oh, we’ll see about that, like, I
will be able to. (Paul(a)_Quotation #12)

Later in the conversation …

Graduating high school they said, oh, you would never, you would never be able to attend
Georgia State. But you know, so why am I graduating with a diploma that says ... hypo-
thetically, when I graduate, what’s the irony in that, that I’m ending up with a Georgia
State Associate’s. Although it’s nothing, but it’s one step closer to where I wanna get to,
and ... although we’re waiting for a reform or something – immigration reform ... I just
feel like once someone puts a barrier, I just ... people say, you know, you crossed the
border. I didn’t really cross it. I was brought here with a van, but ... I just feel there are
ways around it. I just can’t allow people to keep telling me, you can’t do this –[IR: So
one way or another?] Yeah. [chuckles] It’s kinda more now to kinda prove everyone
wrong now honestly, just ... Georgia State itself, it’s kinda like, hm, here I am. Hopefully
when I get there, I will be like, yeah, let me bring more of my people ... [both laugh]
(Paul(a)_Quotation #23)

Juxtaposing Paul(a)’s words on this topic with my conversation with Kessel became one
of ironic disposition. Consider the following exchange discussing her interest in getting a bache-
lor’s degree from GSU:

IE: Georgia State has been – has always been one of the top schools that I have had in my
mind always as the one that I want to attend to finish my college career ... simply because
it’s close to home, it’s a great school ... and now ... even more so, because ... they’re start-
ing an OT program. They’re in the works of that, so ... I think it would be just perfect for
me to be able to ... transfer there, finish my undergrad, and then continue to my master’s
... as an occupational therapist.
IR: So what do you think about not being able to transition from Perimeter to Georgia State because of Policy 4.1.6?

IE: It’s heartbreaking, honestly ... because ... it just ... again, it just ... closes the doors and makes it even more difficult ... to be able to, or to have to ... rearrange the whole plan again, and have to find other alternatives. And unfortunately ... Georgia doesn’t have ... a lot of OT programs, and a couple of the schools that have OT programs are private colleges, which are a lot more expensive than public. Even though they don’t have in state, out of state, they’re more expensive because they’re private. [IR (softly): okay] (Kessel_Quotation #18)

It is also important to consider the earlier remarks of Kessel, the aspiring occupational therapist, when she described her job at “what I think is the best public hospital that we have in the whole state” (Kessel Transcript, Quotation #11, p. 12)). Lost on me until this part of the conversation was the fact that her hospital was actually situated next door to GSU-main campus. How ironic that so many of us in the academy, while working on our various degrees, have had the privilege of leaving and rushing over to class, oftentimes on the same campus, without a second thought as to the convenience. For Kessel, I immediately imagined her walking past the GSU downtown campus everyday, knowing that no matter what she did, she could never have that experience and how devastating such a reality might be. This was a watershed moment for me, lighting a fire within me, as I rediscovered the humanity deeply embedded within the scholarship presented in this study.

It is difficult to quantify the total number of DACA students from the state of Georgia that have either moved on to private colleges (both in-state and out-of-state), attended other Georgia schools not affected by Policy 4.1.6, or simply dropped out of high school because of an overall lack of opportunity to pursue postsecondary education in this state. And though the Board of Regents has since removed GSU from the strictures of the policy, that does little to assuage
the sentiments conveyed in the comments herein. As scholars, researchers, faculty and administrators, we must account for misapplications of policy that arbitrarily discriminates against voices of “othered” communities – in this case, DACA students.

Seeking Opportunity Elsewhere

Whether and how we come to fully realize the struggle for access as one reminiscent of days not far gone is the challenge that lies ahead of us. More importantly, we must also ask ourselves, as researchers, what is our responsibility toward engaging in a moral discourse that threatens levels of contention with which we may not be comfortable?

In his departing words to the Board of Regents, Chancellor Hank Huckaby summed up his duties as the head of the university system by offering the following quote:

I know of no safe depository of the ultimate powers of society but the people themselves, and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion by education (RZM fieldnotes, 11/9/2016).

Beyond the irony, such words seem hypocritical when acknowledging the unyielding enforcement of Policy 4.1.6 during his entire tenure. So how do undocumented students (including those with deferred action status) “inform their discretion” at the university level when denied the opportunity to do so in their “home” state? Many of them decide to seek such an opportunity elsewhere. Note Larry’s process of trying to determine his own postsecondary educational journey in consideration of Policy 4.1.6.

It affected me … in the way that I can’t apply to certain schools, where I feel like, I can … be home and go to school here and work … and do everything. I feel like I can’t … I have to look for other schools out of state, that I have to go start a whole new life somewhere different … (Larry Quotation #23)
Later in the conversation I asked whether there were other ways in which this policy impacted him …

I wanna say ... it impacted me more in that ... more in today about thinking of maybe I shouldn’t stay here in Georgia. Maybe I should go out somewhere else, because these policies make me feel like ... why should I stay here, because, if they don’t want me to be in their own colleges. They don’t want me to get an education. And I used to not think about it that way, but it’s ... time just keeps going, and I’ll be like, I should find somewhere where I do feel like I’m wanted, where I do feel, where, at least, the people around me will want me to have a better education, at least. [IR: Why do you think this policy exists?] It’s ... I feel like people are just scared ... of change. And this state has this history of ... being afraid of change. Having different ... different minorities coming ... to get an education ... to maybe your kids, or who knows, whatever, a future, I don’t – it’s just, I feel people are just scared. And ... and people always run away from fear instead ... while facing it. (Larry_Quotation # 24.1)

Similarly, Sachin (currently a Perimeter College student whose dream school was GSU) seems to have abandoned all intent of attending a state college or university in Georgia beyond her associate’s degree program due to Policy 4.1.6. Her reasoning provides the subject matter of our next phase of analysis.

It has affected me, and as well, kind of, um ... changed the way that I want to go to college. I don’t know. I no longer want to attend college at Georgia State in Atlanta. Apart from the fact that – it’s not even the fact that I can’t go there – but it’s the fact that they ... kind of discriminate against us. [IR: Who is the us?] DACA students. So, I’m going to finish my two years here, and then I’m going to move on to Emory or to Oglethorpe. (Sachin_Quotation #13)

After four years out of school, Don(na) has moved far beyond her high school fantasies of early decision admission at UGA and has begun her undergraduate experience at Emory University, one of the most prestigious private universities in the South. Although she expressed a sincere satisfaction in her new school during our conversation, we also happened upon a bit of
irony, discovering how Policy 4.1.6 could still potentially impact her postsecondary educational opportunities, evidenced in the following:

Well ... it affects me from ... well, to me, like ... currently it doesn’t, because I’m glad to go to a school that isn’t part of the possibly, um, so currently, it doesn’t affect me, but it affects me in the way that like ... I can’t go, like ... I ... like here at Emory, let’s say like I wanted to ... do this program with ... there’s actually this one program, I think that it’s in engineering program, that they do with Georgia Tech, and it’s like, for me, what if I wanted to do that program, but like ... I can’t go to Georgia Tech, so ... would I – [IR: So it sounds like it does kind of affect you.] Yeah, so like, well, you know, if I wanted to enroll in this program, I would have to like, go to admissions, and be like, okay, so this is my situation, can I enroll in this program even if I’m not technically legally allowed to go to Georgia Tech, and so ... I think there’s like, because of it, although I’m like, in the school that like, isn’t part of the ban, there is like implications of the ban still at my school. [IE chuckles] (Don(na)_Quotation #24)

In the final analysis, there seems to be no overtly technical or sophisticated complication that forces the Board of Regents to continue to enforce Policy 4.1.6. When hearing an explanation of my research, people often seem to be more perplexed than appalled, as if there is some missing piece of information critical to the function and purpose of this particular policy. The Board of Regents would argue that it is operating in the best interests of the “citizens” of the state of Georgia, preserving seats in classrooms for only those most deserving of an opportunity to attend the state’s most prestigious institutions. And as a result, the state loses the potential contributions of such DACA students as Valentina Gonzalez, Salvador Alvarado, and Melissa Padilla, all high achieving high school students from Georgia high schools and now attending Dartmouth College (Redmon, November 25, 2016). Moreover, the Board of Regents fails to recognize what Laura already fully understands:

I feel like the people that are in charge of here, they’re not really ... I guess they see it as children that come from immigrant families ... I feel like they see that like, oh, they’re trying to take my son’s spot, or my daughter’s spot in the best school. But I feel like we’re not trying to do anything bad. We just want to be able to receive an education
where we can work for someone, you know, or make our own business and make the economy here in America grow. I feel like it’s affecting them, more than anything, because we would be able to have America grow, and I can’t say that people can’t say the same because they’ve seen how immigration has really spurred up the growth here – the economic growth. (Laura_Quotation #27)

Should we not consider a much more simple, direct, logical and far less burdensome concept: “permitting undocumented students to attend college generates revenue for the state, allows them to develop the skills that they acquired in Georgia's public schools and contribute to the university setting” (Shahshahani and Washington, 2013, p. 11). If the legal discourse continues to reflect the most recent findings of Georgia courts, then DACA students will undoubtedly be given the access and opportunity to attend all state colleges and universities. Thus, the Board of Regents will soon be forced to reconcile thousands of testimonials mirroring this one provided by Paul(a), who is willing to cross as many borders as is necessary in order to realize her dreams, regardless of Policy 4.1.6:

I hate it. And I think that the people who ... put it into effect ... don’t understand what it feels like to be banned. [IR: And what does it feel like?] Let’s see ... um ... feels like, great, again I have to overcome another barrier. And it’s tiring ... and exhausting. [pause] But I guess what they fail to realize is that if I’ve already crossed one border, there’s no way I’m gonna stop crossing all the rest. [IR: You gonna give up?] No. I guess I’ll cross as many as I need to. (Paul(a)_Quotation #26)

How many more borders will the participants have to cross in order to gain equitable access to postsecondary education in the state of Georgia? An equally important question is why do such barriers exist? A theoretical analysis as to the reason of Policy 4.1.6 is presented in the upcoming section.
“Race” Ipsa Loquitor (Claim #5)

The participants believe that there is no other reason for applying Policy 4.1.6 to DACA students but race.

The likely rationale for implementing and enforcing Policy 4.1.6 is the subject of this section of analysis. Irrespective of the theoretical propositions that have been offered as justification for the policy’s existence, the study participants offer their own analysis as to why Georgia is and remains the only state in the country that restricts access to public colleges and universities for deferred action recipients. Much of their analysis focused on the issue of race as the social construct by which this policy is best understood.

As seen in the previous sections, the social inequalities specific to access to postsecondary education have had specific and measurable impacts on DACA students, the vast majority of whom are Latino. In conversations related to race dynamics, many of the study participants likened their plight to that of African-Americans a half-century ago. It is therefore possible to frame the enforcement of policies like 4.1.6 into a 21st century discourse of civil rights. The following statements from the study participants provide further clarity as to how they associate race with Policy 4.1.6, as well as their connectivity to the African-American struggle for human rights, explained here by Laura:

I definitely would like to go to Georgia Tech. So to know that I can’t go there ... it’s kind of upsetting. But some way or another, I hope that that changes, cause it’s about school, you know, it’s like, you can’t to those ... just cause ... basically what they’re saying. [IR: just cause] We’re legal here and we can go to school. You just can’t go to those. It’s like, why not? It kinda makes me seem like ... back when Blacks weren’t able to go to school. They could only go to the Black colleges. And I remember there was a bunch of court cases where a student was really great ... a black male was really good in school, and when he wanted to go to one of the big schools that white people went to, the rich ones, he couldn’t go. Why? Cause he’s Black. I feel like that’s what it is for us.

(Laura_Quotation #30)
Kessel also links the policy to racially discriminatory practice, recognizing the language of “lawful presence” as having an intended group for its application. She then discussed the broader social context of the country as she saw it; perhaps still processing the results of the presidential election that had take place the day before our interview. Whatever the external influences, Kessel had little doubt as to why Policy 4.1.6 is being enforced. She offered her thoughts on the policy in the following exchanges:

I think it’s very unfair. [IR: Why?] Because ... [pause] I don’t understand the reason why ... they wouldn’t allow us ... to attend these colleges and universities if we are ... have the qualifications or more than the qualifications required to be able to attend those ... those colleges. Honestly, it’s ... it’s discriminatory ... to ... minorities – [IR: Why do you say it’s discriminatory to minorities?] Because it specifically says that ... it’s only directed to people who are non ... lawfully present in this country ... which are most ... Latino, Hispanic population ... which are minority ... (Kessel_Quotation #16)

 Asked why she thought the policy existed, she responded:

IE: Because ... there’s ... there’s still a lot of racism in this country ... and in this state. There’s ... there’s a lot of discrimination, and we have just been granted finest example of it with these last presidential elections. [long pause] And I think that’s ... it’s not right, and something needs to be done about it ... because we’re here, and ... we’re wanting ... to create a future in this country ... make this country our home ... and give to this country ... and they’re simply not allowing us to do so ... [IE crying] with laws like this.

IR: Do you think the ethnicity or cultural background of many of the undocumented students who are here in Georgia has anything to do with the enforcement of Policy 4.1.6?

IE: Oh, most certainly. Yes. [IR: In what ways?] IE: Most undocumented students are ... of Hispanic/Latino descent. Most Hisp- most undocumented students in the state are Mexican, and ... it just brings back to my point that ... there’s a lot of discrimination and racism in this country, within the government of this state. (Kessel_Quotation #19)
Sachin provided a somewhat different analysis than the other participants, giving all benefit of the doubt to the Board of Regents and seeking any explanation other than racism to explain the continued existed of Policy 4.1.6. She also shed light on some of the deeper implications of the in-state residency requirements, questioning the rationale behind prohibiting undocumented students who have spent their entire education in Georgia public schools systems from receiving in-state tuition, but allowing an individual in-state status for spending only their senior year in a Georgia high school. Her statement is noted here:

I believe it exists because they don’t want DACA students to attend their university. I feel like they would kind of put a bad reputation on them. Or I don’t want – I don’t know how another way to think about it. I mean, I don’t want to believe that the people on the Board are racist against Hispanic people, but at the same time, they kinda don’t seem to take an interest or want to change the policy. [pause] because there’s ... there’s kind of nothing stopping them from changing it ... apart from the fact that we’re willing to learn, we’re willing to pay for it. I mean, what else kinda do they want from us. And I believe that if they did ask something more from us, apart from being like, oh if you did elementary, middle and high school, yeah, you can go ahead and be here, and we’ll let you pay in state. Apart from somebody who got here, only finished their senior year in high school, and went on to college, I can understand if they pay out of state, because they didn’t go through what we did. They didn’t work through the levels like we did. They just came ... tried to get their education, and you, know, like they didn’t care. Apart from us, who did make their way up. (Sachin_Quotation #14)

A History of Georgia’s race-based policies and tactics

The state of Georgia has historically been on the wrong side of the moral compass that provides the direction of the policy discourse that ultimately decides how social rights are conveyed. Such is the opinion of our study participants, who convey their thoughts on Georgia’s policy practices, specifically as they relate to Policy 4.1.6. Note the following conversation with Doreen, where she makes specific reference to DACA students and the reasoning behind why they have yet to be given access to certain public institutions:
Honestly, I feel like that’s racist. [IR: Why do you say racist?] IE: Because they’re keeping other people who can obviously go to these schools, and I guess they’re kinda scared that ... kids like me can go to these schools and I guess, take admission from other citizens in Georgia, I guess. Does that make sense? [IR: Uh hm. What do you mean when you say kids like you?] Who have DACA, and who could, obviously potentially go higher than just an associate’s degree. [IR: And how does race play a role in that?] Because Georgia’s know as a ... predominantly racist state, um ... and ... I guess most Georgians believe that undocumented people are taking their jobs, but let’s say, for a plumber, for instance, there isn’t a lot of Americans wanting to be a plumber, but then, they’re saying that undocumented people are taking their jobs when they don’t wanna do those jobs themselves. (Doreen_Quotation #20)

In her understanding of the policy, Don(na) spends a moment trying to reconcile why the Board of Regents would continue its enforcement in the light of declining college enrollment in the state and whether the Board was truly concerned about its mission. She ultimately comes to but one explanation: racism. In this moment, I was reminded of a concept from law school that is common practice in tort litigation. It is the theory of “res ipsa loquitur,” which in a basic understanding means, “the thing speaks for itself.” So too, does Don(na)’s analysis below:

I try to wrap my head around like why they would pass the policies, and it’s like, it just doesn’t make sense, like I don’t really know why ... it could also just be like hate, just like ... like just ... like fear of other people, like, just ... racism? [IE chuckles] I wanna say racism too, because it’s like, it doesn’t logically make sense, the policy, um – [IR: Why do you say that?] Because it’s like, currently Georgia’s experiencing a situation where they’re like ... like dropping enrollment rates in higher education, and like, what you just said, if they wanted to make more money and have more students enrolled in schools, I think you would make, take away basically anything keeping students from those ... those ... from that, if you really cared about like, enrollment rates, or like, educational, you know, like if you really cared about ... how much ... like how accessible school is to students, then you would make it easier for students to go to school, not harder, and so, like what’s the basis of it, if it’s just not like ... hate. [IE chuckles] (Don(na)_Quotation # 27)
Larry provided a brief analysis of the ways in which the state of Georgia has crafted policies to situate undocumented students into under-classed existence. When given an opportunity to review the tuition classification requirements, my interview with Larry went in the following direction:

I feel that ... they’re ... they’re giving us license, they’re like ... they’re saying ... I feel like ... like be grateful for what you get, and, but, we still don’t want you. [IE chuckles] And what you get says one way, gimme a little bit, but, but ... you ain’t getting all of it. It’s like, it feels like ... they want a workforce ... that – [IR: What do you mean by that?] Like, a minority workforce that they can only, they can only get low wage jobs, but not ... a job that ... a career. [And how does them wanting a workforce ... relate to this particular policy?] This particular policy, it relates to, because ... through history, Georgia has always found ways to have ... show ... to keep people under a certain policy, certain minorities, and it has, if you think about it, it’s only been the less than, not more than a hundred years, and I’m like, you can say, it’s like, your grandparents’ grandparents went through it, and it’s hard for people to change their mind. And through such a short period of time, I mean, it’s not gonna happen fast, but now, I feel like, like tactics have switched, where they have pressed minorities, and I feel this is a new tactic they’re using, but ... that’s why people are trying to find different ways to [illegible], and there will always be that struggle. (Larry_Quotation #18)

The unfair struggle of having to overcome race

Regardless of the benefits of DACA, the deferred action program only offers temporary lawful presence, allowing opportunities for certain states less open to human migration to craft policy limiting the rights of those seemingly protected by federal guidelines. Part of Georgia’s interpretation includes the enforcement of Policy 4.1.6 against DACA students, despite the mountain of evidence to the contrary and for reasons that can only be explained in the historical context of its proclivity toward the denial of civil rights. For the participants in the study, race seems to be, at the very least, a motivator for the state of Georgia to prohibit their access to its most selective public institutions. Despite the state’s efforts, Paul(a) and Larry remind us of the
enduring spirit associated with the struggle for basic needs and their own refusal to allow anything to stand in their way.

It’s upsetting. [pause] And ... to me, it’s always seem like ... something that they just wanna ... they know we are potential, but they don’t want you to ... they kinda wanna leave you at the position where they always have Hispanics, like, oh you’re only good to work at the, you know, it’s kinda like – sorry this term may not sound the best, but like, a peasant, like, really, I’m not just here to be a peasant or anything like that. Not that people are, but, you know. [pause] Education should not be denied to anyone, regardless of their race – I’ve heard that before – race, ethnicity, or ... whatever ... [IE chuckles]

(Paul(a)_Quotation #21)

You have a group of people that are – that come with two languages to defend theirself. They’re a group of people that their whole life they have struggled, and to have an opportunity to go to college, it’s ... something that they’re not gonna give up that easy, that they will always be fighting. They, I feel like it’s ... a way that, you know, being undocumented or at least having DACA, that you know, it’s the type of person that has struggled most of their life, so, I’m like, going to college, like, you’re like, this ain’t no big deal ... this is just another obstacle I’ve just gotta go through, and you know they will strive, thing is, like hanging with the friends I hang out, I’m like, they ... they have some type ... of hunger that they want more. It’s something that you just want more. You just want to be educated. You just want ... that strive. (Larry_Quotation #24)

I returned to my interview with Kessel more than any other, perhaps due to the sheer sincerity with which she contemplated and then spoke on a wide variety of topics. In this comment regarding her overall perceptions of Policy 4.1.6, I found one of the more emotional responses, one of such visceral resolve that I found myself listening to it over and over. In document form, it seems bifurcated and disjointed and perused over quickly, given the shortness of the text. But in the real time interview process, the statement lasted nearly two minutes. It should be considered with deference given to its situated spaces, as it was the silence between the words that created a palpable understanding of just what it means to be told that you, as a person … as an undocumented person … as a DACA person … as a brown person … are less than others …
IR: Is there anything else you wanna tell me that will help me to better understand your perceptions of Policy 4.1.6?

IE: [long pause] I don’t think so. I think ... like I’ve said already ... my perception of that policy is ... that ... people are just ... for some reason ... have a notion that ... someone who is not ... originally from where they are ... or is not the same color as they are ... doesn’t ... deserve ... the same rights that they do. And I think that’s terrifying ... [long pause] especially in this day and age. [total passage spanned from 1.17.52 to 1.19.39 of interview] (Kessel_Quotation #20)

Critical race scholarship seeks out the subversive voices that are co-constructed by policy frameworks which severely restrict opportunity, and which offer few spaces for contentious discourse. This dissertation interrogates these very constructs and offers analysis as to the property rights associated with segregationist policies that privilege certain individuals over others. If we fail to offer alternative voices, then we lose a chance to support students like Paul(a) through our opposition to these policies, stifling her potential contributions to the higher education community, which should be celebrated as the future foundation of our intellectual capacity.

People have seen the potential of individuals like me, and, if you ask me ... reasons is gonna sound biased or anything, but they’re afraid of what individuals like that can do, or – [IR: Individuals like what?] That they can contribute. Immigrants. All the great ideas that they have to contribute, like ... I’m no different than anyone else here, so why can’t we all contribute the ideas and make them come together? (Paul(a)_Quotation #25)

Still, there are voices within the policy discourse that refuse to be stifled, and instead, shed light on these systemic processes of oppression. They are the eventuality of humanity’s belief in social justice and its need to determine its own destiny irrespective of the policy frameworks that determine the property rights of others and place a grossly disproportionate amount of power in the hand of too few to dictate the lives of too many. Once such voice is that of Freedom University, which is discussed in the final section of this analysis.
The Dichotomy of Legality

The findings also show that a direct effect of Policy 4.1.6 is the creation of subversive voices in the policy discourse.

Since Policy 4.1.6 was implemented in 2010, at least one higher education institution has been dedicated to its repeal, demanding instead an acknowledgement by the Board of Regents of the thousands of voices in Georgia’s K-12 and university system that suffer the impacts of these policies, yet still find ways to achieve high measures of academic success. When I first began my examination of Policy 4.1.6, I had never heard of Freedom University (FU). In fact, in my first iteration of analysis, I made no mention of the organization or its years-long struggle against the policy since its inception. Only later did I come to understand the subversive voices embedded within the FU community that have sustained the counter-narrative to the dominant policy discourse. As I explored the literature concerning “undocumentedness” and access to postsecondary education in the state of Georgia, the presence of FU loomed ominously in much of my findings, creating a counter-cultural space and separate fund of knowledge that helped guide much of my interrogation, as well as my participant observation.

It was important to me to give proper recognition to the students and staff of Freedom U without necessarily turning the research study into an in-depth analysis of this organization, which has already been the subject of much interrogation at the state, local and international level. Still, my challenge has been situating the organization and its efforts within the broader context of this critical policy analysis, which according to the research, applies to more than 28,000 students specifically, amongst the approximately 480,000 undocumented persons in the state, many others of whom will soon be eligible under the current DACA guidelines.
As discussed in Chapter 3, FU served as the primary site for my participant observation, providing a level of clarity regarding the significance of my research to those who were most affected by the policy I was researching. This is something that I had not expected. As I’ve continued to interrogate this policy for a broader research study on access to postsecondary education for DACA students in Georgia, two points of inquiry have emerged from data that bear consideration here. First, what role does FU play in the USG 4.1.6 policy discourse? Second, how can FU be situated into my research as a part of the overall interrogation? I grounded this exploration in the field of cultural studies, using visual analysis as the primary research method, to produce an informed and reflexive interpretation of FU as a significant part of the Policy 4.1.6 discourse. Moreover, by using visual research as the primary method of data analysis, I was also able to better illustrate the comments made by the study participants, some of whom having connections to FU as current or former students. For example, many of the images contained herein are photographs of specific moments of civil disobedience committed by FU students and directed toward the Board of Regents, reflecting the visual of the policy discourse that is the subject of this critical analysis.

The history of Freedom U is grounded in the etymology of the word itself. In response to the enactment of the policies 4.1.6 and 4.3.4, restricting access to certain USG institutions and requiring those without the ability to verify their lawful presence to pay out-of-state rates at all other state colleges and universities, four UGA professors founded Freedom University, offering non-credit courses to undocumented students interested in being in and amongst college-minded contemporaries. In essence, Freedom University is a direct outcome of the creation and
enforcement of Policy 4.1.6. This is a significant point that I failed to fully understand when I first approached the organization. Only through continued observation and analysis did it become apparent that FU can be contextualized as an example of the causational effects of educational policies created for the sole purpose of restricting the freedom of opportunity for certain persons within the educational system. We have already recognized that public institutions of higher education in the South have historically been impacted by such policies through restricted access for people of color and women. In the present policy cycle, with the discourse being one of “lawful presence” and, in a broader sense, citizenship, much of the data show that the racial underpinnings endemic to the policy conversation are undeniably tied to Latino presence in public colleges and universities, resulting yet again in segregationist practices based primarily on race and ethnicity. The mission statement of FU began as:
We believe that all Georgians have an equal right to a quality education. Separate and unequal access to higher education contravenes this country’s most cherished principles of equality and justice for all (Munoz et al., 2014, p. 3).

This statement is in direct derivation of Policy 4.1.6, quantifying the need for equitable opportunity to quality education in terms of “all Georgians,” comprised also of the undocumented student population. The policy itself has remained unchanged throughout the life of its enforcement, however, the mission of Freedom University has evolved, perhaps in an effort to broaden its purpose and provide a larger scope to the issues and needs surrounding undocumentedness. It has been simplified but is no less significant, especially for those who continue to interrogate avenues of social justice and equality, as it now states:

To empower undocumented youth and fulfill their human right to education.

Herein lies both the beauty and the challenge of my study … providing an analysis of the role that the organization has played in my research experience, while maintaining the significance of the data to the policy analysis and not the organization acting as primary protagonist within the policy discourse.

Using Visual Research Methods

In order to situate FU properly, it is useful to provide a visual context for the organization and its students, at least as I have personally witnessed during my critical analysis of the policy. It also further enhances many of the statements provided by the research study participants regarding their thoughts on the implications of race and ethnicity that are association with the enforcement of Policy 4.1.6. Such imagery has also assisted in further developing my epistemology beyond the standard research approaches I used in other phases of the research study.
Embedding myself within the learning processes and political actions of FU students, and chronicling them in the visual method, allowed me an opportunity for greater reflexivity in my approach to the data collected, providing rich data to explore the perceived impacts of the policy on a small, but very relevant group of students. The images contained herein serve as the data set used to inform my understanding of the role of FU in my critical analysis of Policy 4.1.6. The data creates new opportunities to brighten the data already ascribed and being analyzed in addressing this study’s primary research question: *What are the perceived impacts of USG Policy 4.1.6 of DACAmented students?*

The researcher, as part of my participatory observation process, took the vast majority of the images and videos used in this study. The images are not professional, nor have they been modified from their original frames. Many of the images were, however, were taken in particular circumstances that I, as the researcher, believed to be important to my observation process, and which dated back to the very beginning of my research journey. The moments conveyed in the images present varying interactions and observations of FU students participating in acts of civil
disobedience in opposition to Policy 4.1.6. More importantly, it allows the researcher to
acknowledge FU as the primary protagonist in the policy discourse, repeatedly providing a coun-
ter-narrative to the dominant discourse functioning as the status quo. By examining these ex-
changes within the visual context, I am able to witness firsthand, the power dynamics at play be-
tween diametrically opposing views on the same policy framework.

Coincidentally, my initial interrogation of the policy did not attach the experiences of
those affected by it, and instead, it focused on the policymakers’ decision to implement the poli-
cy as a result of public outcry over in-state benefits being given to undocumented persons. But
on February 1, 2016, the policy was brought to life before my eyes, as I documented FU students
and their allies from metro Atlanta colleges and universities participated in a teach-in/sit-in at
Georgia State University. As referenced earlier in the study, this date bears significance in the
historical framework of the Civil Rights Movement as the date of the original sit-in conducted by
North Carolina A&T students some half a century ago. It also bears personal significance to me,
after having spent much of my professional life in Greensboro and teaching on the same campus
that was a centerpiece of the Sit-In Movement, which began on February 1, 1960. It also con-
nected me to an issue that I now perceive as the new battleground for civil rights and the collec-
tive opposition to policy frameworks that restrict the educational opportunities of others, espe-
cially when such restrictions are inflected with race and ethnicity as the primary motivations for
their enforcements. From generation to generation, critical scholarship provides that “freedom”
is a privilege not guaranteed, but instead, protected by those willing to sacrifice themselves for it,
no matter the situational or political constructs that dictate the larger discourse. From one
struggle for basic civil and human rights …
Figure 9:


To a new struggle for civil rights …

Figure 10:

(RZM Fieldnotes/Images, taken 2/1/2016)
The first image emerged in my mind as I sat and watched the scene unfold in the second image. It should come as an almost expected consequence that students who have grown up in this country, learned its cultural values and prognostications, and absorbed its educational and professional expectations, would use civil disobedience actions of the past to influence social justice discourses of the present. Moreover, the presence of Latina women as the primary purveyors of the subversive (yet unifying) acts depicted in the images speak to the cultural evolution of U.S. society and the formidable opposition created within certain demographics whose voices have historically gone unheard.

Bridging the sixty-six year gap between the events were a history professor and a civil rights attorney, who conducted a teach-in about the legacy of the Civil Rights Movement, the influence of which can be seen above in the interlocking hands of the participants. Also present were two former SNCC freedom singers, engaging the students in freedom songs from the very movement influencing the present action. The professors also discussed how strategies must be devised in order to produce the counter-hegemony required for successful change in social construct. As noted by one, “we are fighting for our place in the sun” (RZM fieldotes, 2/1/2016). I found this characterization rather ironic, as the room itself, was populated with students wearing butterfly wings, emblematic of a metaphorical metamorphosis of the caterpillar emerging out of its cocoon and ready to bask and fly in the newness of the warm Spring sun.

Also significant are the racial subjugation manifested by the policy’s enforcement, which also informs the research when analyzed from a critically-raced perspective, commonly referred to as Critical Race Theory (CRT). One of the basic tenets of CRT is the recognition of the “experiential knowledge” of people of color through storytelling and counter-narratives provided in response to the dominant discourse (Aleman, 2009). By examining USG Policy 4.1.6 through
a racialized lens and recognizing the uniqueness of the Latino/a voices that dominate this particu-
lar discourse, I am seeking to provide the counter-narratives of those most affected by it and re-
interpret the current dominant discourse surrounding access to public colleges and universities
for undocumented and DACAmented students in the state of Georgia. The actions taken by some
of these students, at least those who find themselves within the confines of Freedom University,
are then recorded as a part of the overall discourse, becoming an indelible voice tied to the origi-
nators of the policy itself. We are also able to understand, through the use of images, how these
actions layer the counter-narrative onto the current hegemonic framework, as we can see the fac-
es of Freedom University students staging protests at USG Board of Regents’ meetings over and
over and over and over …
Figure 12:

Image retrieved from www.images.google.com

Figure 13:

Image taken by Ryan Z. Maltese, 5/10/201
Figure 14:


Figure 15:

Image taken from www.images.google.com
**Participatory Observations of the Counternarrative**

It is fair to say that the organization will continue provide a forum for subversion directed toward the policy’s enforcement, while recruiting and attracting like-minded individuals that also find themselves seeking opportunities to advocate for social justice and change. My observations of the group showed an unyielding willingness to continue their efforts until such time as postsecondary educational opportunity in the state of Georgia is equalized to all. One student noted during my observation process that, “if you put your mindset into one goal, you can achieve anything” (RZM fieldnotes, 10/30/16). On this day, the students spent much of their time discussing their right to civil action and their need to continue to craft their own message and framing it to their advantage. Another student noted, “in a way, it’s safer to participate in civil disobedience, because it brings light to the issue” (RZM fieldnotes, 10/30/16).
It is also safe to assume that the Georgia Board of Regents can expect more acts of civil disobedience, as long as they ignore the calls of those staging the protests. As the images regenerate in social media and become a part of the popular lexicon, more and more voices will be added to the narrative being played out in the mainstream media.

Recently, the former chancellor of the university system, Erroll Davis, came out in opposition to Policy 4.1.6, condemning the very policy he was in large part responsible for creating, providing further evidence of the racial implications associated with the policy’s enforcement and the historical context in which Georgia re-situates itself yet again, on the wrong side of the struggle for social justice through racial equality. He was quoted as saying:

I see history repeating itself here in terms of just providing barriers to an educated citizenry on the one hand and on the other hand we talk about crime levels, when it is common knowledge that most criminals are not highly educated. So you sort of shake your head. But that is the environment we live in in this state (Redmon, 11/22/2016).

It is these very barriers, juxtaposed against Georgia’s historical reputation for such obstinacy, which will continue to serve as the brick and mortar for the growth and strengthening of the FU message as it continues its current mission. Moreover, they continue serve as the primary protagonist in a policy discourse that emblematic of a larger cultural schism that is growing in both the state and the nation. Through the actions of FU and the images taken of them, we are able to get a better understanding of the how students question seemingly oppressive frameworks that deny them the opportunity to become a genuine part of an educated society, taking lessons from those who participated in such demonstrations of their own more than half a century ago. They are “undocumented and unafraid,” and they are committed to their belief in the universal right for everyone to receive and education. Theirs is a message that even I, as the researcher, have come to embrace as a component of my own participatory research.
This message of fearlessness in the face of political opposition has created a network grown at the local, state, national and global level. During their preparation for an action that occurred during the same week that I was conducting my participant interviews, the students met with some community faith leaders, one of whom reminded them, “this city has a beautiful history, and you are the legacy of those who came fifty years before, and what they did, insisting on their own humanity and deserving of the same human rights” (RZM fieldnotes, 11/6/2016). The students ultimately decided to conduct a prayer vigil during the Board of Regents meetings and provided a fairly exhaustive list of those things that needed to be brought forth in their protest as the foundation of their counter-narrative. Their claims included the following:

- Education is a human right
- We pray for ‘them’, and do not want to harm ‘them’
- We are part of a legacy of religious, non-violent action
- Undocumented students are a new, legally segregated community
• Leaders of different Faiths are still working together for our cause
• This is nation of laws AND a nation of immigrants
• Immigration is not a bad thing
• This is a part of history and the Board of Regents has the power to change it
• This is about racism
• Perfectly qualified students are being kept out because of documentation
• USG mission statement is “a more educated Georgia”
• Faith Leaders are supported by communities of Faith
• The ban is contrary to the Faiths being represented
• Georgia is falling behind
• Georgia is already suffering from declining enrollment

On the day of the action, November 9, 2017, there was little response from the Board of Regents, other than to leave the boardroom after the first prayer was conducted, but the message was conveyed through the images provided by the vigil and to those who received it, as evidenced in the image below:

**Figure 18:**

Retrieved from [www.facebook.com/freedomuniversitygeorgia](http://www.facebook.com/freedomuniversitygeorgia)
The sentiments derived from these students’ sustained acts of civil disobedience are also reflected in the messages the students received from others, expressing support for the organization’s mission and the students who carry it forward. Consider the following collection of images, taken on the first day of class after the U.S. presidential election. Given the rhetoric surrounding the election and the eventual outcome, the students were visibly shaken and highly emotional. Still, they found that they were not along, and what is seen are the FU students reading a variety of messages sent to them in the wake of the election results from various partners and allies. The words themselves are of significant import, but it is the collective consciousness in which they are being absorbed (and shown in the image below) which also bears great meaning. I have included only one letter in this section. Additional letters are provided in the Appendix, in order to give as complete a narrative as possible of the subversive voice continually being crafted by the FU students and their allies.

**Figure 19:**

Image taken by Ryan Z. Maltese, 11/13/16
Dear Freedom University students,

I am inspired by your drive and bravery. Reading about your relentless push against segregation and self advocacy to achieve your dreams has given me renewed energy to fight the hate spewed by this election. As an arts and social justice educator in New York City, learning about this organization and the incredible students and educators that fuel it has been eye opening. I have so much to learn to better my teaching practice and advocate for students like you.

I stand with you all. You are what makes America great. You are the way forward. Keep pushing back, never doubt your human right to education.

And when you are exhausted, I hope you will remember your allies. You are not alone, and there are many people like me, who happened to be born with considerably more privilege, who will fight alongside you.

I hope I am one of many to reach out to you today. Though I live far away, I’d love to learn more about what I can do to help Freedom University and advocate for the right to education everywhere.

Your ally,

[Signature]

Brooklyn, NY

Figure 20:

As researcher, I can argue that the stories of these young people are quintessentially grounded in the “American” narrative, representing the most recent chapter of human migration to the United States. As an advocate, my yearning to understand their plight is influenced in an
almost visceral manner, allowing me to see beyond the politics of policymaking and into the hearts and minds of those adversely impacted by it. In either context, I was able to draw upon an abundance of visual data and analysis that elucidated the events unfolding during the research process. As a result of my participatory observation and my experiences with these young people, I have joined with others in accepting the responsibility to protect and to encourage and to sustain each of the students at Freedom University as long as they continue to fight.

**Conclusion**

The lives and stories that we hear and study are not our own and are given to us with the expectation that we protect those who have shared the stories with us (Denzin, 1989). I recognize the trust given to me by such a sensitive and precariously positioned group of young people who are fighting for something that many of us come to expect through entitlement—the opportunity to get a college education. For those students in the undocumented community, including those that have been granted deferred action through the DACA program, the challenges posed by the state of Georgia are indeed significant, perhaps more so than many other states. Freedom University was established to not only recognize these challenges, but also to question them, and question those that would seek to minimize the impacts that certain policies may have on certain communities. By refusing to remain silent and instead choosing to emerge from the shadows and into the visual consciousness of the very educators who would keep them in darkness, FU students have provided a powerful legacy that we are able to witness in various media-driven forms, creating a rich visual context in which we can analyze a larger policy discourse.

In addition, the interview participants in this research study have provided a wealth of dialogical data that should be taken as representative of the generation of voices that continue to be
stunted by a lack of access to public Georgia’s public colleges and universities because of Policy 4.1.6, as well as the extreme challenges presented to them through the unwillingness of the state to extend in-state tuition benefits to students who clearly meet the state’s own residency requirement. One of the study participants, Laura, provided some thoughts on the recent state court decision and the Board of Regents’ response in a follow-up conversation. Her thoughts stated below:

The judge’s decision overwhelmed me with joy because it is a step forward towards my dreams unraveling quicker. It is nice to know that not everyone agrees with DACA students paying out of state tuition when most have lived in GA for years. The Board of Regents appealing the judge’s decision means to me ignorance. They keep persisting and staying true to policies that are unethical and unfair for students like me that want to pursue their dreams (RZM fieldnotes, 1/9/2017).

Collectively – and DACAmenced or otherwise – all of these students are “undocumented and unafraid,” and they are committed to their belief in the universal right for everyone to receive and education. As researcher, scholar, and advocate, I am indeed indebted to them for their contributions to this work, and I stand with them in their plight.
CHAPTER FIVE

SUMMARY, CONCLUSIONS, DISCUSSION AND RECOMMENDATIONS

I, too, sing America.

I am the darker brother.
They send me to eat in the kitchen
When company comes,
But I laugh,
And eat well,
And grow strong.

Tomorrow,
I’ll be at the table
When company comes.
Nobody’ll dare
Say to me,
“Eat in the kitchen,”
Then.

Besides,
They’ll see how beautiful I am
And be ashamed –

I, too, am America.

~ Langston Hughes (1945)

Summary

This chapter presents conclusions drawn from the findings and results of the data analysis and includes a discussion section that further explains the findings and conclusions that emerged from the data in order to inform future studies. Finally, recommendations for action and recommendations for additional study are provided based on the results of the study. The study has provided an analysis of a policy affecting the postsecondary educational opportunities for undocumented students in the state of Georgia. I conducted the interrogation to gain an understanding
of the ways USG Policy 4.1.6 impacts immigrant students who are seeking admission to the state's public colleges and universities, as perceived by those students.

The dissertation has focused primarily on students participating in the Deferred Action for Childhood Arrivals (DACA) program and how their deferred action status determines the legality of their presence in the United States. Central to the research are DACA student participants, whose perceptions of the impact of Policy 4.1.6 provide additional narratives to the policy discourse and allow lawmakers to consider the implications of the potentially wide-ranging effects of this policy's continued enforcement. The study has found that applying Policy 4.1.6 to DACA students, the Board of Regents has restricted access to public institutions for those that have been deemed lawfully present in the country and as such, qualify for admission to all state colleges and universities.

Policy Issue

According to USG Policy 4.1.6, a person "not lawfully present in the United States" is prohibited from enrolling in the state's most selective institutions. Under the guidelines issued by USCIS, approval through the DACA program does, in fact, make one "lawfully present" in the United States. The Board of Regents has determined that irrespective of deferred action status granted at the federal level, DACA students are subject to the guidelines of Policy 4.1.6, and thus restricted from enrolling at certain state colleges and universities. Through this action, the Board of Regents has created a measure of legality not required under Policy 4.1.6 but reinforced nonetheless. Chomsky (2014) explains, "Illegality is the flip side of inequality. It serves to preserve the privileged spaces for those deemed citizens and justify their privilege by creating a legal apparatus to sustain it" (p. 19). A significant component of this research study explores whether
DACA students have met the level of lawfulness required for access to all public institutions. Additional components of the study focus on the impacts of the policy experienced by the students subjected to it.

**Literature Review**

A review of the literature shows a history of complex and integrated policy frameworks that have systematized human migration into varying levels of legality. U.S. policies on immigration have shifted over time and created a web of intricate regulations and statutes that even immigration lawyers and scholars find difficult to discern (Chomsky, 2014, 42). We have also learned that there are a variety of cultural, economic, familial and social factors that influence human migratory patterns. Moreover, there are approximately 39 million foreign-born nationals currently living in the U.S., disaggregated into varying degrees of legal (and illegal) status, including persons given access through political asylum, refugee status, guest worker visas, student visas, family reunification and diversity programs, and temporary and deferred action.

The literature explains how the lack of authorization into the notion of “undocumentedness” as more than a way of life. It becomes an identity unto itself, borne out in the lived experiences of the undocumented community, and over the years, undocumentedness has itself become a crime, highly racialized but superficially race-blind and very much associated with the Mexican or Latino/a community. In a larger context, Chomsky (2014) summarizes an overarching sentiment from much of the literature, “immigrants are human beings who have arbitrarily been classified as having a different legal status from the rest of the United States’ inhabitants. The only thing that makes immigrants different from anybody else is the fact that they are denied the basic rights that the rest of us have” (p. ix).
Privileging the belief that there is value in granting certain benefits to undocumented young people, the DREAM Act was meant to create a “path to citizenship” for deserving students that have met a litany of requirements, with the expectation of the federal government that they become viable contributing members of U.S. society. Addressing Congress' inability to pass the DREAM Act, former-President Obama instituted the DACA program, providing temporary relief from deportation proceedings and work authorizations two-year renewable periods for all those meeting the criteria (Hu, 2015). Access to public colleges and universities was granted to DACA students in many of the states that had previous legislation severely hampering such opportunities for undocumented students, leaving the state of Georgia as the only state in the nation that restricts DACA students from enrollment in certain public institutions (Adams and Boyne, 2015). The University System of Georgia has chosen to interpret federal law in a manner that, according to the literature, is counter-intuitive to all other state interpretations. This research study focused on the USG interpretation and the effects of the policy, as perceived and expressed by DACA students.

General Findings and Discussion
I conducted a close examination of legal documents, official Board of Regents meeting minutes, USG memoranda, state House testimony, images of social actions, and participant interview data to arrive at the findings. The data was analyzed and applied to the study’s two research questions: 1) What accounts for the state’s interpretation of the “lawful presence” requirement of USG Policy 4.1.6, specifically as it relates to DACAmended students in the state of Georgia who would otherwise qualify for full admission and in-state resident tuition status? 2) What are the impacts of Policy 4.1.6 on DACAmended students in the state of Georgia, as perceived by them?
Six general claims emerged from the data collection and analysis process. Each claim was discussed within the critical policy frame, interrogating issues of race using CRT and LatCrit theory, and IPA. Visual analysis was also used to present Freedom University as a subversive voice created by Policy 4.1.6.

The first claim showed the variety of consequences resulting from the implementation of USG Policy 4.1.6 and its application to students who are “unlawfully present” in the U.S. Document analysis and participant data gave greater insight into the overall development of the policy, how it was constructed and information about it disseminated, and some of the reactions to the policy, including study participant opinions of the policy. Munoz et al. (2014) provides some insight as to why such a policy might have been enacted, noting “the Board of Regents’ decision reflected a larger aspect of state policy initiatives that also included the recent passing of the Georgia Illegal Immigration Reform and Enforcement Act (i.e., House Bill 87)” (Munoz et al., 2014, p. 2). Policy 4.1.6 thus created an opportunity to critically analyze the motivations for creating such a policy in the wake of the overwhelming evidence presented that was counterintuitive to the then-existing policy discourse. Moreover, according to Brewer (2014), critical policy analysis “is motivated by the conviction that policies and the political situations in which they are embedded must be pulled apart to determine whose interests they serve” (Brewer, 2014, p. 277). The reactions to Policy 4.1.6 were swift and as the data show, called into question the purpose and motivations of a policy that systematically excluded undocumented Latino students from admission to the state’s most prestigious postsecondary institutions.

The second claim explored the creation of the DACA program, as well as the notion of “undocumentedness” as a component of identity amongst DACA recipients. What emerged was the participants' explanation of the ways in which being undocumented differed from having
DACA status. As noted earlier, the DACA program operates under the official capacity of “prosecutorial discretion” exercised by the Department of Homeland Security (DHS) and through Executive Order issued by the president. As an administrative department, DHS enforces the nation's immigration laws in conjunction with its subgroups: United States Customs and Border Patrol (CBP), United States Citizenship and Immigration Services (USCIS), and United States Immigration and Customs Enforcement (ICE) (Richard, 2013, p. 305). As explained by Richard (2013), “prosecutorial discretion is deferred action, the authority of an agency charged with enforcing a law to decide to what degree to enforce it" (p. 305). The study participants explained how the DACA program elevated them from the illegality of undocumentedness with which they had lived in the U.S. for most of their lives. Chomsky (2014) offers additional insight into this type of existence:

The undocumented live in a strange world of internal exile or civic death. While physically present, they are legally excluded by an official status that has been ascribed to them. They can’t vote, serve on a jury, work, live in public housing, or receive public benefits. These exclusions apply equally to those, mostly blacks, with a criminal record and those, most Mexican, who are undocumented. Stigmatization and exclusion create a vicious circle of further stigmatization and exclusion (p. 17).

The data show a different reality for the study participants, all of who had been given DACA status, and with it, an opportunity to receive a driver’s license, a social security number and a work permit. The study participants described changes in their income and educational opportunities, eschewing the “always on alert” mentality with which they had lived for the majority of their lives. And shortly after the 2016 presidential election, a group of more than 90 college and university presidents published a statement demanding continuation of the DACA program, recognizing the program’s significant contributions to higher education through many of its more
than 700,000 recipients, and calling the program a “moral imperative and a national necessity” (www.insidehighered.com). The statement reads in part:

We have seen the critical benefits of this program for our students, and the highly positive impacts on our institutions and communities. DACA beneficiaries on our campuses have been exemplary student scholars and student leaders, working across campus and in the community. With DACA, our students and alumni have been able to pursue opportunities in business, education, high tech and the nonprofit sector; they have gone to medical school, law school and graduate schools in numerous disciplines. They are actively contributing to their local communities and economies (www.insidehighered.com).

Through the use of documents analysis and participant interview data, the third claim posited that DACA establishes “lawful presence” in the United States; therefore, the Board of Regents should not apply Policy 4.1.6 to DACA students. An extensive review of court filings, federal documents and state memoranda provided the evidence supporting this claim. In my attempts to address the first research question, I examined the underlying reality created by the Board of Regents’ enforcement of Policy 4.1.6 against DACA students. I was guided by Denzin et al. (2014), who inform that, “it is not enough to simply endeavor to understand any given reality” (p. 18). Instead, the authors argue that, “there is a need to transform it, to advance the cause of social protest, action and change. Educators, as transformative intellectuals, must actively participate in this project” (Denzin et al., 2016, p. 18). Through this analysis, I was able to gain greater insight of the fact that Georgia remains the only state in the nation that denies admission to certain public colleges and universities (Adams and Boyne, 2015).

In the fourth claim, I presented the wide array of impacts of Policy 4.1.6, as perceived by the study participants. The claim also provided an analysis of the implications to be considered that can result from the continued enforcement of the policy. Further analysis of the literature, documents, and interview data examined the issue of applying Policy 4.1.6 to DACA students, and how this application impacted those students. Larry previously noted, this policy is a blanket
ban on all undocumented students in the nation, and for the participants in this study, none believed that it should be enforced against them as DACA students. In fact, Shahshahani and Washington (2013) explain that an effect of the Board of Regents’ policies is the disincentivization of scholastic pursuit amongst undocumented students in Georgia high schools, noting that:

The ban tells undocumented students that, no matter how much they strive for improvement, they are incapable of ascending the socio-economic ladder and creating a more prosperous future for themselves and their families (p. 27).

But the data also showed the participants did not believe that the policy should be enforced against anyone. As the study participants shared their perceptions of the impacts suffered from Policy 4.1.6, it is important that we recognize this small sampling of students as directly representative of the nearly half-million undocumented persons living in the state, 7,000 of whom are graduating from Georgia high schools every year.

The fifth claim explored the potential rationale for applying Policy 4.1.6 to DACA students. The study participants allowed me, as the researcher, to arrive at the conclusion that but for “race” as the primary motivator, the policy would not likely apply to DACA students. If we accept the notion that “nationality itself has its origins in racial thinking and still bases itself on birth and origin in ways that echo racialism” (Chomsky, 2014, p. 15), then we must also accept the reality that the immigration laws we create (especially in Georgia) are premised on a racialized philosophy undoubtedly privileging one immigrant group over another. This means that even race-neutral laws, such as Policy 4.1.6, are grounded in racially imbalanced social contexts, and “if the social context is unequal or unfair, even a law that purports to be equal might serve to cover up, or even reinforce, existing inequalities” (Chomsky, 2014, p. 24). Shahshahani and Washington (2013) further note, “the ban only serves to paint an unflattering picture of today's
Georgia on the international stage, highlighting elements of racism and discrimination reminiscent of the state's past” (p. 28).

Finally, the sixth claim explored Freedom University as an inevitable eventuality of Policy 4.1.6, presented through a series of images collected during the researcher's participant observation process with the organization and giving a more visceral representation of the lived experiences of the students and allies involved with the organization. Lister and Wells (2001) note, “we should recognize that photographs also work by utilizing or borrowing (by re-presenting them) many of the visual codes that are employed in ‘lived’ rather than textual forms of communication” (p. 76). And Emmison et al. (2012) explain, “images – in their numerous manifestations – are perhaps the most basic form through which we experience the visuality of contemporary life” (p. 62). The data showed that the implementation and enforcement of Policy 4.1.6 also created a new social justice platform upon which undocumented students began to mobilize and participate in acts of civil disobedience against the Board of Regents. The result is what I believe to be a new era in civil rights protest, where past and present have created new allies and a new social movement. Brown et al. (2016) expound further:

The type of discrimination and exclusion that Latino immigrants face has become increasingly difficult for civil rights activists to ignore. Efforts to deprive undocumented immigrants of access to education, healthcare, and work are, in principle, the very forms of discrimination that such movements intend to counter. On the other hand, systematic efforts to roll back these rights have both politicized Latino immigrants, mobilizing them to political protest, and racialized them, inspiring a new set of political and social identities closely aligned with black Americans. Together, these events have created an important opening for civil rights groups and immigration groups to develop an alliance (p. 18).
Conclusions

As the country embarks upon its new mission to build a wall along our entire southern border, I chose to take note of the barriers currently in operation, disproportionately restricting the mobility of young people of Mexican and Latino heritage. Many of these students have been given federal protections through the DACA program, yet the data show that they are systematically excluded from postsecondary opportunities in the state of Georgia by Policy 4.1.6. The Board of Regents' interpretation of 'lawful presence,' creates this exclusion, and it was the subject of my first research question. A review of statements and guidelines about the DACA program provided by federal agencies allows me to definitively conclude that DACA students have established lawful presence in the United States, and therefore in the state of Georgia. Moreover, after analyzing data from legal proceedings and internal USG communications, we can conclude that the Board of Regents' interpretation of lawful presence is incorrect. Instead, they have created an unlawful guideline, contravening federal policy, to assert the policy's enforcement against DACA students. Judge Tusan, in her findings in the *Hernandez v. Alford* case, makes this point abundantly clear:

Defendants attempt to devalue the statement by arguing that it is merely a website FAQ and not an official policy or regulation. While an official DHS policy on this question would certainly be beneficial given the unique status of DACA recipients, the statements are nonetheless posted to the public on the official website of the Department of Homeland Security and the Court finds they should therefore be taken as accurate representations of the federal government's position" (*Hernandez v. Alford*, Final Order, 2016, p. 7)

This research study has also shown that there is a real, almost intuitive difference between being undocumented and having DACA status. Many of the research participants discussed "living with that fear" as a significant part of their lives, with threats of deportation and illegality as criminality omnipresent in their everyday reality. One of the most significant prom-
ises of the DACA program is its stay of deportation, renewable every two years, and the benefits derived therefrom, including a valid driver's license and work permit. The data have also shown "undocumentedness" as its own identity, creating a subtext of individuals and communities living in the shadows and unable to participate in the same everyday life that we, as U.S. citizens, often take for granted. The differences between these two levels of existence, as the data show, are stark and succinctly contrasted by the study participants' narratives. Although some of the more nuanced points on this issue (and brought forth by the data) were beyond the scope of this research inquiry, having a foundational understanding of the two identities was seminal to the effectiveness of the critical policy analysis.

Next, I have concluded that there are real and verifiable impacts produced by the enforcement of Policy 4.1.6 against both DACA and undocumented students in the state of Georgia. The data have shown the policy's effects on the participants' efficacy, their belief in equal opportunity, and their postsecondary ambitions. Study participants provided varying thoughts on how this policy impacts them, including the recognition of its disproportionate application to students of Mexican and Latino heritage. We were both warned and encouraged to consider what it is like for those who can only walk by certain state institutions and not enroll in them. The following from Paul(a) elucidates the participants’ sentiments:

I just feel discriminated. And for some reason, it just feels like, you just have to get past it. And I was reading a quote that said, it’s nice to say, oh, it’ll all be okay when you’re not the one being affected by it. (Paul(a)_Quotation #24)

We have also seen the potential impacts of this policy's enforcement on the economic viability of the state of Georgia. Data show an increasing number of DACA students leaving the state to pursue higher education interests elsewhere, creating a "brain drain" of sorts to the state's college and university campuses. We can also infer from the data that this trend will continue, as
we have documented other states and private institutions willing to offer acceptance and assistance to DACA students for purposes of obtaining a college degree.

This study has also attempted to address the purpose and motivation for the continued existence and enforcement of Policy 4.1.6, in light of overwhelming evidence that shows no economic or social threat exists to the sanctity and structure of the university system. What we have discerned from the data is that the Board of Regents has failed to give a legally viable explanation as to why it continues to deny admission to DACA students. The study participants can find no other reason than that of their Mexican heritage. The foundational principles of CRT, that racism is endemic and ingrained in U.S. society, provide support for that reasoning. Chomsky (2014) offers additional justification, explaining, "the categories ‘Mexican' and ‘Latino' have been racialized in the United States, and the category of illegality is heavily associated with the category ‘Mexican,' whether this is understood as a nationality, an ethnicity, or a race" (p. 15).

Although Policy 4.1.6 is race-neutral on its face, the data clearly show that it specifically targets ethnicity in its enforcement, including that of each participant in this study. We can also conclude that their voices are representative of more than just the seven that took part in this research. Their counternarratives to the policy discourse provide ample evidence that race is a key factor in the continued existence of Policy 4.1.6. Harper et al. (2009) explain, "CRT uses counternarratives as a way to highlight discrimination, offer racially different interpretations of policy, and challenge the universality of assumptions made about people of color" (p. 391). This policy analysis gives voice to those perspectives, allowing young people like Larry to give us the following perspective:

Everybody has always, especially the state, has always dealt with race, not welcoming to the colleges … and it’s shown through history, and … and sometimes history repeats itself, and … and to be honest, I’m not surprised they … they enforce, they tried, they passed this law. (Larry_Quotation #25)
Further evidence to this point was provided by none other than Erroll Davis, the chancellor of the university system at the time of the policy's adoption, who in November 2016, gave eerily similar remarks, "I see history repeating itself here in terms of just providing barriers to an educated citizenry … but that is the environment we live in in this state" (Redmon, November 22, 2016, www.ajc.com). Even Davis has since changed his position on the policy, stating, “I believe it is a travesty that a child can go through a k-12 system here and not be able to get into all of the university system’s schools” (Redmon, November 22, 2016, www.ajc.com).

Because of the adverse impacts of USG Policy 4.1.6 and the racial underpinnings that serve as the pervasive and permanent part of its operational sustenance, this study concludes that the Board of Regents should rescind the policy. The data show that it serves no reasonable or socially acceptable, or legally justifiable purpose in the execution and duties of the Board of Regents. Regardless of the political rhetoric that has inundated the state and country over the last year, or the growing number of executive orders aimed at the reduction and prevention of immigrants coming to this country, or the fears amongst those who lack a true understanding of natural human migratory patterns and believe that immigration in some way harms their existence, policies such as 4.1.6 do far more damage to the promising young people of the state who are already providing valuable contributions to the K-12 educational systems. What is more, by applying the policy to DACA students in the state of Georgia, Policy 4.1.6 exists as a new Jim Crow institution, inhibiting far too many young people from equitable treatment under guidelines clearly explained by federal authority. Harper et al. (2009) provide a complete assessment:

Upon accepting that race and racism are persistent and dynamic fixtures in American culture, we can avoid the continued frustrations associated with reaching for an unattainable goal and focus more realistically on strategies and approaches that will more comprehensively address racial inequities in higher education (p. 404).
Eradicating Policy 4.1.6 will not solve all of the myriad issues of inequitable treatment and opportunity for postsecondary education in the state of Georgia. For some, it may even be considered an insignificant policy affecting an infinitesimal amount of students. But as long as it exists and continues to be enforced, whether against DACA students or the other undocumented students living in the state, it will serve as a symbol of the hegemonic policy discourse that shuns the principles of social justice and equal treatment under the law for all the classes of the country, regardless of race, ethnicity, class or legal status.

Discussion

When I began this research study, I was cautioned at many points to be leery of creating conjecture and innuendo showing bias toward a pre-determined and articulated outcome. I was also advised to forego any attempts at creating activist scholarship, and instead, focus on producing good scholarship. I hope that what has been accomplished by this research is an honest and well-intentioned policy study using sound methodology and research methods that resulted in competent qualitative research. Regardless the objectivity with which this study was conducted, I must acknowledge the subjective positions I have taken as a result of the data findings. Stake and Rosu (2016) inform us, "the relevance of research to societal responsibility establishes opportunities for advocacy and research to stand together" (p. 41). In this sense, I do hope that what has been produced by this project can be used to further the advocacy and discourse in opposition to Policy 4.1.6.

A critical policy study is a methodological approach that allows the researcher to dissect the meanings of a policy and its consequences, including those that may be unintended. The find-
ings emanating from the data speak to the significance of engaging in research of this nature, identifying spaces within the policy framework that abridge the civility of fair and equal access at a systemic level. These types of policies move beyond even race and class, feasting on humanity's differences and too often using legality as an instrument of disaggregation of the adversely affected voices. How we interrogate this system, and the racial, ethnic and class implications that undergird almost the entire body of U.S. immigration law, provided the basis for this study, making way for a critical analysis of a particular policy enacted to reinforce our politicized notions of "legality.” In the context of this research study, I have been able to identify some of the harms committed by this system of laws and how it has created a different, often permanent reality for undocumented young people in the state of Georgia. At the heart of the policy discourse is our collective lack of understanding about the ways in which the migration of people to and from this country have been politicized in a manner that has led to distrust, fear-mongering and abuses of power. Policy 4.1.6 stands as one of the outcomes of that particular narrative.

As the country moves forward toward a more xenophobic and hardline political economy, it is difficult to assess how the Board of Regents will continue its enforcement of Policy 4.1.6. Many believe that new executive orders initiated by a new administration will soon terminate the entire DACA program. It should be considered, however, the number of people (almost 800,000 at last count) already approved through the program and the myriad complications that would ensue in attempting to rescind the deferred action status of the young people who have established new lives as a result of the status. Regardless, if such action(s) comes to pass, then perhaps it makes the recommendations presented herein moot, but it does not change the policy analysis conducted, nor the findings made. And while I did find some measure of solace in the latest legal proceedings discussed herein, the Georgia Court of Appeals stayed court's decision
just weeks after the ruling (Redmon, January 13, 2017, www.ajc.com). Still, I am hopeful and expect a more just outcome in federal district court, arriving at the same conclusions as my own, and those of Judge Tuscan in the *Hernandez v. Alford* case. Whatever the final decision reached by policymakers on the DACA program, there will continue to be a need for studies of this nature, critically examining the systemic processes that actively and arbitrarily disenfranchise historically underrepresented communities. Blume (2011) authored a policy analysis on the viability of ISRT for undocumented students and rightly noted, “although an abundance of policy research exists on undocumented students and the policy environment surrounding their access to education, little policy analysis exists on the topic” (p. 36). I am hoping that this research study contributes to the current body of literature and can, in some way, influence policymakers at the legislative and administrative level to consider carefully, the outcomes of their policy decision-making processes.

**Potential Contributions of the Research**

This research is intended to assist in clarifying the rights and freedoms of undocumented students in Georgia who have received DACA approval and, by all accounts, fulfill the ‘lawful presence’ requirement of USG institutions, yet are still banned from certain state colleges and universities, as well as in-state tuition benefits at all others. Under 8 U.S.C. §1621(d), “states have the authority to enact laws that determine the eligibility of foreign national students for certain state and local benefits” (Adams & Boyne, 2015, p. 54). Georgia now exists as the only state that restricts or denies access to public colleges and universities for DACA recipients.

Within the context of education, “the U.S. Supreme Court recognized the importance of education for not only the individual student, but also for the family structure and the larger
community and society” (Nguyen & Hoy, 2015, p. 371). Clarifying the rights and opportunities of DACA students to teachers and administrators at the K-12 level can provide valuable assistance in the manner in which they prepare these students for their postsecondary aspirations. Nguyen and Hoy (2015) note, “[state] policies which have the effect of re-segregating undocumented students, impact not just these students but also schools, providers, and teachers at all academic levels” (p. 369). As a result, even with their most promising students, “primary and secondary educators encounter the challenge of encouraging undocumented students to continue onto college” (Nguyen & Hoy, 2015, p. 369) – given the uncertainty they face in pursuing affordable higher education.

Finally, it is important to recognize that excluding the undocumented and DACAmented student voices does not lessen their significance to the critical discourse of postsecondary educational opportunity. Their voices are indeed an important part of the orchestral narrative of this country as they, too, sing America. And given the strong possibility and sentiments for “path to citizenship” legislation in the future, specifically for these students, this study provides critical insight into the adverse effects of segregating one group within the nation’s population from one legal public benefit (higher education and in-state resident tuition) potentially increasing its reliance on other public benefits (social welfare programs). Hernandez (2012) explains, “this underclass might attain citizenship but remain under-educated for purpose of contributing meaningfully to American society, thereby becoming the drain on resources that conservative politicians fear” (p. 565). Thus, creating legislation that continues to restrict “an equal opportunity to attend college because of their undocumented immigration status unreasonably increases avoidable future expenses associated with unemployment, social justice, and crime” (Weedan, 2015, 200).
And Nguyen & Hoy (2015) describe the societal stigmas faced by the undocumented as they note:

> Although they are a part of our society – working together, learning together, and playing together – undocumented immigrants do not receive similar public benefits, and are not afforded the same social security that is fundamental to living a productive life in our society” (p. 356).

One of these benefits is the right to education, which many in the U.S. believe to be ‘universal’ and the most effective way to liberate oneself from subordination. In many ways, it is the fulfillment of the belief that we can do better than those that came before us. In fact, “the ‘American Dream’ explicitly endorses education as the route to opportunity and upward mobility, including the notion that children can advance beyond their parents circumstances” (Palmer & Davidson, 2011, p. 11). I argue that these educational spaces should be opened to all qualifying students without the stigma of constructs such as Policy 4.1.6. Weedan (2015) analyzes the benefits of this alternative course of action:

> Society is the main beneficiary of public policy when public officials expand the opportunity to acquire a college education to students who are bona fide state residents with undocumented federal status; because possessing a college education is the key to personal economic growth (p. 216).

This study exposed the inequities created by a single higher education policy in the state of Georgia and its perceived impacts on those affected by it. The study also provided documentation that can be useful to those policymakers (and others) who seek to ameliorate it. It has presented a critical analysis of USG Policy 4.1.6 and its application to DACA students in restricting access to certain public colleges and universities. It also seeks knowledge of how the DACA program affects the “lawful presence” requirement of the policy, specifically as it relates to DACAmented students and what accounts for the interpretations of policymakers concerning the
enforcement of the policy against those students. Love (2000) believes that a fundamental element of a liberatory consciousness includes the ways we understand and manage our opportunities for perspective sharing in social justice work (p. 473). The process of acculturation to other voices includes the critical component of incorporation as key to liberating the undocumented student postsecondary educational opportunity, freeing its voice to contribute to the intellectual discourse in the undergraduate arena.

The dissertation documented the voices of DACAmented students in Georgia and their perceptions of how Policy 4.1.6 impacts them. Participant interviews, along with participant observation and documents analysis were the primary modes of data collection. The data presented interrogates issues of race, equal rights under the law, citizenship status, and ethnicity, while also exploring the counter-narratives to the current hegemony in hopes of discovering alternatives to the current dominant policy discourse.

**Recommendations for Additional Research**

There are a variety of avenues additional research on this area of study can take. For instance, I would argue that Georgia State University and its consolidation with GPC could make for its critical inquiry. There was a mountain of documents and data analytics conducted in preparation for the two-year transition. Concerning undocumented students, what considerations were given for Policy 4.1.6 (and 4.3.4 for that matter)? Also, how did conversations regarding DACA students unfold? With the ever-expanding Latino student community, what were the experiences of students, both at the main campus and at satellite campuses, such as Dunwoody (with a large such community) and were efforts coordinated to create subversive measures in opposition to the policy framework? What would further interrogation of former-GPC undocumented students and
DACA students reveal regarding their lack of access to the main campus, and what is their reaction to the Regents decision to remove GSU from the policy parameters? Just as significant, what does the admissions data show about GSU's acceptance rate of all academically qualified students, and should the university have ever operated under the policy in the first place? And if the data do, in fact, show that GSU had since been accepting all academically qualified students, as a result of its focus-growth enrollment, then why was it not removed from the policy sooner, and at the very least, immediately upon its consolidation with GPC?

Another area of research for further study is the DACA program and how it has changed the educational opportunities for recipients in the higher education context. When considering states like Arizona, Alabama and South Carolina, what opportunities has DACA provided that extend beyond undocumented status? How has DACA created educational pathways for these students, and what has been/will be the impact of such educational success, when considering the economic contribution, community engagement, and workforce development?

In the psychological framework, a study interrogating questions related to identity, family, and unity as it relates to the DACA program deserves more consideration. The participant interview data briefly explored some of these questions, but it was not included in the findings as it went beyond the scope of the research questions. Further interrogation should be made, however, as to what impact(s) DACA has had on the lived experiences of the undocumented student population? In what ways have their lives changed, and what additional challenges have they encountered as a result of DACA? What are their educational ambitions and expectations, and how have states benefitted from the DACA program, with respect to higher education participation? What have been some of the contributions of DACA students to the postsecondary educational discourse, and how have states ensured continued access for these students? Moreover, how has the
family unit been affected by one or more DACA approvals for childhood arrivals, and what impact has this had on the parent/child relationship? In addition, what impacts have DACA had on mixed-citizenship families, especially amongst the siblings, many of who were born in the country and are U.S. citizens? What are their perceptions of each other, and how are their various influences experienced?

Finally, there are significant amounts of data that suggest state policy frameworks that restrict opportunities for higher education have adverse effects at the K-12 level. As noted earlier, the DACA program sprang out of the proposed DREAM Act legislation that failed to pass in Congress for eleven straight years. At its heart, DACA can be viewed as an educational attainment program. In fact, much of the statistical data related to eligibility is also based on education achievement, as in the MPI’s designation of students in various states as being “eligible but for education” (EBFE). As the data table below shows, EBFE students in Georgia are disproportionately represented amongst those states with the highest number of DACA eligible students.

**Figure 21:**

![MPI Chart](www.migrationpolicy.org)
As of 2016, there were only nine states with a DACA-eligible population over 50,000. According to the table, Georgia has the sixth highest number of DACA-eligible young people in the state, but of the nine states with a population of 50,000 or more undocumented persons eligible for DACA, Georgia has the second highest percentage of EBFE candidates, behind only North Carolina, and amongst the top six states, Georgia is by far the highest and also the ONLY state among them that does not provide ISRT for the undocumented student population. What inferences can be made from this? A brief analysis of those six states with the highest number of DACA EBFE candidates shows that the top five states have an aggregated 30.8% EBFE student population, while Georgia’s rate is 36.1%, a full five percentage points higher than the other five. Excepting California and Texas (states that have, by far, the two highest populations of DACA-eligible students), the three closest states to Georgia (NY, FL, and IL) have an average percentage of 27.3%, or almost TEN percentage points lower than Georgia’s rate.

A further interrogation into the high school graduation rates of undocumented students (especially Latino males) from states that offer ISRT and access to student aid offers an opportunity to compare data of graduation rates from the more than twenty states that offer no such opportunities. The data show that even though undocumented and DACA students do not qualify for federal financial aid, there are billions of dollars made available for undocumented and DACA students to pursue higher education, but how have state policies affected students' academic performances at the secondary level that then adversely affect their college application process? As a component of this research, additional exploration can be conducting regarding what professional development opportunities are/have been available for high school graduation coaches and counselors in states like Georgia, South Carolina and Alabama, and how are they
influencing undocumented and DACA students toward or away from postsecondary educational opportunities? Within this discourse, it would also be beneficial to examine participants who have not participated in the higher education process, and either failed to complete or only completed the K-12 educational experience.

Finally, this study has noted on multiple occasions the inseparability of immigration to the U.S. and educational policy that has resulted from these shifting migratory patterns. What deserves further interrogation, however, is how certain minorities can and have been folded into many of these policies, though history has shown that they were never a part of the migratory process. These communities include Native Americans, the original people of this country, African-Americans, brought to this country as slaves and emancipated only after being in bondage for more than two centuries, and Mexicans and Mexican-Americans, who in 1848, were made aliens in their native land as a result of the Treaty of Guadalupe Hidalgo. This treaty not only added an additional 525,000 square miles to United States territory, including the land that makes up all or parts of present-day Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming, but it also forced Mexico to give up all claims to Texas and recognized the Rio Grande as America’s southern boundary and thus radically re-shaping the landscape of the North American continent (www.history.com/topics/treaty-of-guadalupe-hidalgo).

These are just some of the many areas ripe for further interrogation, though many others may emerge. The current policy discourse has created some blowback from certain Georgia lawmakers, including State Sen. Josh McKoon, who has vowed to push through legislation that would prevent immigrants living without legal status in Georgia from being eligible to pay in-state college tuition, regardless of their DACA status (Redmon, December 12, 2016, www.ajc.com). Cascading effects of legislation of this type would more than likely include the
reification of Policy 4.1.6 and the Board of Regents’ continued enforcement of it against DACA students, omitting them from both the policy discourse of the higher education environments of Georgia’s most selective institutions.

Final Remarks

It is important to acknowledge that research on undocumented students and their access to postsecondary education is, in and of itself, is quite limited. Still, there are approximately 12 million undocumented persons in the country, the vast majority of whom are Hispanic. In actuality, undocumented persons in the U.S. hail from all of the 207 other countries of the world. Most of these persons are not going anywhere, despite recent executive orders to increase deportation and strip away federal funding for so-called sanctuary cities. The vast, vast majority of them believes in the ‘American Dream’ and seek only the opportunities that have been available for past generations of immigrants chronicled throughout the country’s history and spoken of so eloquently by Justice Brennan in the landmark decision of Plyler v. Doe (1982). Chicago Mayor, Rahm Emmanuel shares this sentiment and recently said to his city's undocumented community, "there is no stranger among us. We welcome people, whether you’re from Poland or Pakistan, whether you’re from Ireland or India or Israel and whether you’re from Mexico or Moldova, where my grandfather came from, you are welcome in Chicago as you pursue the American Dream" (Madhani, January 26, 2017, www.usatoday.com).

Since the Plyler decision, many things in this country have changed, including the mechanisms that one must use to realize those opportunities fully. Whereas in 1982, a high school diploma could secure a better life for so many, today, it offers far less upward mobility. Our present educational discourse is grounded in the expectation that “career readiness” is best gained
through the undergraduate experience. Every child traversing the K-12 system, including the more than 2 million undocumented students throughout the nation who are a significant part of that environment, is inculcated in this belief. But too many of these students become “othered” as a result of restrictive policy measures instituted by states that disaggregate them from the postsecondary process, leaving a generation to fend for themselves in a reality that significantly stunts the overall development of the country’s intellectual capital. “Through Othering, the Other is deprived of visibility, uniqueness, subjectivity, voice and knowledge” (Krumer-Nevo, 2016, p. 187). In the case of undocumented and DACA students in the state of Georgia, the only difference here is that their “Othering” is no longer in the shadows, but instead, stares directly at us in every aspect of our life. We choose to see through this issue, accepting the dominant narrative as the only relevant narrative. It has happened before, with suffragettes in the 1920s, European Jews in the 40s, Blacks in the 50s and 60s, and gays in the 90s. Perhaps the time has come again to change the reality. Let us not continue to allow history to repeat itself. Let us not just listen to the counternarratives and the voices of the next generation of Americans. Let us also stand with them and advocate on their behalf, in whatever manner we are able, for they too, sing America.
I am not the first to say that conducting this research study was one of the most difficult tasks I’ve ever completed. Still, I feel that much of the research created more questions than answers, and I was somewhat overwhelmed by the amount of data that I collected and which portions were of most import. Perhaps the most complex part of the project was determining the various policy actors, both those with power and those without. These voices were extensive and ever-evolving, and they brought forth my own concerns about the ethics of education and our role as higher education professionals in maintaining a system that continues to subordinate certain young people in the state of Georgia.

Still, it was never my intention to expose or explore any one person’s motivations toward or with respect to the policy I was interrogating. Throughout the entire process, I found myself at the intersection of policy analysis and political gamesmanship, traversing the issues of race, legality, status, criminality, ethnicity, language, culture, and tradition in what became rather perilous circumstances. I attempted to follow the research with an open mind and relative objectivity, but I was always inclined toward a belief in the nefarious nature of USG Policy 4.1.6. It wasn’t until I encountered some administrative opposition to my research proposal, however, that I began to understand the potential implications of this dissertation. Because of this response, the choice was made to exclude certain presumptions and potentially incendiary findings related to the nature of the policy and the motivations of those continuing its enforcement. In the end, my only wish was to complete the process without irreparably damaging future opportunities for my family and myself. Though I do have concerns that by producing this document, I have somehow diminished my own opportunities in the arena that I hold most dear, I also recognize that I have
simply brought a small measure of attention to an issue that has yet to be resolved by courts, legislators or administrators.

In Chapter Five, I present additional opportunities that are worthy of further interrogation, which delve into multiple aspects of immigration, education, and policy formation. But the most important questions (ones that I have left unanswered and largely unaddressed) include what role the Board of Regents actually plays in the policymaking process of the state’s university system and to whom are the Regents actually accountable? This is far beyond the scope of my role as the researcher or my authority as a higher education professional. But I believe that addressing these questions will be critical to effectively engaging this state’s rapidly changing demographic and putting into place sound policy measures that will benefit the state’s overall economic and political vitality. Ultimately, the policy will be resolved and the impact of the policy against those voices thus excluded fully understood. And as that policy cycle runs its course, I will continue to hope that the University System of Georgia and the Board of Regents might someday acknowledge their own culpability in the invisibilization of those voices, including my own.
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Appendix A


Prepared by Secretary Janet Napolitano
MEMORANDUM FOR:  
David V. Aguilar  
Acting Commissioner, U.S. Customs and Border Protection  
Alejandro Mayorkas  
Director, U.S. Citizenship and Immigration Services  
John Morton  
Director, U.S. Immigration and Customs Enforcement  

FROM:  
Janet Napolitano  
Secretary of Homeland Security  

SUBJECT:  
Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children  

June 15, 2012  

By this memorandum, I am setting forth how, in the exercise of our prosecutorial discretion, the Department of Homeland Security (DHS) should enforce the Nation’s immigration laws against certain young people who were brought to this country as children and know only this country as home. As a general matter, these individuals lacked the intent to violate the law and our ongoing review of pending removal cases is already offering administrative closure to many of them. However, additional measures are necessary to ensure that our enforcement resources are not expended on these low priority cases but are instead appropriately focused on people who meet our enforcement priorities.  

The following criteria should be satisfied before an individual is considered for an exercise of prosecutorial discretion pursuant to this memorandum:  

• came to the United States under the age of sixteen;  
• has continuously resided in the United States for at least five years preceding the date of this memorandum and is present in the United States on the date of this memorandum;  
• is currently in school, has graduated from high school, has obtained a general education development certificate, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States;  
• has not been convicted of a felony offense, a significant misdemeanor offense, multiple misdemeanor offenses, or otherwise poses a threat to national security or public safety; and  
• is not above the age of thirty.
Our Nation’s immigration laws must be enforced in a strong and sensible manner. They are not designed to be blindly enforced without consideration given to the individual circumstances of each case. Nor are they designed to remove productive young people to countries where they may not have lived or even speak the language. Indeed, many of these young people have already contributed to our country in significant ways. Prosecutor discretion, which is used in so many other areas, is especially justified here.

As part of this exercise of prosecutorial discretion, the above criteria are to be considered whether or not an individual is already in removal proceedings or subject to a final order of removal. No individual should receive deferred action under this memorandum unless they first pass a background check and requests for relief pursuant to this memorandum are to be decided on a case by case basis. DHS cannot provide any assurance that relief will be granted in all cases.

1. With respect to individuals who are encountered by U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), or U.S. Citizenship and Immigration Services (USCIS):

   • With respect to individuals who meet the above criteria, ICE and CBP should immediately exercise their discretion, on an individual basis, in order to prevent low priority individuals from being placed into removal proceedings or removed from the United States.
   • USCIS is instructed to implement this memorandum consistent with its existing guidance regarding the issuance of notices to appear.

2. With respect to individuals who are in removal proceedings but not yet subject to a final order of removal, and who meet the above criteria:

   • ICE should exercise prosecutorial discretion, on an individual basis, for individuals who meet the above criteria by deferring action for a period of two years, subject to renewal, in order to prevent low priority individuals from being removed from the United States.
   • ICE is instructed to use its Office of the Public Advocate to permit individuals who believe they meet the above criteria to identify themselves through a clear and efficient process.
   • ICE is directed to begin implementing this process within 60 days of the date of this memorandum.
   • ICE is also instructed to immediately begin the process of deferring action against individuals who meet the above criteria whose cases have already been identified through the ongoing review of pending cases before the Executive Office for Immigration Review.

3. With respect to the individuals who are not currently in removal proceedings and meet the above criteria, and pass a background check:

   • USCIS should establish a clear and efficient process for exercising prosecutorial discretion, on an individual basis, by deferring action against individuals who meet the
above criteria and are at least 15 years old, for a period of two years, subject to renewal, in order to prevent low priority individuals from being placed into removal proceedings or removed from the United States.

- The USCIS process shall also be available to individuals subject to a final order of removal regardless of their age.
- USCIS is directed to begin implementing this process within 60 days of the date of this memorandum.

For individuals who are granted deferred action by either ICE or USCIS, USCIS shall accept applications to determine whether these individuals qualify for work authorization during this period of deferred action.

This memorandum confers no substantive right, immigration status or pathway to citizenship. Only the Congress, acting through its legislative authority, can confer these rights. It remains for the executive branch, however, to set forth policy for the exercise of discretion within the framework of the existing law. I have done so here.

[Signature]

Janet Napolitano
Appendix B

University System of Georgia Verification of Lawful Presence Policy – Policy 4.1.6
Verification of Lawful Presence

During the October 2010 meeting, the Board of Regents approved two new policies: Policy 4.1.6, Admission of Persons Not Lawfully in the United States and Policy 4.3.4, Verification of Lawful Presence. We understand that there are many questions regarding these policies and how they will impact student admission and their classification as in-state or out-of-state for tuition purposes. The purpose of this web page is to answer those questions and to provide information that will help students know what to expect when applying to college.

Policy 4.1.6 - Admission of Persons Not Lawfully Present in the United States

Policy 4.1.6 states the following:

A person who is not lawfully present in the United States shall not be eligible for admission to any University System institution which, for the two most recent academic years, did not admit all academically qualified applicants (except for cases in which applicants were rejected for non-academic reasons).

At this time, the following institutions fall under Policy 4.1.6:

- Georgia College and State University
- Augusta University (formerly known as Georgia Health Sciences University and Georgia Regents University)
- Georgia Institute of Technology
- Georgia State University
- University of Georgia
Appendix C

Board of Regents Memo RE: Deferred Deportation Measured

Prepared on August 20, 2012 by Burns Newsome, Vice Chancellor for Legal Affairs
MEMORANDUM

To: Chief Academic Officers
   Chief Admissions Officers

From: Burns Newsome
       Vice Chancellor for Legal Affairs

Date: August 20, 2012

Re: Deferred Deportation Measures for Certain Unlawfully Present Immigrants

As you likely know, the US Department of Homeland Security (DHS) is now accepting applications for deportation deferrals for a class of unlawfully present immigrants who, among other criteria, came to the United States as children or young adults. Many in the University System have asked whether immigrant students accepted into this deferred action program may be treated as being lawfully present for purposes of the Board of Regents’ admissions policies. They may not. Participation in the DHS deferred action program does not change a student’s admission status under Board of Regents’ policies.

Board of Regents’ policies provide that students and applicants for admission who are not lawfully present in the United States may not be granted resident tuition status and may not be admitted to certain USG colleges and universities. Lawful presence is, of course, a question of federal law. The deferred action available under the DHS program is not an award of lawful status, but rather is “a discretionary determination to defer removal action of an individual as an act of prosecutorial discretion.” That is, the decision not to deport a person in unlawful status does not mean that the person is lawfully present in the United States. Indeed, the program guidelines make clear that “[d]eferred action does not confer lawful status upon an individual.” Thus, participation in the DHS program does not change the application of Board of Regents’ policies to an otherwise unlawfully present student.

Please do not hesitate to contact the Office of Legal Affairs if you have questions about the DHS program or about Board policies. Thank you for your assistance in this regard.

2 BoR Policy 4.3.2.3 (Non-Citizens), BoR Policy 7.3 (Tuition and Fees), BoR Policy 4.3.4 (Verification of Lawful Presence), BoR Policy C.139
3 BoR Policy 4.1.6 (Admission of Persons Not Lawfully Present in the United States), BoR Policy C.139
5 Id.
Appendix D

Georgia Department of Law RE: Issuance of Driver’s License/ID Cards to Deferred Action Recipients

Prepared on August 22, 2012 by Samuel Olens, Attorney General
August 22, 2012

The Honorable Nathan Deal
Governor
State of Georgia
The State Capitol
Atlanta, Georgia 30334

Re: Issuance of driver’s license or identification card to persons granted deferred action status

Dear Governor Deal:

You have requested advice on whether persons granted deferred action status pursuant to President Obama’s recent policy directive, Deferred Action for Childhood Arrivals, may apply for a Georgia driver’s license or identification card under Georgia law. As you correctly note in your letter of request, the General Assembly has addressed the question in O.C.G.A. § 40-5-21.1(a)(5). That Code section, enacted in 2005, provides in pertinent part that

[n]othwithstanding any other provision of this title, an applicant who presents in person valid documentary evidence of . . . [a]pproved deferred action status . . . may be issued a temporary license, permit, or special identification card.

The Code section provides no additional guidance. The language “approved deferred action status” likely was taken from the federal REAL ID Act of 2005, Pub. L. 109-13, which was under consideration and ultimately enacted by Congress at the same time as O.C.G.A. § 40-5-21.1 was enacted by the General Assembly and approved by the Governor.

It is my understanding that the United States Citizenship and Immigration Services (USCIS), within the Department of Homeland Security, is the agency to which application is made under ordinary circumstances for consideration of deferred action status. I am informed that upon approval of such status USCIS issues to the applicant a Form I-797 (Notice of Action) indicating that the applicant has been approved for deferred action status. Under state law a person must present valid documentary evidence of approved deferred action status in order to be issued a temporary license or identification card, and Form I-797 would be such a document.
August 22, 2012

Page 2

While I do not agree with the actions of the President in issuing the directive, it has been implemented by the Department of Homeland Security, USCIS, and state law recognizes the approval of deferred action status as a basis for issuing a temporary driver’s license or identification card.¹ State identification cards, however, unlike driver’s licenses, are by statute made a public benefit and are subject to the additional administrative processes of O.C.G.A. § 50-36 (Supp. 2011).

I trust that the foregoing sufficiently addresses your question. Please let me know if I can be of any further assistance.

Sincerely,

Samuel S. Olens
Attorney General

SSO/DAR/m

¹ The question has arisen whether the definition of “resident” in O.C.G.A. § 40-5-1(15) prohibits the issuance of licenses to those persons granted deferred action status since under that Code section no person may be considered a resident unless he is a “United States citizen or an alien with legal authorization from the U.S. Immigration and Naturalization Service,” and deferred action status does not confer “legal authorization.” The General Assembly in O.C.G.A. § 40-5-21 has provided a mechanism through which nonresidents may receive driver’s licenses or identification cards. It does not impose a residency requirement on the applicant, and documentation of approved deferred action status is one of the authorized means to be granted a license. I also note that O.C.G.A. § 40-5-21.2 appears to require the Department of Driver Services to confirm the legal status of all noncitizen applicants either through SAVE or an alternative means of confirmation. The verification requirements of that Code section, however, constitute merely an alternative basis for satisfying the documentary evidence requirement of O.C.G.A. § 40-5-21.1. See O.C.G.A. § 40-5-21.1(c)(7), which the evidence of deferred action status also independently satisfies and thereby obviates the need for SAVE verification.
Appendix E

Testimony on House Bill 59

Given on Tuesday, February 15, 2011

Erroll B. Davis, Jr., Chancellor

University System of Georgia
Mr. Chairman:

Thank you for the opportunity to appear before the House Higher Education Committee. You and the other members of the General Assembly have a long history of supporting public higher education, and the University System and its institutions would not have the national reputation they enjoy today absent the efforts of you and your predecessors.

You would, of course, have to be living in a time capsule not to be aware of the public debate over illegal immigration. We are all frustrated by the federal government’s failure to deal with this issue. I wish I could tell you that I had the answers to this problem.

I am not here today, however, to engage in the broader debate about illegal immigration. Rather, I am here today with a much narrower purpose: to report on what steps the Board of Regents has taken in this area, and to discuss some potential implications of House Bill 59 on the University System, often described by others as the crown jewel of the state’s assets.

It is important to note that the Board of Regents has taken no formal position on HB59.

We appreciate Representative Rice’s openness with us about what he is trying to accomplish in this bill. We have worked cooperatively with Representative Rice in the past, most recently last session on the issue of intellectual diversity, and we deeply respect his commitment to education and public service.

The University System of Georgia is, at its heart, an educational agency in the business of preparing individuals for the future by increasing their knowledge and skills; we are not in the immigration business, nor are we presently structured to serve as immigration authorities. Our mission is to educate individuals – in a manner consistent with the law – that increases the numbers of people earning undergraduate or graduate degrees. This mission serves Georgia, the nation, and even the wider global economy by creating the workforce needed for sound and robust economic growth and job creation.

First, just to clarify the current situation, our capacity is not being stressed by thousands of illegal students. Out of 311,000 students in our 35 colleges and universities last fall semester, we found 501 undocumented students, or less than two-tenths of one percent. These 501 students all pay out-of-state tuition, which more than fully covers the cost of their education.

Let me explain the difference between “illegal” and “undocumented.” It should not be assumed that “undocumented” equals “illegal.”

Undocumented students are those who have not provided to us the appropriate documents so that they can be classified for in-state tuition. The number of undocumented students will fluctuate, as individual cases are resolved.

Let me give you a few examples of an undocumented student:
- Military students whose parents are now using another state as their home of record;
- The child of a parent who is working in a border state and is not paying Georgia taxes;
- The student who has entered this country in legal status and has applied for permanent residency, but due to the delay in processing, is in a limbo status until the application is approved; and
- The student who fails to answer questions on the application and/or has refused to provide documentation when asked. This happens most frequently with US citizens seeking in-state tuition rates.

The 501 undocumented students enrolled in our System also do not take the place of academically qualified Georgians. Only 29 of the 501 were enrolled at the five USG institutions that limit undergraduate enrollment. As I will note later, the Board of Regents passed a policy in October that now prevents undocumented students from
being admitted to these five institutions: UGA, Georgia Tech, Georgia State, Georgia Health Sciences University, and Georgia College and State University.

Therefore, we want the committee to be aware that the issue of undocumented students taking seats from taxpaying Georgians has already been addressed administratively by the Board of Regents.

Let me also respond in a little more detail to those who have expressed concern that undocumented students are preventing Georgians from taking some classes. We have thousands of students throughout the System that will experience during the course of their college attendance the inability to take a particular class at a desired time at a desired place. This phenomenon is hardly driven by undocumented students. The much greater driver is the lack of resources to meet exploding enrollment.

Second, the Board of Regents has heard the concerns over improper student classifications that have been expressed and has already taken steps to address them. The Board took four policy actions in October.

• One, students must now sign a statement on the college application that, if they make false statements, they are subject to immediate dismissal from the institution and to prosecution for false swearing, which carries a penalty of up to five years in prison and a fine of up to $1,000.
• Two, students must now declare on their application whether they are applying for in-state tuition.
• Three, USG institutions must verify the lawful presence in the United States of every single student who applies for in-state tuition. Some institutions use the SAVE system; other institutions use other systems.
• And four, as I said earlier, the Board has closed off five institutions to undocumented students all together.

Given the above, we believe that we have already taken the necessary actions to ensure that Georgia taxpayers are protected and, further, that the children of taxpaying Georgians are not displaced by undocumented students.

Finally, I would be remiss as Chancellor if I did not suggest that this discussion should also be cast in the wider context of the world of higher education. Higher education is a very competitive, reputation-driven industry. Just like our farmers and businesses are competing with those in other states and beyond, our colleges and universities are competing for the best faculty and student talent. The University System of Georgia is one of the more highly regarded systems in the nation. Georgia is one of only three states in the US with two or more top-twenty public universities. People now want to come here. The last president we hired came to us from the state of Washington.

To put the actions proposed in the legislation into an appropriate context, the committee should also be aware that forty-nine states permit undocumented students to attend their public colleges, most at out-of-state tuition rates. Ten states knowingly permit undocumented students to attend at in-state tuition rates. Only one state in the nation entirely prevents undocumented students from attending its public colleges and universities – and that state is not Arizona. Even Arizona, with the toughest state statute in the country on illegal immigration, permits undocumented students to attend its colleges and universities, at the out-of-state tuition rate.

In summary: the Board of Regents made a review of student classification for residency and tuition a priority last year. This review found a small number of undocumented students – all classified correctly for tuition purposes – and resulted in Board actions, outlined earlier, that administratively address any concerns raised. We would hope that any decision on HB59 would consider actions already taken as well as the reputational risk to the University System and the state.

Mr. Chairman, we appreciate the opportunity to share our concerns with you and the committee. And, I would, of course, be happy to take any questions that you may have.
Appendix F

ACLU Position Memo on Policy 4.1.6

Prepared by Azadeh Shahshahani, Immigrants’ Rights Project Director
April 12, 2011

BY ELECTRONIC TRANSMISSION AND VIA FACSIMILE

Erroll B. Davis Jr.
Office of the Chancellor
Board of Regents of the University System of Georgia
270 Washington Street, SW, Suite 7025
Atlanta, GA 30334

RE: Board of Regents Policy 4.1.6 – Admission of Persons Not Lawfully Present in the United States; Board of Regents Policy 4.3.4 – Verification of Lawful Presence

Dear Chancellor Davis,

On behalf of the American Civil Liberties Union (ACLU) Foundation of Georgia, I am writing to ask that you take immediate steps to repeal Board of Regents (BOR) Policy 4.1.6, Admission of Persons Not Lawfully Present in the United States, which denies access to higher education for undocumented students at the five most selective institutions in the University System of Georgia (USG). As set forth below, Policy 4.1.6 is contrary to principles of fundamental fairness and public policy and, as confirmed by the BOR’s own findings, unnecessary to address concerns about eliminating costs to taxpayers and preserving seats for lawfully present students.

In addition, the ACLU of Georgia has learned that USG institutions across Georgia that are not covered by Policy 4.1.6 are misapplying both Policy 4.1.6 and Policy 4.3.4, which requires verification of lawful presence for the limited purpose of granting in-state tuition, by conditioning acceptance or registration for Fall 2011 on verification of students’ lawful presence in the United States. These policies and practices mislead students as to the actual admission and registration requirements at USG schools and raise significant privacy concerns by inquiring into student immigration status without a basis for doing so. We therefore ask that, at a minimum, you instruct USG institutions as to the limited application of Policies 4.1.6 and 4.3.4 and direct all USG institutions to immediately remove all erroneous information regarding the policies from their admissions and registration materials.

Analysis

On October 12, 2010, the ACLU of Georgia was joined by 30 Georgia-based organizations and churches in asking the Board of Regents to reject what is now Policy 4.1.6, the policy denying access to higher education for undocumented students at Georgia’s five most selective institutions. In our letter, we cited a number of reasons rooted in principles of fundamental
fairness and economic considerations for our state. We are attaching a copy of that letter for your reference.

Today, we are writing to you again to ask that you repeal this discriminatory policy for the same reasons we detailed in the October 2010 letter. The policy is unnecessary to address possible concerns regarding preserving seats for lawfully present students, since as you are well aware, the investigation conducted by the Committee on Special Residency Verification which was assembled earlier this year by the Board of Regents, found that only 501 of 310,000 students within the USG were undocumented; and only 29 of those students were enrolled in selective institutions. In addition, as you yourself have attested, allowing undocumented students to enroll in public colleges and universities in Georgia imposes no additional cost on the state, as they are already paying out-of-state tuition, which more than fully covers the cost of their education.

In addition, we have learned that this unnecessary policy has had even more damaging consequences, as it is being misinterpreted and misapplied. In fact, both Policy 4.1.6 and Policy 4.3.4 are being misapplied by USG institutions across Georgia. Even though they do not fall under Policy 4.1.6, several schools appear to have improperly conditioned acceptance or registration for Fall 2011 upon verification of students’ lawful presence in the United States, potentially cutting off any and all access to higher education for undocumented students.

As a general matter, “[a]dmission . . . [to] USG institutions [is] to be handled by the institutions within the framework of regulations of the Board of Regents.” BOR Policy 4.1.1. BOR Policy 4.1.6 provides that, effective Fall 2011:

A person who is not lawfully present in the United States shall not be eligible for admission to any University System institution which, for the two most recent academic years, did not admit all academically qualified applicants (except for cases in which applicants were rejected for non-academic reasons).

Id. (emphasis added), available at http://www.usg.edu/policymanual/section4/policy/4.1_general_policy/. As you have repeatedly explained, the Policy 4.1.6 is meant to be limited in scope, applying only to the five USG institutions that did not admit all academically qualified applicants in the past two academic years: Georgia College & State University, Georgia Health Sciences University, Georgia State University, Georgia Institute of Technology, and the University of Georgia.

BOR Policy 4.3.4 further requires verification of immigration status for the sole purpose of tuition classification. It provides that

Each University System institution shall verify the lawful presence in the United States of every successfully admitted person applying for resident tuition status,

2 Id.
3 Id.
as defined in Section 7.3 of this Policy Manual, and of every person admitted to an institution referenced in Section 4.1.6 of this Policy Manual.

Id., available at http://www.usg.edu/policymanual/section4/policy/4.3_student_residency/(emphasis added). Thus, Policy 4.3.4 mandates verification of only those students who have already been successfully admitted to a USG institution and seek in-state tuition. As you have explained, the Board issued this policy to help ensure that students who are presently ineligible for in-state tuition pay out-of-state tuition rates.4

Nonetheless, several USG institutions that are not among the five institutions covered by Policy 4.1.6 have indicated in their admissions materials that acceptance or registration for Fall 2011 is contingent on verification of lawful presence in the United States. For example, the website of the North Georgia College & State University states that, pursuant to Policy 4.1.6, “[a]cceptance . . . is conditional upon U.S. lawful presence verification.”5 The Office of the Registrar of Valdosta State University announces that “[a] person who is not lawfully present in the United States is not eligible for admission to Valdosta State University.”6 Likewise, the admissions website of Augusta State University states that “[u]pon acceptance . . . all students are required to verify their lawful presence in the United States in order to register for classes.”7

Similarly, several USG institutions erroneously suggest that Policy 4.3.4 requires verification of lawful presence for acceptance or registration. The application forms of numerous USG schools correctly indicate that Policy 4.3.4 subjects applicants for in-state tuition to verification, but also instruct that “[a]cceptance . . . is conditional until lawful presence is verified.”8 This requirement is inconsistent with Policy 4.3.4, which on its face applies only to students who have already been “successfully admitted.” Similarly, the admissions website of Georgia Highlands

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4 See id.  
6 Office of the Registrar, Valdosta State University, http://www.valdosta.edu/registrar/ (last visited April 6, 2011). The Registrar’s website erroneously references “House Bill 59: Lawful Presence Requirement for New and Readmitted Students,” even though HB 59 was not enacted this legislative session.  
College states correctly that “[a]pplicants who have no legal documentation to be in the U.S. are eligible to attend GHC” at out-of-state tuition rates, but also states that “[a]cceptance to Georgia Highlands College is conditional upon U.S. lawful presence verification.” Kennesaw State University extends Policy 4.3.4 to student registration, instructing that “[s]tudents will have a registration hold placed on their record until the lawful presence verification requirement is satisfied.”

These statements strongly mislead students as to the requirements of admission and registration at USG institutions. Moreover, these statements raise serious privacy concerns by potentially inquiring into student immigration status without any basis for doing so.

In short, because Policy 4.1.6 is fundamentally unjust, economically shortsighted, and unnecessary, we ask that you repeal it.

We also ask that at a minimum, you take immediate steps to instruct USG institutions as to the limited application of Policies 4.1.6 and 4.3.4. Specifically, we ask that you:

- Issue a formal directive to all USG institutions as to the proper application of Policies 4.1.6 and 4.3.4;
- Mandate uniform, model language for USG institutions that are not covered by Policy 4.1.6 to inform prospective applicants of Policy 4.3.4 in their admissions and registration materials and websites;
- Direct USG institutions that are not covered by Policy 4.1.6 to review and revise their admissions and registration procedures, materials, and websites to properly implement Policy 4.3.4;
- Direct USG institutions to inform all pending applicants of the proper application of Policies 4.1.6 and 4.3.4, both via its website and email and/or direct mail;
- Issue a memorandum explaining the application of Policies 4.1.6 and 4.3.4 to all school superintendents, high school principals, guidance counselors, and other state and county education officials responsible for advising students on the college application process; and,
- Monitor and record USG institutions’ implementation of Policies 4.1.6 and 4.3.4.

Please inform us of any and all steps that you take to remedy this situation. You may reach me by phone at (770) 303-8111 or by email at ashahshahani@acluga.org. We are also happy to meet with you to discuss our concerns and discuss remedies, foremost among which would be

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the repeal of Policy 4.1.6. We thank you in advance for your prompt attention to this matter.

Sincerely,

Azadeh Shahshahani
National Security/Immigrants' Rights Project Director
Appendix G

Letter from Faculty Senate, Georgia Perimeter College – Clarkston Campus

Prepared on January 10, 2012
Georgia Perimeter College
Faculty Senate
Non-curriculum Resolution

Number: S12-Jan-66

Date: 10 January 2012

Subject: Removal of BOR Policy 4.1.6 – Ban on Undocumented Students at
University System of Georgia Institutions

Originator’s Name: Beth Wallace, Instructor, English as a Second Language

Originator’s Campus: Clarkston

Attach Resolution: Follows this summary.

Brief Description of the Resolution:
The GPC Faculty Senate requests the BOR remove the ban on undocumented students as
outlined in the BOR Gen Policy 4.1.6. The Franklin College Faculty Senate, as well as other
Faculty Senates across the state, have already opposed the ban, and rightly so. The Franklin
College Faculty Senate voted unanimously on October 18, 2011, to forward a resolution to the
BOR. Furthermore, Georgia Students for Public Higher Education (GSPHE), a coalition of
students across the state of Georgia who believe that education is a right and should be
affordable for all, has stated that “The Regents continue to make harmful economic and political
policies that attack students and their communities. [The GSPHE] demand[s] education, not
deportation. [The GSPHE] demand[s] quality higher education and will fight for our libraries,
our departments, our professors, our workers, and [students themselves]!

Desired Outcome: That GPC Faculty Senate join other University System Faculty Senates to
request the removal of BOR policy 4.1.6 banning undocumented students admission into
University System Institutions.

The ______ Clarkston ______ Campus Faculty Senate has reviewed this resolution and
(Name of Campus)
submits it for discussion to the Faculty Senate.

Signed: ___________________________ Date: ____________________
(Campus Chair)
Resolution

The Georgia Perimeter College Faculty Senate
24 January 2012

WHEREAS, the Board of Regents’ policy 4.1.6, which denies Georgia’s undocumented students the opportunity for admission to any USG institution, is a step backwards from the previous policy of allowing ALL students to compete for admission based upon individual academic merit; AND

WHEREAS, the policy creates an adverse political environment at USG institutions which is not warranted and, most importantly, denies high-achieving Georgia high school graduates or high-achieving current USG students in the two-year schools, the chance to compete with both out-of-state and international students for admission; AND

WHEREAS, the Board of Regents’ policy 4.1.6 in is in direct violation of BOR policy 4.1.2 which “stipulates that no USG student, . . . be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the Board of Regents . . .,” which policy directly affects those students transferring from the USG two-year institutions; AND

WHEREAS, the policy, according to Jim Jolly, the Chair of the Board of Regents Committee which created it, affected only 501 of the 310,361 students in USG institutions and only 29 students in the five original campuses designed as USG’s most ‘selective universities’ with competitive admissions, and all of whom were paying out-of-state tuition, and further Mr. Jolly stated that “Clearly our . . . Georgia taxpayers are not subsidizing the small number enrolled;” therefore, the policy creates unnecessary burden on admission and financial resources in this time of severe budget shortfalls (AJC, 10/14/10);

BE IT THEREFORE RESOLVED that the Georgia Perimeter College Faculty Senate:

1. Considers the ban on undocumented residents of Georgia from USG institutions as a violation of the mission of promoting higher education and is in agreement with former Board of Regents Vice Chairman Felton Jenkins who voted against the policy due to non-promotion of education objectives and who stated, “I just think people who are qualified ought to get [admitted]. They worked hard and earned their spot. They could help make the state a better place” (AJC, 10/14/10); AND

2. Requests the Board of Regents to remove the ban and return to their former practice of merit based admissions for all Georgia students; AND

3. Shall send copies of this resolution to all current members of the Board of Regents of the University System of Georgia.
Appendix H

Letter of Approval for Site Research

Freedom University

July 1, 2016
July 1, 2016

Ryan Z. Maltese  
Department of Educational Policy Studies  
College of Education & Human Development  
Georgia State University  
Atlanta, Georgia 30302

Dear Mr. Maltese:

This letter serves as formal authorization for you to conduct participatory research at Freedom University. Through your Letter of Request to Conduct Research, I have been made aware of the research study, the expectations of the participants, and the fact that all research will be done on a voluntary basis, with no additional payments or compensation made to participants by yourself or your university. It is also my understanding that the research will be conducted during the summer months of 2016, and will include a study of our students’ experience in seeking opportunities for postsecondary education and how they perceive the impacts of USG Policy 4.1.6 on this process. I am also aware that you will be collecting data in the form of participant interviews and participant observation, for which approval is hereby granted.

It is the understanding between us that any changes made to your research and any additional requirements created as a result of such changes will be submitted to me as soon as is possible. The organization expects your research to be done in a professional and scholarly manner, with as little disturbance as possible to our program or your role within it while you conduct your research. I wish you well in your research endeavors and am happy to provide whatever information you need to complete your program.

Sincerely,

Laura Emiko Soltis, Ph.D.  
Executive Director  
Freedom University  
www.freedomuniversitygeorgia.com  
706.372.4046

Susana Ramirez, Chair  
Freedom U Student Committee
Appendix I

Letters for Freedom University

Images taken by Ryan Z. Maltese on 11/13/16
Dear Courageous Students of Freedom University,

I am heartened to hear of your courageous stand against the Georgia Board of Regents in the face of the horrific election of Donald Trump as president if the United States. We here at the University of Oregon also have undocumented students who are frightened about their futures. I pledge to them, and to you, that I will do everything in my power to support you and to combat the abhorrent racism of Trump and his supporters. I further pledge my support as a militant feminist that I will combat gender and sexual discrimination wherever I see it. While the past 48 hours have been deflating and disappointing, I am buoyed by the actions of young people all over the country who have set themselves to the task of combating racism, xenophobia, sexism, and homophobia wherever they see it. Although we face a difficult road, I have no doubt that we will prevail.

En la lucha,

David Vázquez
Dear FU Georgia Students,

I have been following your efforts for some time and had the privilege of attending your presentation in Charleston, SC last spring. I am so moved and inspired by your courageous fight and I wanted to let you know that I have your back. I have been involved in conversations with friends who were also inspired by you and we have discussed the need for a similar network for support and action in South Carolina. Those conversations have a new urgency now. Thank you thank you thank you for providing a blueprint and stirring us to action.

In solidarity and love,
Lisa Covert
I am united with you, we are one! And you have my deepest support and prayers!

Jennifer Sosa

Hi, my is Uriel Montoya, I just want to send a message of solidarity to all the brave and courageous dreamers. There are many people ready too fight back with you on different fronts. Take care, be safe and stay empowered.
Dear Students of Freedom University,

I am in awe of all you do. You are so strong and so brave, and you deserve this education. Please take care of yourselves and each other, and know you have a support network.

Keep loving, and keep fighting.

Sincerely,
(Ms.) Jessica Roberts (she/her)
jirobert@uga.edu
PhD Student - English
University of Georgia
Hello undocumented students,

My name is Remy, and I’m writing to you in London, but I’m from New York. I was born into a family of immigrants, like many Americans. My mother’s family were Jews from Cuba, who originated in Syria. My father’s family were Russian Jews. At most stages in my family history, my family migrated not because they wanted to, but because they had to. Their home became unsafe, or otherwise unlivable. It should be a fundamental human right to seek refuge and pursue opportunities across borders.

Donald Trump ran a campaign that is contrary to all of my deeply-held beliefs, as a woman, as a Jew, and as an American. As a Jew, I am constantly reminded that we have always been ‘strangers in a strange land’ and that it is our duty to reach out and help others for this reason. As an American, I believe that we are stronger because we are a melting pot. The poem on the Statue of Liberty doesn’t say “...but only if you have papers.”

I have had the misfortune, as a London resident, of witnessing Brexit firsthand - as well as volunteering in Pennsylvania on Election Day and seeing Trump win. But I have also seen my communities rally in support, especially of those among us who are most endangered by these right-wing populist uprisings. I don’t think this is a time to ‘unite’ behind Donald Trump or his supporters - who, if they are not racist, nevertheless supported a racist for president, and are not blameless. But I do think it is time to rally together with people who feel the same sadness and anger as we do. I want you to know that I am in your corner. I feel that my ability to help in a tangible way is limited at the moment because I live abroad and have no disposable income, but my support and my empathy at least I can offer.


Stay safe and happy,
Remy

Remy Maisel | Digital Media Specialist at Placebuzz.com
City University MA Candidate (Creative Writing: Literary Novela)
M: +44 07721054929 | www.remymaisel.com
Hello,

My name is María Magallón. I am from the City of Chicago, but I am currently studying Elementary Education and French at Monmouth College. With the results of the recent elections, I understand we are all in a state of utter distress. We are hurt, disappointed and angry. I thought that, for once in this country’s history, progress would not be met with backlash. But for all of the cracks in the highest of ceilings, for all of the talk about a nation of hope and love, and for all of the talk about finally turning a corner in this nation’s history, America failed us. She turned her back on us.

Although we may be tired of fighting, I am more angry at the fact that bigotry, racism, xenophobia, sexism, and misogyny won the House, Senate, and the Presidency. To all of those who fought and went down swearing, kicking, screaming, and biting...Thank you. To all of those who spit in the face of a patriarchy that hates us...Thank you. However, the fight is not over. With tears in my eyes and a broken heart, I will continue using my voice. It is not over. I believe that love trumps hate. La lucha sigue.

No matter what, you have my support. I will kick and scratch and bite and swear with you. I will scream bloody murder until my throat is raw, because that is what we need. If you are loud, I will be loud with you. If you are furious, I am furious with you. We will overcome together. Never lose the will to fight for what is ours. And as ashamed as I am of America, this CAN be OUR country. I stand in solidarity with you all.

With lots of love,

María Magallón
Dear Freedom University students,

I am inspired by your drive and bravery. Reading about your relentless push against segregation and self advocacy to achieve your dreams has given me renewed energy to fight the hate spewed by this election. As an arts and social justice educator in New York City, learning about this organization and the incredible students and educators that fuel it has been eye opening. I have so much to learn to better my teaching practice and advocate for students like you.

I stand with you all. You are what makes America great. You are the way forward. Keep pushing back, never doubt your human right to education.

And when you are exhausted, I hope you will remember your allies. You are not alone, and there are many people like me, who happened to be born with considerably more privilege, who will fight alongside you.

I hope I am one of many to reach out to you today. Though I live far away, I'd love to learn more about what I can do to help Freedom University and advocate for the right to education everywhere.

Your ally,

Brooklyn, NY
I'm a teacher of undocumented immigrant students in California and I wanted to write and tell you I am standing with you in solidarity. I am blown away by my students' strength and courage every day and I know the students at Freedom University must be extra tough as well. There are many people in this country that DO want you here. Don't lose hope.

Love,
Katie Waddle
San Francisco international high school
San Francisco CA
Dear Friends,

We send our love. We send our sympathy. We send our message. I find this to be a very painful time for our country. We all stand together and with YOU, our friends, our allies, our future. I have seen many people fight for equality in our nation. Our future as a nation will be so great. I know that. I wept knowing that there is such a divide. I wept knowing that our country needs change. I wept in solidarity to you. I stand with you. I will fight for you. I respect you. I love you. LOVE TRUMPS HATE.

Your friend,

Britney Folino
Hey, FU students —

I’m a friend, an advisory board member, a history professor who worked really hard to get my university to admit undocumented students as if they were documented, an ally at the barricades.

I am just writing to say that I am with you. We are all together. We will fight this and win, and win, and win. You all need to get to lawyers of course, to see exactly what you need to do right now so that you can breathe again. But we will all meet against in the streets, and I plan to learn from your courage and wisdom.

Ánimo!
Karen

__________________________
KAREN B. GRAUBART
ASSOCIATE PROFESSOR OF HISTORY
UNIVERSITY OF NOTRE DAME
KBGRAUBART@GMAIL.COM
Freedom U. Students,

I had the privilege of attending a session in Atlanta last week at the CSWE with your Executive Director and one of your students. I was moved to tears by the stories I heard—more importantly, I was moved by your focus on change and fighting back against the injustices that you face.

You are brave, strong and bright students. It is a difficult time indeed, but I stand with you. Do not for a minute think that you are alone in this. This is my pledge to you and this country—

I am doubling down on my commitment to use my privilege to protect people who are vulnerable.

I am doubling down on my commitment to use my voice and my platform to stand up to injustice.

I am doubling down on my commitment to living my life bravely—not without fear, but in spite of fear.

With you,
Julie Rhoads
Dear Courageous Students of Freedom University,

I am heartened to hear of your courageous stand against the Georgia Board of Regents in the face of the horrific election of Donald Trump as president if the United States. We here at the University of Oregon also have undocumented students who are frightened about their futures. I pledge to them, and to you, that I will do everything in my power to support you and to combat the abhorrent racism of Trump and his supporters. I further pledge my support as a militant feminist that I will combat gender and sexual discrimination wherever I see it. While the past 48 hours have been deflating and disappointing, I am buoyed by the actions of young people all over the country who have set themselves to the task of combating racism, xenophobia, sexism, and homophobia wherever they see it. Although we face a difficult road, I have no doubt that we will prevail.

En la lucha,

David Vázquez
Dear students,

I know right now you feel scared, unwelcome, isolated. Please know that you are not alone, that you are welcome here and that you should not be scared. Because more than half of the people in this country are with you, and are ready to stand with you and watch over you. We will do anything possible to stop Trump from enacting on his promises of hate, discrimination and racism. We are with you.

Gabriella
Born in Italy, now a citizen of the United States.
My Dear Freedom University students,

Like you, I am heartbroken at the choice Americans made this week. Unlike you, I never had to fear that I would be unable to finish my education because of that choice. As a former educator who worked hard to earn her Ph.D. right here in Georgia, I see the immense value in education. It is our way forward, out of the darkness of ignorance and into the light of knowledge.

My favorite American author, Frederick Douglass, once said: "Education...means emancipation. It means light and liberty. It means the uplifting of the soul of man into the glorious light of truth, the light by which men can only be made free. To deny education to any people is one of the greatest crimes against human nature. It is easy to deny them the means of freedom and the rightful pursuit of happiness and to defeat the very end of their being." These words are still as true today as they were when he wrote them in 1894, and there are many, many, many people who believe them.

My undergraduate alma mater, Mississippi University for Women, the nation's first public university for women, has a motto: "We study for light to bless with light." I honor your fight as you struggle for this light. You are strong. You are brave. You are worthy. And you are not alone. I send you all the light I can muster in these dark times. Love and blessings to you all as you fight this most important fight.

Megan Stoner Morgan
Ph.D., University of Georgia
Hi there students!

You deserve all the success and happiness life can give you. I'm profoundly disappointed in our country for denying you opportunities that shouldn't be denied to anyone. I can't even begin to understand the legal hell you guys are burdened with. It's not fair and it's not what you deserve. I hope in the future you are afforded the chance to succeed, just like the rest of us. Because there's literally no difference between us beside ink on paper and a stamp.

Much love,
Jomi Hirata
Daughter of immigrants
You all make America a great country. Immigrants are important to the U.S.A. Thank you for choosing to live here. I hope you will all be able to achieve all your dreams and have the best lives that you all deserve. Everybody in this country is an immigrant or have ancestors who come to this country except Native American Indians. My ancestors were undocumented immigrants form England.

Matt Peek
Hello!

On Tuesday, hate won in America. I went to bed crying on Tuesday, stayed in bed all day on Wednesday, and woke up ready to start a fight that will have to be sustained over the next four years.

As a white woman, I will personally feel the affects of a Trump presidency in small ways, but the affects for others across the country are truly unimaginable.

I am writing to say that I will fight with you and for you every step of the way. I will listen to your concerns and fears, talk through strategies, and walk alongside you as we fight back hate.

If you ever need an ally, I will always be here. If you ever need support, I will be here. On Tuesday, hate won, but we will counter with love and diversity, and ensure that we win the country back in two years through congress and in four years with a president who embraces diversity and love.

With strength and with love,
Francesca Freeman
Dear Students at Freedom University,

This last week has not been easy for many of us. After months of hearing divisive rhetoric and controversy from candidates, we witnessed the election of Donald Trump as President of the United States.

Students across the nation have felt sorrow, anger, and confusion after the nation decided to elect a man whose words and strategies for our nation have been antithetical to the ideals and values that make our nation so strong. Students, like yourselves, may be impacted by the legislation that prevents you from living your dreams or the discrimination that dehumanizes you and your journeys for a bright future.

The United States was built on accepting all people with open arms who are more than capable of strengthening the American fabric, as well as extending a hand of support to promote human dignity and ability that create citizens who are engaged with the world around them.

YOU make America what it is: A nation of greatness, a nation whose diversity drives our unison, and a nation that finds its strength in the power of all of its people. We are so proud of the work that you are doing to make your lives better and that will help to have a positive difference in the lives of others.

Always know that you do not stand alone in the midst of this chaos; we are with you every step of the way. We are in solidarity with you and we are working in every way to make sure that your status does not define you. You are human beings first and you are the future that will make our world a better place. We need you to move forward during this time of great introspection to be the change to wish to see in the world.

The one piece of advice that we can give you is this: Take the energy that has made you think and rethink about this election and get to work. We know the amazing talents and abilities that make you ready to be the leaders and changemakers in the world, but not everyone knows that. You each have a beautiful story that makes you so wonderful and unique, but not everyone realizes that. Put your efforts to educate, advocate, and change hearts and minds across the country. Make yourselves known as being the positive contributions that you are going to be to the world. Work on any and all initiatives of injustice to leave your mark and legacy. Your work for reconciliation should not call for injustice for yourselves or others, but should be an opportunity to build bridges and create a groundswell of positive reform.

We need you all to be the best YOU can be. We expect nothing but the best from you. Keep up the good work.

Tahil Sharma
Stevens/HNH Coordinator, AMP Global Youth
UN Youth Representative, Parliament of the World’s Religions
Interfaith and Youth Liaison, Sadhsm Rays Coalition for Progressive Hindus
Dear Students,

Your courage, grace and determination show us how to go forward as we fight the looming darkness. A government can only oppress its people if they allow it. I stand with you.

Robert Kennedy was my childhood hero, because he believed this:
Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring those ripples build a current which can sweep down the mightiest walls of oppression and resistance.

We move forward.

Sending you all of my best wishes,

Kaye Peters
Hi,

I'm Ellen, a college student in Chicago. I heard you're looking for messages of solidarity for a meeting tomorrow and I'm a little late sending this, but I just wanted to say to students that we're here and we aren't going to stop fighting for you. I don't know what is going to happen in the coming months. I do know, though, that you're part of the hope I do have for America. Sending lots of love and support from far away.

Ellen Purdy
My wife and I wanted to express our sincerest thanks for the work you have done and will continue to do.

While Tuesday showed us that America's fear and hatred will keep it from being its better self, I wanted you to know you are not alone. The work you do is truly needed and should you need support, we are committed to you and your students.

Warmly,

Jordan Lanfair
Dear courageous freedom fighters!

I'm sending you much love, support and fuerza from Connecticut where we too are in the midst of a lucha for the rights and lives of our people. Thank you for all your brave and inspiring work!

En solidaridad,

Mark Overmyer-Velazquez
Dear Students of Freedom University Georgia:

I am a professor of conflict and post-conflict issues at a US University and one of the main courses I offer is Refugees and Migration. I know how the results of this election impact the lives of so many minority communities and how it again thrusts some of the most vulnerable, such as you all, in the frontlines. I know you are terrified, anxious, angry. I have been dealing with a range of emotions from my students at the undergraduate and graduate levels since the night of November 8 and I bear witness to their pain, the fear and the disbelief. I know that there is a lot of uncertainty regarding what will happen in the first 100 days of the Presidency and the possible legislations that will follow that will make life for you all, and for so many others harder. I don’t have the words of comfort to offer knowing how things can go, and how so many of us will be impacted. This was the price many Americans were willing to pay for the president they wanted.

But I can tell you this. That you are not alone. That across the country, there are so many of us—scholars, educators, lawyers, human rights activists, political, community and spiritual leaders, other allies—decent human beings who will stand with you, march with you, fight for you in every possible way we can. This is not just an issue for one community in the US—this is about the decency and generosity of this country; and more so about recognizing what is important about the human spirit—and that transcends political beliefs, religious convictions, class, color, and everything else societies and systems tell us that makes us different.

I don’t what the final outcome is going to be, and how many people will have to pay the price for the things that are to come. But know that your lives and your destinies will not be decided by a simple stroke of the pen, and there will be strong resistance to every measure that is taken to make you feel less secure and less welcome.

We are all in this together. And we will stand by each other and fight for all that makes us human.

My best regards,
Dr. Sapad
Dear Freedom University students,

I am inspired by your drive and bravery. Reading about your relentless push against segregation and self advocacy to achieve your dreams has given me renewed energy to fight the hate spurred by this election. As an arts and social justice educator in New York City, learning about this organization and the incredible students and educators that fuel it has been eye opening. I have so much to learn to better my teaching practice and advocate for students like you.

I stand with you all. You are what makes America great. You are the way forward. Keep pushing back, never doubt your human right to education.

And when you are exhausted, I hope you will remember your allies. You are not alone, and there are many people like me, who happened to be born with considerably more privilege, who will fight alongside you.

I hope I am one of many to reach out to you today. Though I live far away, I’d love to learn more about what I can do to help Freedom University and advocate for the right to education everywhere.

Your ally,
Claire Kissing
Brooklyn, NY
Appendix J

GSU Internal Review Board Approval

October 7, 2016

IRB Number: H17070
Principal Investigator: Janice Fournillier

Key Personnel: Curlette, William; Fournillier, Janice; Maltese, Ryan Z, Ph.D.

Study Department: GSU - Educational Policy Studies

Study Title: A Critical Analysis of USG Policy 4.1.6 and Its Perceived Impacts on DACAmented Students in the State of Georgia

Review Type: Expedited 6, 7

IRB Number: H17070

Reference Number: 337867

Approval Date: 10/07/2016

Expiration Date: 10/06/2017

The Georgia State University Institutional Review Board (IRB) reviewed and approved the above referenced study in accordance with 45 CFR 46.111. The IRB has reviewed and approved the study and any informed consent forms, recruitment materials, and other research materials that are marked as approved in the application. The approval period is listed above. Research that has been approved by the IRB may be subject to further appropriate review and approval or disapproval by officials of the Institution.

Federal regulations require researchers to follow specific procedures in a timely manner. For the protection of all concerned, the IRB calls your attention to the following obligations that you have as Principal Investigator of this study.

1. For any changes to the study (except to protect the safety of participants), an Amendment Application must be submitted to the IRB. The Amendment Application must be reviewed and approved before any changes can take place.

2. Any unanticipated/adverse events or problems occurring as a result of participation in this study must be reported immediately to the IRB using the Unanticipated/Adverse Event Form.
3. Principal investigators are responsible for ensuring that informed consent is properly documented in accordance with 45 CFR 46.116.
   - The Informed Consent Form (ICF) used must be the one reviewed and approved by the IRB with the approval dates stamped on each page.

4. For any research that is conducted beyond the approval period, a Renewal Application must be submitted at least 30 days prior to the expiration date. The Renewal Application must be approved by the IRB before the expiration date else automatic termination of this study will occur. If the study expires, all research activities associated with the study must cease and a new application must be approved before any work can continue.

5. When the study is completed, a Study Closure Report must be submitted to the IRB.

All of the above referenced forms are available online at http://protocol.gsu.edu. Please do not hesitate to contact the Office of Research Integrity (404-413-3500) if you have any questions or concerns.

Sincerely,

Cynthia A. Hoffner, IRB Vice-Chair

Federal Wide Assurance Number: 00000129