



December 17, 2010

Dear Senator:

RE: ACLU Urges “YES” Vote on the DREAM Act of 2010 (H.R. 5281)

On behalf of the American Civil Liberties Union ("ACLU"), a non-partisan organization with over half a million members, countless additional activists and supporters, and 53 affiliates nationwide, we urge you to support the DREAM Act of 2010 (H.R. 5281) on cloture and on the merits. We also urge you to oppose any amendment or motion that would impose undue border enforcement or weaken civil liberties.

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For 90 years the ACLU has protected the rights of immigrants by ensuring equal protection and fairness under our laws. To this end, the ACLU has defended the option for states to grant all its resident students, regardless of immigration status, the right to attend public universities at an affordable rate. Because H.R. 5281 promotes fundamental fairness in access to public higher education for all high school students, we urge you to vote for the DREAM Act of 2010 when it comes up on the Senate floor. Because of the importance of this vote, the ACLU will be adding it to our congressional scorecard.

This version of the DREAM Act, which passed in the House with bipartisan support on December 8th, includes several important updates to strengthen the former Senate version. H.R. 5281 breaks up the ten-year conditional nonimmigrant status previously proposed into two five-year periods, requiring aliens to apply for an extension after the first period elapses. H.R. 5281 also adds two additional surcharges to the processing and adjudication fees, requiring fees for both initial application and for extension application. Additionally, H.R. 5281 further limits the application deadline for students and makes all beneficiaries ineligible for Stafford loans. With these crucial changes, the DREAM Act is not only fiscally responsible, but ensures compliance with the law while providing deserving students with access to higher education.

Undocumented students who stand to benefit from the DREAM Act of 2010 are talented high achievers who overcame the odds to graduate from high school and secure admission to a public university. However, for most of these high school graduates, the door to higher education remains closed and locked because they cannot afford to attend a public university without in-state tuition.

At least 10 states¹ have enacted laws permitting undocumented students who attended and graduated from a high school in the state to pay the in-state rate

¹ California, Illinois, Kansas, Nebraska, New Mexico, Texas, Washington, Utah, New York, Wisconsin.

at public universities if the students intend to legalize their status once the opportunity presents itself. These states have recognized that higher education is critical to young people achieving their fullest potential, and have made a policy choice to make public universities equally accessible to all students who have been educated in their secondary schools. These states have also recognized that a well-educated population leads to increased earning power and disposable incomes that stimulate economic growth in their state economies. In enacting such equal education laws, these states have removed economic impediments to those high school graduates pursuing higher education and have declined to penalize children who were unlawfully brought to the U.S. at a young age by their parents, through no fault of the children.


Legal challenges have been brought against tuition equality laws in Kansas and California. The ACLU helped successfully defend both state tuition equality laws, and just last month the California Supreme Court in a landmark decision, *Martinez v. Regents of the University of California*, upheld California's authority to enact in-state tuition laws applying to all students who graduate from California high schools. States are, of course, prohibited from enacting laws that restrict constitutional rights or interfere with federal law. Nevertheless, they should be free to take into account the values and practical realities underlying enactment of policies that enhance immigrant civic participation and further the full realization of constitutional rights, including principles of equal protection.

The ACLU supports a state's right to enact in-state tuition laws as a matter of fairness for all those high-achieving students who graduated from state high schools and successfully gained admission to public universities, often against remarkable odds. The DREAM Act of 2010 reflects those same values and allows deserving high school graduates to contribute to our country's future. The ACLU urges you to reject any motions or amendments that would impose undue border enforcement or would weaken civil liberties, and to support passage of the DREAM Act of 2010 (H.R. 5281).

Sincerely,

A handwritten signature in black ink that reads "Laura W. Murphy". The script is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Laura W. Murphy
Director, Washington Legislative Office

A handwritten signature in black ink that reads "Joanne C Lin". The script is cursive, with the first letters of the first and last names being capitalized and prominent.

Joanne Lin
Legislative Counsel