



Immigrant  
Legal Services  
Center

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## **PROGRESS REPORT**

**UNIVERSITY OF CALIFORNIA  
PRESIDENT JANET NAPOLITANO**

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UC IMMIGRANT LEGAL SERVICES CENTER**

**SEPTEMBER 2018**

## BACKGROUND

This report summarizes our services for the 2017 – 2018 Academic Year and examines the future trajectory of the UC Immigrant Legal Services Center (“UCIMM”) over the next two years. It also discusses how we continue to respond to changes in federal immigration law and policy under the Trump administration and the impact of those changes on the students and families we serve.

UCIMM was founded in January 2015 by UC President Janet Napolitano to provide quality immigration legal services to undocumented UC students and their undocumented family members. UCIMM also serves students and family members who are United States citizens and lawful permanent residents. UCIMM is based out of UC Davis School of Law and currently provides free immigration legal services at all UC campuses, except UC Berkeley which runs an independent program.

UCIMM opened in January 2015 with a staff of four: an Executive Director, two law fellows, and a paralegal. By spring 2018 UCIMM expanded with the financial support of the UC Office of the President, the local campuses, and outside funding. UCIMM now has six (6) full time attorneys and three law fellows for a permanent full-time staff of eleven. At UC Santa Barbara the Associated Students fund a part-time contract attorney who works with UCIMM to provide on-campus immigration services.

The expansion is the result of increased demand and this has in turn led to a dramatic increase in services. In the 2015 – 2016 Academic Year UCIMM served 311 clients. In the 2016 – 2017 Academic Year UCIMM opened 872 new legal cases. This past 2017 – 2018 Academic Year UCIMM opened 1,377 cases and responded to 650 inquiries. Additionally, UCIMM attorneys provide critical updated information about changes in immigration law and immigration enforcement on a regular basis to the campus communities we serve. The immigration landscape continues to be extraordinarily fluid and complex. As a result, UCIMM attorneys navigate new federal immigration policies, court ordered injunctions and their appeals, and proposed federal and state legislation on a weekly, and sometimes daily basis. *(See Attachment A: Recent DHS Policy Changes)*

## STAFF

### 2017-2018 ACADEMIC YEAR

The Center has a staff of eleven: Executive Director, two Managing Attorneys, 3 Attorney Fellows, four Staff Attorneys, and one Paralegal to cover nine campuses.

**UCLA:** Through the office of the Vice-Chancellor of Student Affairs, UCLA supports and houses a full-time staff attorney and also provides office space for our Southern California managing attorney. In addition to supervising the Southern California legal staff, this managing attorney also carries a UCLA and Santa Barbara caseload.

**UC Irvine:** In April 2017, UCIMM hired a full-time staff attorney for UC Irvine whose significant legal experience, including removal defense, has been invaluable to our entire legal staff. UC Irvine provides partial funding for this position out of their UCOP funds and our attorney is housed in a new building dedicated to student organizations. Beginning in the winter of 2019, the UCI Law School will place a full-time fellow through the Public Interest Fellowship. This will greatly expand our ability to serve UCI which has a large number of cases.

**UCSD:** In February 2018, UCSD secured funding and space for a full-time attorney who previously split her time between UCR and UCSD. This has quickly led to an increase in the number of students the UCIMM sees at this border campus that presents many challenges for its undocumented students.

**UC Riverside:** During the 2017 – 2018 Academic Year UCIMM received a generous one-time support for a full-time Riverside based attorney from Tom Steyer's NextGen Foundation. We were also fortunate to hire a Southern California attorney with 4 years of immigration law experience who is a DACA beneficiary. UCIMM offices at UCR are located in the offices of Campus Counsel. In the upcoming 2018 – 2019 Academic Year UCR will fully fund the attorney position and continue to provide office space for our attorney and a legal assistant to be hired in the near future.

**UC Davis,** as it has from the very beginning, funds a full-time on-site attorney and the costs are shared between the Law School and the office of the Vice-Chancellor for Student Affairs. UCIMM offices are located at the UC Davis School of Law.

Currently, we are able to service UC Merced, Santa Cruz and UCSF remotely with dedicated attorneys assigned to each campus. Recently we added a part-time contract attorney located on campus at Santa Barbara. Cloud technology and improved teleconferencing systems, along with consistent communication with the undocumented student programs allows UCIMM to successfully serve the campuses reliant on off-site attorneys.

Our continued goal over the next two years is to move to a model where all campuses absorb the attorney costs as part of their student affairs budget. This would allow outside funds to focus on supporting the management staff and operating expenses of our statewide operation.

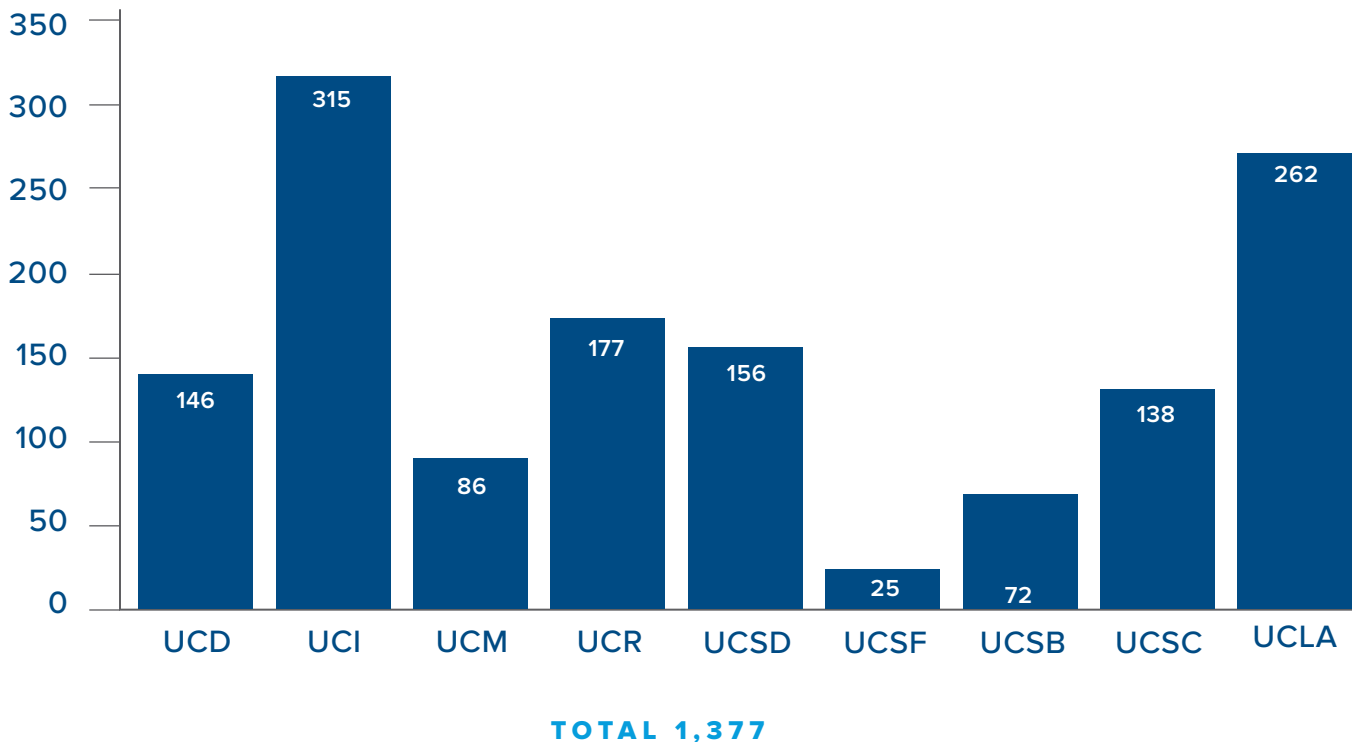
## KEY DATA POINTS FOR 2017-2018

The sense of crisis created by aggressive, non-prioritized immigration enforcement, new policies that have curtailed immigration relief and the threat to DACA have brought many more clients to our door

In the 2017 – 2018 Academic Year, the UC Immigrant Legal Services Center opened 1,377 cases. This represents a growth of 57.91% from the 2016 – 2017 Academic when we opened 872 cases. The growth was not limited to the campuses where we added full-time attorneys; it was an across the board growth.

In addition, we handled approximately 650 inquiries that did not turn into matters. Nonetheless, these types of inquiries require attorney hours dedicated to interviews, research and legal analysis before attorneys determine not to open a case. The decision not to pursue a case can be due to a variety of reasons, e.g., the client is not eligible for the relief they seek, there is a high level of risk involved in submitting an application or the student cannot afford the application process.

### NUMBER OF CASES PER CAMPUS, SUMMER 2017- SPRING 2018



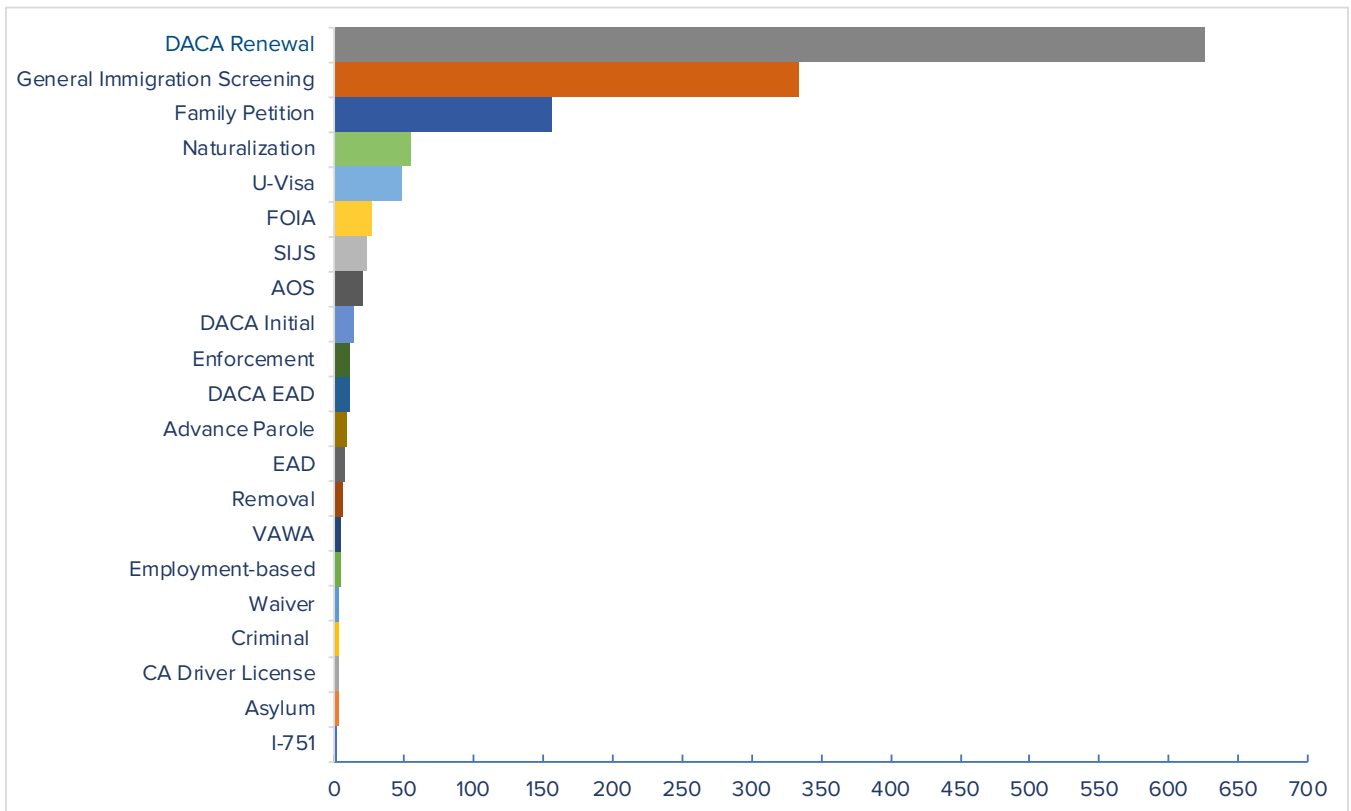
## **OVERVIEW OF LEGAL MATTERS**

UCIMM continues to handle a wide range of immigration matters. This is largely a result of our emphasis on careful screening that often uncovers avenues for status adjustment and our commitment to serve families, many of whom have complex and varied immigration needs. DACA renewal cases, however, were a large part of our AY 2017 – 2018 Academic Year, in part due to our full-time presence on many campuses and the urgency created by the September '17 rescission and the relief provided by DACA litigation.

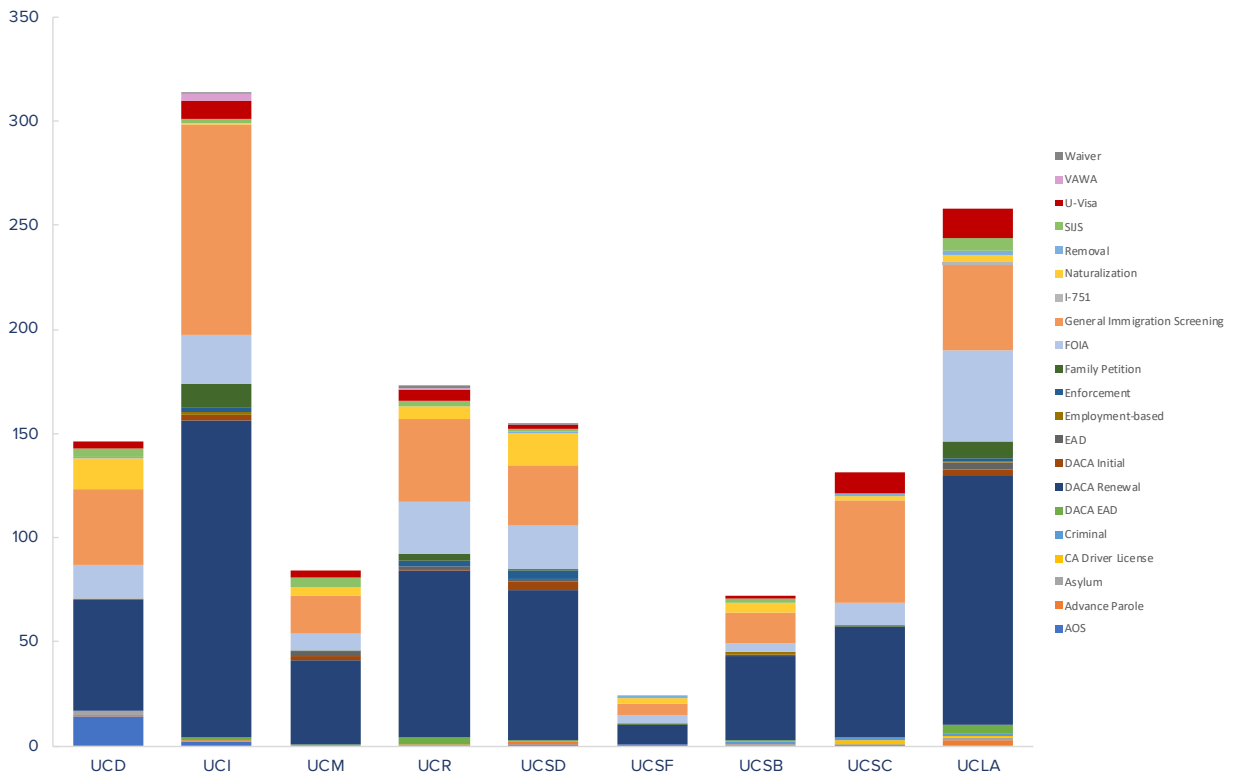
### **THE FOLLOWING REPRESENT THE BREAKDOWN OF CASES FOR THE 2017 – 2018 ACADEMIC YEAR**

- DACA: 625 cases involved DACA renewals. (This reflects a 57.83 growth in DACA as compared to AY 2016-2017 when we had 396 DACA matters)
- General Immigration Screening: 334 intakes or 24% of total matters (271 in 2016-2017)
- Family Petitions and Adjustment of Status: 176 cases or 12% of total inquiries
- U Visas: 48 cases or 4% of total matters
- Naturalization: 55 cases or 4% (32 in 2016-2017)
- Special Immigrant Juvenile Status: 23 cases or 2% of matters (13 in 2016-2017)

## TYPES OF CASES, SUMMER 2017 - SPRING 2018



## TYPES OF CASES BY CAMPUS, SUMMER 2017 - SPRING 2018



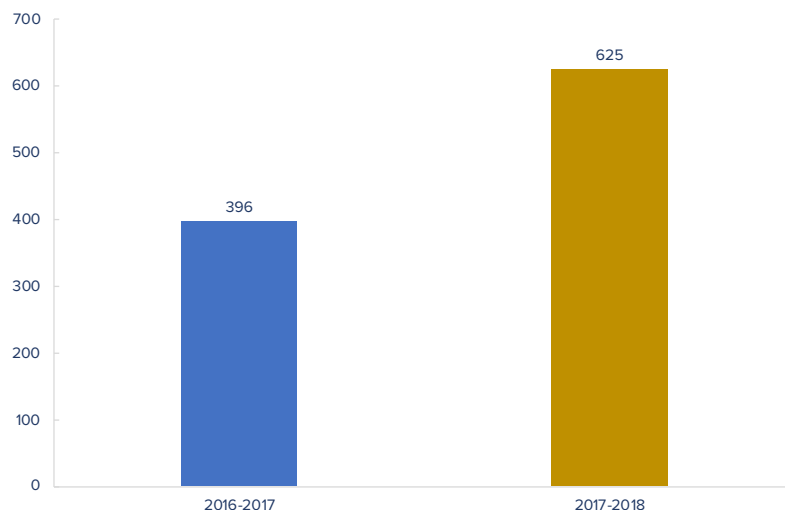
## DACA 2017-2018

This has been an extremely difficult year for DACA recipients and those formerly eligible for DACA. The rescission of DACA in September 2017 was a big blow to the hopes and dreams of many of our students. For those who had never applied for DACA, the opportunity was summarily removed. For those with DACA, their expiration dates have become, in many ways, the focus of their planning and attention. Without work authorization in the future, many students are questioning the value of continuing their higher education. Also, work authorization provided by DACA has made college financially possible for the first time and without it many may not be able to continue their education. The UC litigation and the various federal District Court injunctions have breathed a bit of hope into DACA recipients' lives, however, the dejection and uncertainty are palpable.

Between September 5, 2017, and October 2017 (official date set by the administration to end all DACA renewals) and after the January 5, 2018 federal court injunction in the University of California litigation, UCIMM has done everything possible to assist with DACA renewals while this window is open. Even though we were unable to enroll students in DACA for the first time and Advance Parole was no longer available, our DACA related caseload jumped from **34% to 45%**. Between January 5, 2018, and June 30, 2018, we handled 456 DACA renewals. The USCIS's unwillingness to guarantee that data won't be shared with ICE (until ordered to not share by the by several federal courts) means that our attorneys spend a lot of time counseling clients about straightforward DACA applications and as a special precaution we file attorney representation with all DACA applications.

Recently, UCIMM qualified to receive state funding for providing DACA services and more importantly, this funding allows us to cover our clients DACA filing fees. The availability of application funds has brought many students to our doors for their DACA renewals, even during the summer months when students are not on campus. We handled just over 100 DACA renewals in July and August 2018.

## INCREASE IN DACA CASES BETWEEN 2016-2017 AND 2017-2018

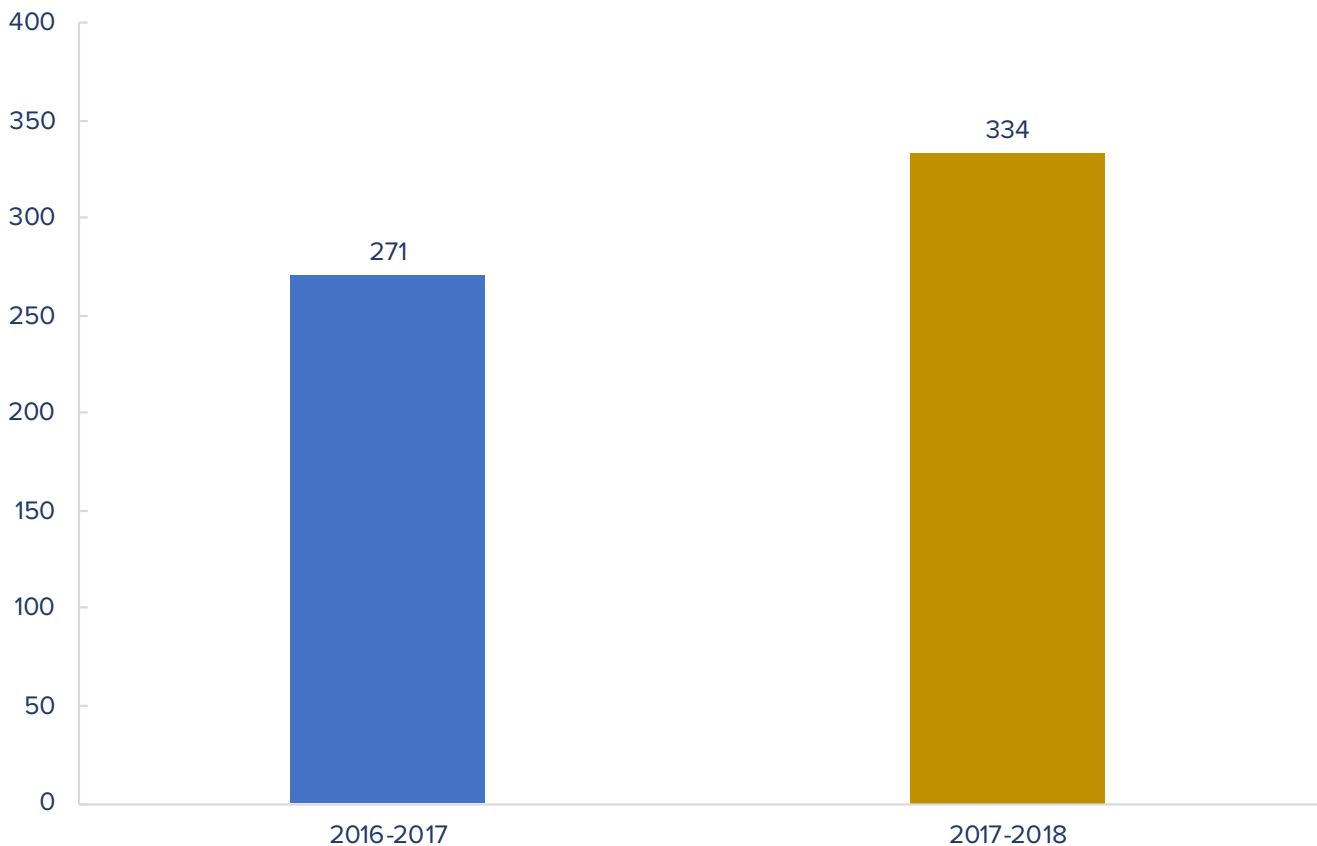


## GENERAL IMMIGRATION SCREENING AND FORMS OF RELIEF

After DACA, the next largest group of inquiries we handled in the 2017 – 2018 Academic Year was general screenings to identify possible avenues of immigration relief. Though our model has always been to carefully screen everyone who seeks our services, the fear and uncertainty created by the federal government’s aggressive removal policies meant we saw many more clients who sought our services for this specific purpose. Our screening approach is successful and during our comprehensive screenings we have identified numerous family-based petitions, U Visas, and eligibility for Special Immigrant Juvenile Status that provide pathways for adjustment of immigration status.

Although in many cases we are unable to identify a path to legal residence, the detailed comprehensive screening is an invaluable service we are able to provide free of charge. Without qualified immigration advice, many fall prey to bad information and immigration fraud. In fact, many of our clients come to us after getting bad or clearly erroneous legal advice.

## INCREASE IN GENERAL SCREENING FROM 2016-2017 AND 2017-2018



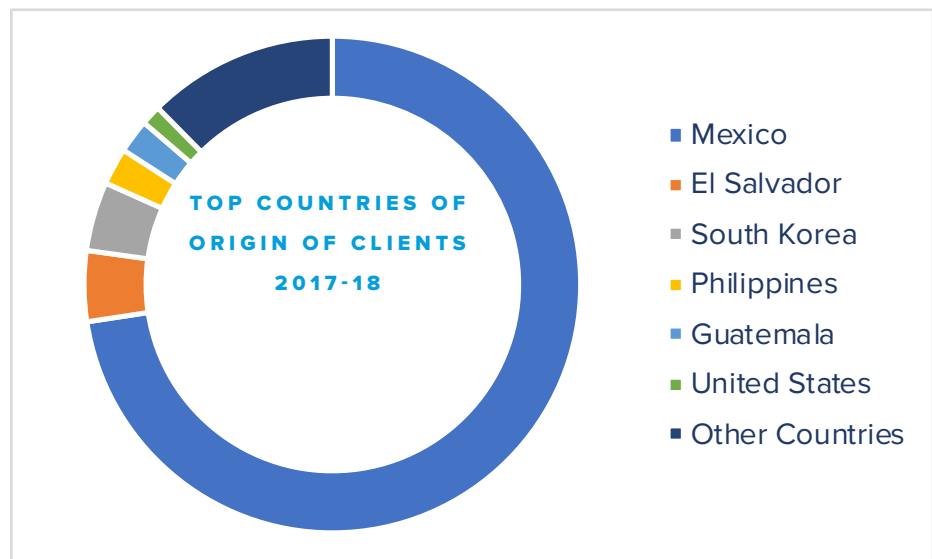


## DEMOGRAPHIC PROFILE OF OUR CLIENTS

The student body of the University of California reflects the diversity of our state. Our clients hail from 58 different countries including: Afghanistan, Algeria, Argentina, Bangladesh, Botswana, Brazil, Cameroon, Canada, China, Colombia, Cote D'Ivoire, Egypt, El Salvador, England, Ghana, Guatemala, Haiti, Honduras, India, Indonesia, Iran, Israel, Japan, Kenya, Mexico, Mongolia, Nepal, New Zealand, Nicaragua, Nigeria, Pakistan, Peru, Philippines, Russia, South Korea, Sri Lanka, Taiwan, Thailand, United States, Venezuela, Vietnam.

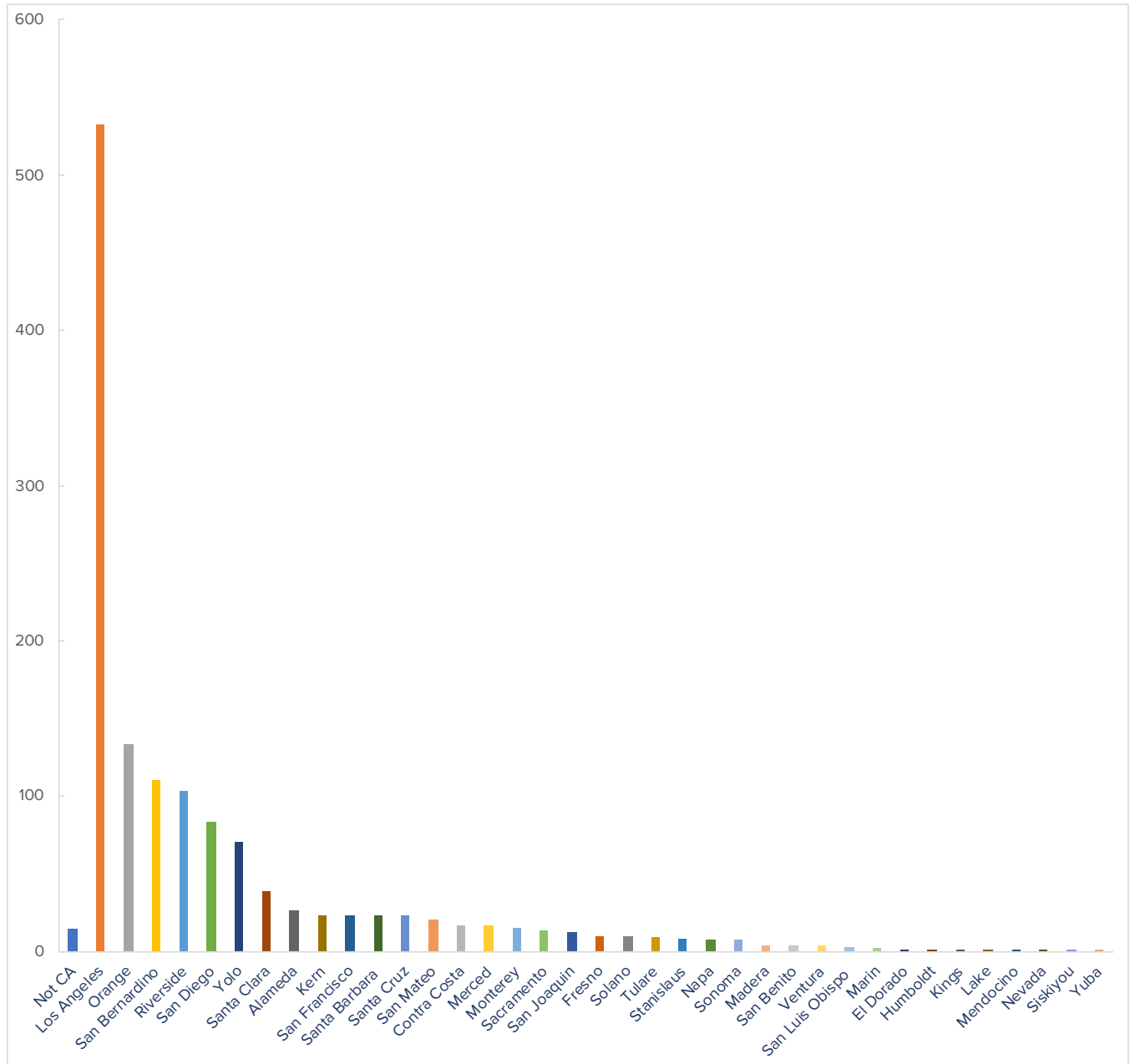
### CLIENTS' TOP 6 COUNTRIES OF ORIGIN:

- Mexico: 72.6%
- El Salvador: 2%
- South Korea: 4.5%
- Philippines: 2.4%
- Guatemala: 2.2%
- United States: 1.3%



In the 2017 – 2018 Academic Year, UCIMM served immigrants from 37 counties across California (compared to 34 counties in AY 2016-17). At 38.8%, Los Angeles County is home to the highest proportion of our clients, followed by Orange County with 9.7%, San Bernardino at 8.0%, Riverside 7.5% and San Diego 6.0%

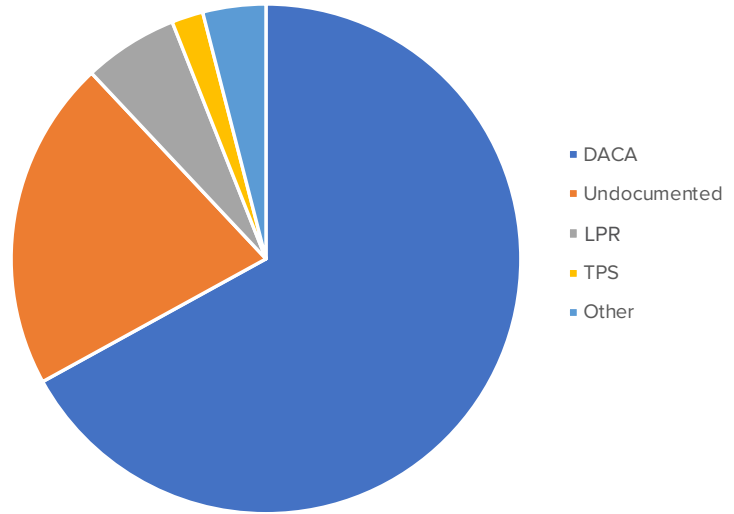
**COUNTY OF RESIDENCE OF CLIENTS, 2017-18**



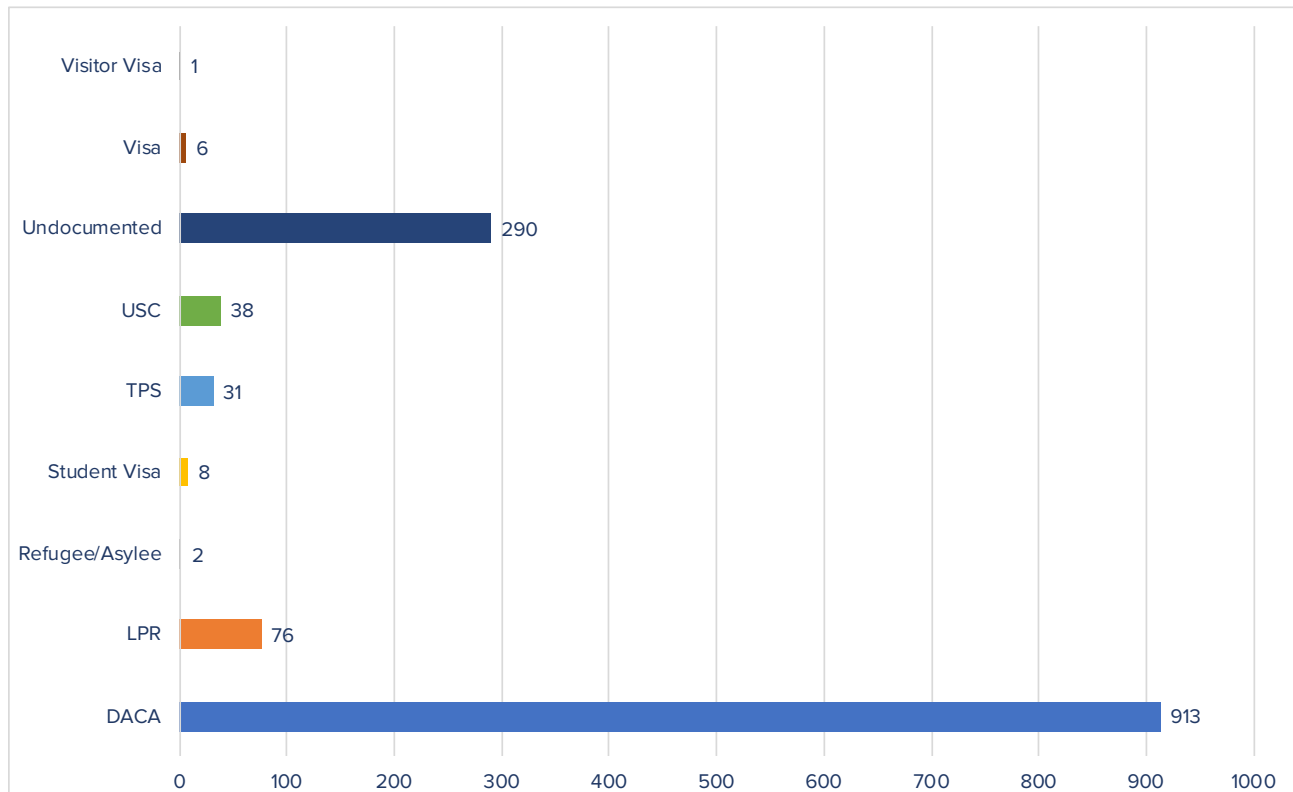
## IMMIGRATION STATUS OF CLIENTS, 2017-18

UCIMM serves clients with varying legal statuses. The highlights for the 2017 – 2018 Academic Year are:

- 67% of our clients have DACA
- 21% are undocumented
- 6% are Legal Permanent Residents
- 2% TPS



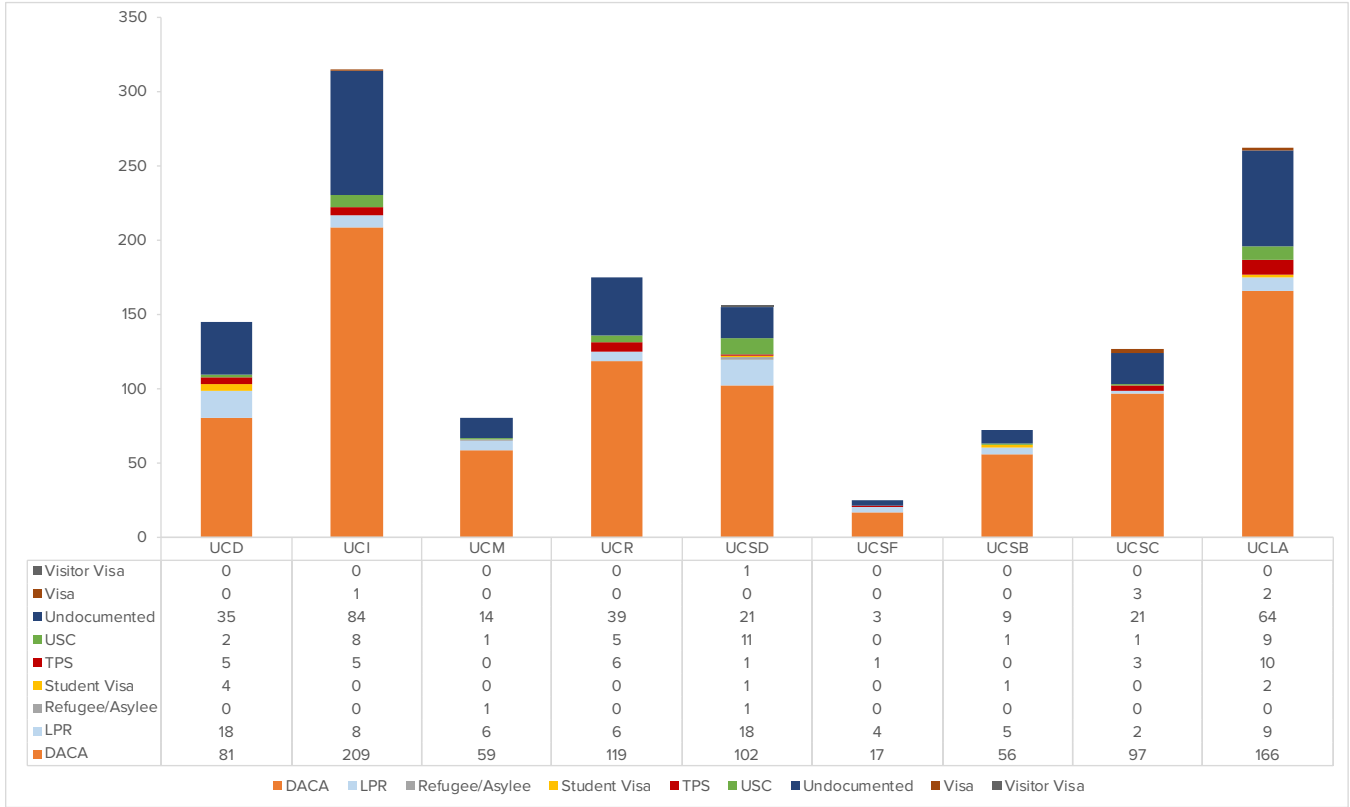
## IMMIGRATION STATUS, SUMMER 2017-SPRING 2018



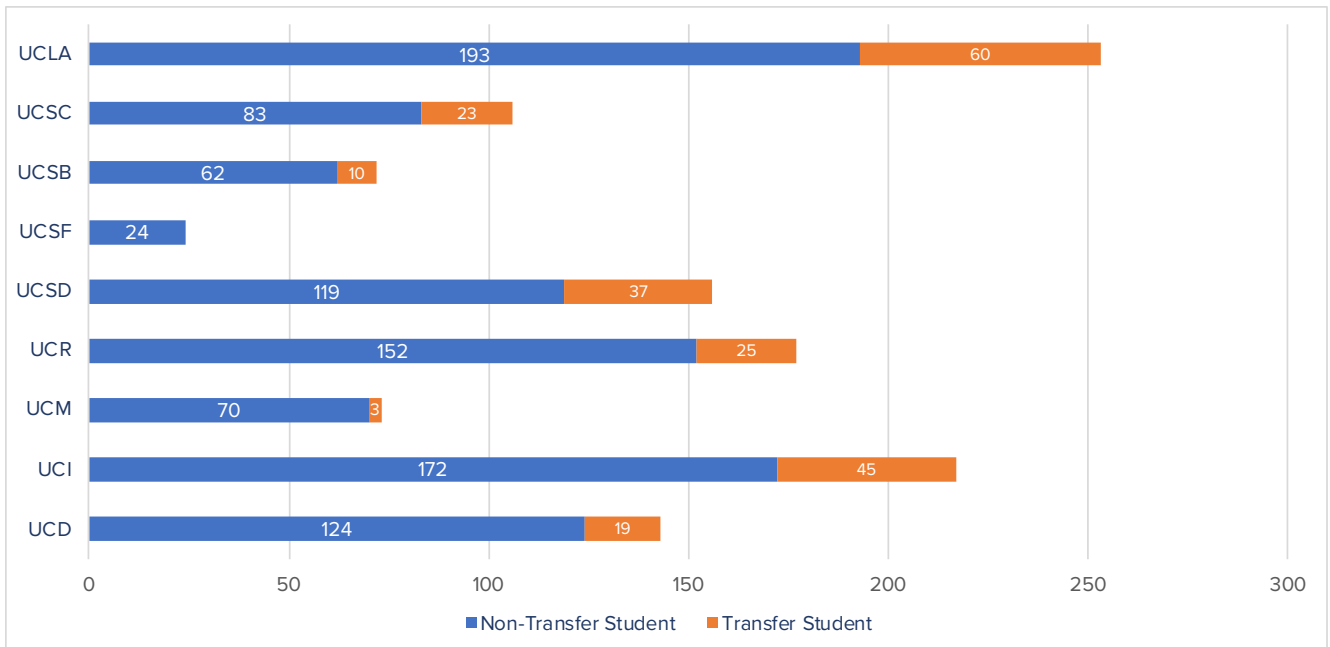
Our clients include both UC students and their family members. In AY 2017-18:

- 67.6% of our cases were student only
- 24% were family members of students (increase from 21%)
- 8.4% included both students and their family members
- 21% of our clients were transfer students.

## IMMIGRATION STATUS BY CAMPUS, SUMMER 2017-SPRING 2018



## TRANSFER STUDENTS BY CAMPUS SUMMER 2017 - SPRING 2018



## **CASE HIGHLIGHTS**

### **Lawful Permanent Residence**

A second-year student learned about our services when she needed to submit her DACA Renewal during the narrow window set out by the government between September 9, 2017, and October, 5 2017. Through the intake process, we learned that she was turning 21 in 6 months, and that she and her nineteen year old sister are stepdaughters of a U.S. citizen who has raised them since they were small children. Because the sisters had never been able to afford an attorney, their stepfather had not submitted an immigration petition for them. UCIMM has been able to submit both sisters' DACA Renewal applications and I-130 petitions to adjust to permanent residents through their stepfather.

### **Special Immigrant Juvenile Status (SIJS)**

Our student, a UC student, was abandoned by both of his parents at age of 11 and experienced significant housing and food insecurity throughout his teenage years. He was mostly raised by his older brother who also struggled in their parents' absence. He came to us because a notario poorly prepared his initial DACA application and it was rejected. (He and his brother slept in a car for a month to pay for the notario and DACA fees.) Although we could no longer assist him with the initial DACA application due to DACA's rescission, we were able to file for a guardianship and for a SIJS visa a few weeks before his 21st day. His SIJS visa petition is now pending with USCIS.

### **Support for family members**

A U.S. citizen student came to UCIMM to get assistance in finding a relief option for her undocumented six-year-old child who was born outside of the United States. The student returned to the U.S. with her daughter to escape from the child's abusive father. In July 2017, UCIMM helped the student file a permanent residency application for her child.

### **Naturalization**

We were able to assist a student file for naturalization, which she needed to complete before going abroad for her honeymoon. In less than six months we filed her naturalization application and also a request for a refugee travel document as a back-up option. Because the next naturalization oath ceremony was scheduled for a week before her departure, we requested a special accommodation to have her oath ceremony be scheduled as soon as possible. This allowed her to become a citizen and apply for a US passport in time for her honeymoon.

## CASE HIGHLIGHTS

### U-Visa for domestic violence survivor:

The mother of two UCLA students came in to start an immediate relative petition through her 21 year-old citizen child. She was unaware that her immigration history made her ineligible to adjust her status because she had never been able to afford a legal consultation. Through in-depth screening, we discovered that she was eligible for a U-Visa because she had been severely abused by the father of the students. We were able to obtain U-Visa certification from law enforcement and we are currently in the process of helping her obtain a visa.

## UCIMM AS A MODEL FOR OTHER UNIVERSITIES

**We continue to serve as a model for other universities who seek to provide immigration legal services for their undocumented students and their families.** Partnering with NextGen America, we conducted three “Sharing Our Model” webinars in January, March, and May of 2018. These webinars explained the Center’s legal services model, as well as why and how to establish on-campus immigration legal services. Two hundred and Eighty-Six (286) individuals registered for the 2018 webinars. Participants represented one hundred nineteen (119) colleges and universities nationwide. Of these, 46.2% (55) were California institutions and 53.8% (64) were out-of-state institutions. The majority of participating institutions 64% (79) were public systems of higher education systems. In addition we created a toolkit accessible through a special portal that contains materials and recommendations for institutions seeking information regarding setting up legal services.

In Spring 2018 we worked with several foundations and the Immigrants Rising organization to launch the Catalyst Fund, a three (3) year fund to support primarily community colleges and California State University campuses who have nascent undocumented student programs, many of whom want to launch immigration services for their students. Thirty (30) institutions received grants, and UCIMM will consult with the Catalyst Fund to assist the grantees who were awarded funds to build legal programs.

## **ATTORNEY HOURS SPENT PER CASE TYPE AND APPROXIMATE ESTIMATE OF VALUE OF SERVICES PROVIDED IN 2017-18**

- Our DACA cases, the majority of which are DACA renewals, require an average of about four hours of preparation.
- We estimate that our family petitions average about twenty-five hours, although some take much longer because it is difficult to reach family members and obtain all the required documents. In addition, attorneys almost always submit several Freedom of Information Act requests to the various immigration agencies and state and federal Departments of Justice when preparing a family petition to ensure that the client will not run into any trouble when applying for Adjustment of Status.
- Our Special Immigrant Juvenile Status (SIJS) cases take the most attorney time; somewhere around 40 hours. Each case involves locating a guardian, filing for guardianship in probate court or custody in family court, service on estranged parents and family members, and finally filing with USCIS after the state court issues the necessary findings.
- U-Visa petitions take an average of 35 hours because they involve requests to law enforcement agencies to certify that our clients have cooperated. U-Visas also require lengthy declarations, and working closely and delicately with clients, given the often sensitive nature of the subject matter.

If we counted only these cases, which make up the majority of our work, our attorneys logged approximately 9,000 hours in the last academic year. If billed at \$200 per hour (much less than most private practitioners), we provided \$1,800,000 worth of no-cost services to UC students and their families with a budget of approximately \$1,370,000. These numbers along with our caseload put us on par with other non-profit providers and we are now firmly embedded in California's non-profit immigration legal services community.

## **IMPACT OF OUR SERVICES ON STUDENT WELL-BEING**

With the support of UC Davis Sociology Professor Caitlin Patler we conducted a survey of our clients to assess the impact of our service on their well-being. Below are some selected responses in their own words.

Q: Briefly tell us what has changed the most for you as a result of receiving these services.



## **ECONOMIC STRESS**

- I now feel stress free. I can get a job and help my family economically.
- Because of UCIMM, I was able to renew my DACA, which led me to apply and obtain my first entry level position post-graduation.
- I was able to renew my DACA. As a result, I was able to keep my job. I am now much more confident when renewing my DACA status. I am able to fill out the forms on my own and send it to the attorneys to check rather than them helping me with every step. Now I know that I am not helpless.
- I was able to obtain a job that will help me get experience with my career. It also alleviated the stress of my legal status which I often had to worry about and distracted me from my academic performance.
- Stress relief, ability to apply to jobs.
- I saved a lot of time and money for the DACA Renewal application process.
- My DACA renewal application had lots of mistakes and I was able to fix them. I was able to successfully reapply for my DACA and keep the current job I have.

## **BEING BETTER INFORMED**

- I have become more aware of my choices and different paths that I can take regarding my legal status.
- I received guidance and understanding of my status and resources. I was able to ask personal questions which she [the attorney] helped me a lot with. Also, she was open about talking about different things regarding the application.
- I got more information over my case as well as where I can go from there. I'm still very stressed over my status but that's not something that the lawyer can really diminish; the fear I have during Trump times.

## EMOTIONAL SUPPORT

- My mother was no longer worried about possible deportation.
- I feel more motivated. I don't feel so hopeless that there was no way for me to apply for something because I did not know what I am eligible for or not having the money to pay for the services.
- The Center helped me renew my DACA twice, and I felt especially grateful the second time because I was without DACA the few months that the President did not allow renewals.
- I have felt supported by the UC system. In a way, I feel less stressed and more informed regarding my immigration status. This reduction in stress has allowed me to better focus on other aspects of my life and given my family a greater peace of mind, as well.
- I think the biggest thing is that I have hope for my family and myself. I feel like I will actually have options and opportunities like studying abroad. I feel like there is a chance that I will feel completely safe one day. I was given an opportunity that I didn't even know I had.
- It showed my campus cares about immigration situations. I now have a sense of what I must do to help my family out. I was able to learn more about services offered. I now know what options I have in regards to my status.
- I no longer experience anxiety attacks due to my legal status and the political climate.
- I know there is a place I can get legal help in a worst case scenario.

## CENTER FELLOW AND EXTERN/INTERN TESTIMONIALS

We are also committed to building a positive working environment, and providing opportunities for lawyers, law students, and undergraduate interns to learn about immigration law and grow as professionals. Below are comments from former law externs and interns.

*“Externing at UCIMM has been a major highlight of my law school experience! The case work is interesting and important, and externs perform substantive work that makes a difference for the marginalized. In my time here I worked on matters involving DACA, humanitarian parole, inadmissibility waivers, U Visas, VAWA, and various other matters. The staff is incredibly friendly and supportive, and the supervisors are great about ensuring you get the kind of experience you’re looking for. I’m very grateful for the opportunity to extern here and learn what it’s like to serve the immigrant community during this time of uncertainty.”*

**- Joseph, Spring 2018 Legal Extern**

*“I am so glad I decided to apply for an externship with the UC Immigration Legal Services Center. The externship allowed me to gain hands-on immigration law experience while also affording me opportunities to learn about the intricacies of immigration law practice. I could not have asked for a better externship environment--everyone at the Center is passionate about their work and willing to take the time to work with externs to ensure the experience is positive and beneficial for the clients and the externs.”*

**- Alana, Spring 2018 Legal Extern**

*“My fellowship with the UC Immigrant Legal Services was an invaluable learning experience where I had the opportunity to collaborate with amazing staff members to help the UC undocumented student population during this turbulent time in our U.S. immigration policies. I felt our office was well equipped with the resources we needed to stay abreast of the constant changes in immigration laws in order to provide the best legal services to assist the students. I truly enjoyed working with the students and seeing their resilience and optimism for a better future. It was extremely rewarding to know I played a small role in the students strive for success as they began to pursue their career goals.”*

**- Anel, 2017-2018 Legal Fellow**

## CONCLUSION

We are in a period of complete upheaval of immigration law and enforcement priorities. It is not an exaggeration to state that every week a new and restrictive policy affects our ability to obtain relief for our clients. Given the rapidly changing law in the field, it is increasingly important that students have access to lawyers who are monitoring the changes and making the corresponding adjustments in the handling of cases. Otherwise, they are at risk of relying on poorly informed non-attorneys and attorney whose lack of knowledge can have serious negative consequences. Our attorneys are in constant touch with excellent, reputable practitioners nationally and locally and together we are constantly revising our best practices.

The coming year will continue to present similar and perhaps even greater challenges, particularly in the area of DACA. We foresee not only an increase in the demand for our services, we will likely be asked to prepare materials and make presentations through the UC system to inform students and staff about the impending changing in the status of many students. The support of the Office of the President will continue to be of tremendous value and importance in the months ahead.

## **RECENT DHS POLICY CHANGES & IMPACT ON OUR CLIENTS**

### **I. Introduction**

It goes without saying that the Trump Administration continues to have a devastating effect on immigrants' lives. Over the past few months, the Administration put in to place several new policies that dramatically impact UC Center clients and the UC Center's work. Outlined here are changes DHS made recently to their Notice to Appear, Special Immigrant Juvenile Status, and Request for Evidence/Notice of Intent to Deny policies.

### **II. Notice to Appear (NTAs)**

On June 28, 2018, USCIS issued a policy memorandum<sup>1</sup> providing guidance on the issuance of Notices to Appear (NTAs) in immigration court and referral of cases to ICE to initiate removal proceedings against applicants applying to USCIS for an immigration benefit. Superseding a policy memorandum on NTAs issued in 2011, this June 2018 NTA Memo significantly increases the risk of deportation for noncitizens who wish to pursue a pathway to lawful permanent residency and even U.S. citizenship. USCIS also issued another policy memorandum<sup>2</sup> on June 28 that clarified that USCIS will continue to follow the 2011 policy memorandum when adjudicating a DACA-related request, notwithstanding the June 2018 NTA Memo. *The June 2018 NTA Memo will go into effect on September 11, 2018.*

Two major policy changes under the June 2018 NTA Memo are:

1. Denial of applications filed by those unlawfully present in the United States

*Before:* USCIS did not generally refer applicants to ICE or issue NTAs solely based on USCIS's denial of their applications.

*Now:* Upon issuance of an unfavorable decision, if the applicant is unlawfully present in the United States and the applicable law and regulations do not prevent it, USCIS will issue an NTA<sup>3</sup> regardless of an applicant's lack of any criminal history, fraud, or other adverse factors.

*How this affects our clients:* In applying for status such as U visa, T visa, VAWA, lawful permanent residency, and special immigrant juvenile status, non-DACA clients are now at risk of automatic referral to immigration proceedings if their application is denied.

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<sup>1</sup> "Updated Guidance for the Referral of Cases and Issuance of Notices to Appear in Cases Involving Inadmissible and Deportable Aliens," June 28, 2018. Available at <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2018/2018-06-28-PM-602-0050.1-Guidance-for-Referral-of-Cases-and-Issuance-of-NTA.pdf>.

<sup>2</sup> "Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) When Processing a Case Involving Information Submitted by a Deferred Action for Childhood Arrivals (DACA) Requestor in connection With a DACA Request or a DACA-Related Benefit Request (Past or Pending) or Pursuing Termination of DACA."

<sup>3</sup> USCIS is not precluded from serving an NTA on the attorney of record. There is some room for discretion to not issue an NTA or refer an individual to ICE, but there are a number of hurdles to exercise that discretion.

## 2. U visa /VAWA applicant's confidentiality & family's address

*Before:* USCIS generally maintained VAWA/U visa/T visa applicants' confidentiality beyond adjudication – whether denied or granted – due to the sensitive nature of their cases.

*Now:* Upon issuance of an unfavorable decision and when all appeal options have been exhausted, USCIS will issue an NTA even in cases covered by 8 USC S. 1367(a)(2), which prohibits disclosure of information regarding humanitarian relief beneficiaries, such as VAWA, U visa, and T visa petitioners, while the applications are pending.

*How this affects our clients:* When confidentiality protection ends, USCIS can serve the NTA at the applicant's physical address rather than a safe mailing address that they have requested to use on their applications. This is especially dangerous for applicants who are survivors of domestic violence and reside with the abusive spouse.

### **III. Special Immigrant Juvenile Status (SIJS)**

*Before:* All SIJS cases, whether the applicant is under the age of 18 or between the ages of 18 to 20, were generally treated equally.

*Now:* Increasingly, practitioners across the nation are reporting issuance of Requests for Evidence (RFEs), Notices of Intent to Deny (NOIDs), and denial decisions on SIJS cases arising out of guardianship for minors who are 18 and over. Most of these unfavorable notices reference USCIS's erroneous conclusion that state courts where guardianship cases are heard, such as probate courts in California, do not have jurisdiction over child's custody.

*How this affects our clients:* Especially for non-DACA clients, applying for SIJS now means a high risk of denial, upon which USCIS will issue an NTA pursuant to the June 2018 NTA Memo.

### **IV. NOIDs or RFEs**

On July 13, 2018, USCIS issued a policy memorandum<sup>4</sup> that allows USCIS to deny an application without a Request For Evidence ("RFE") or Notice of Intent to Deny ("NOID") if an adjudicator determines that initial evidence submitted with the application is insufficient to establish eligibility for the requested benefit. This memo does not affect DACA-related applications, which are subject to pre-September 5, 2017 termination announcement due to the court injunctions in the *Regents of Univ. Of California v. DHS et al.* and *Batalla Vidal et al. V. Nielsen*.

*Before:* Generally, if initial evidence that would indicate eligibility for the requested benefit is not submitted, USCIS would send the applicant a NOID or RFE, which provides applicants a chance to cure the defects with more evidence.

*Now:* If an application lacks sufficient initial evidence or particular document required by form instructions, a USCIS adjudicator has more discretion to deny an application without issuance of an RFE or a NOID.

*How this affects our clients:* Applicants must now gather as much evidence as possible before submitting an application because they can no longer rely on a possible RFE or NOID to submit more evidence later

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<sup>4</sup> "Updated Guidance for the Referral of Cases and Issuance of Notices to Appear in Cases Involving Inadmissible and Deportable Aliens," July 13, 2018. Available at [https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/AFM\\_10\\_Standards\\_for\\_RFEs\\_and\\_NOIDs\\_FINAL2.pdf](https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/AFM_10_Standards_for_RFEs_and_NOIDs_FINAL2.pdf).

on in the application process. Those who are unable to present a strong case due to a time constraint, for example age-out issues, are at a higher risk of denial and thus deportation pursuant to the June 2018 NTA Memo. Further, Applicants are also more likely to lose filing fees as a result of an increase in denials.