

Efforts Continue to Legalize Work, Other Pathways for Undocumented Students, Asylum Seekers

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Undocumented students are waiting for University of California (UC) leadership to issue a plan that would remove hiring restrictions for all UC students, regardless of immigration status.

The proposed plan, titled Opportunity For All (O4All), is supported by language in the 1986 Immigration Reform and Control Act (IRCA) that the prohibition of employment of undocumented workers does not apply to states. As such, O4All advocates [believe that IRCA's employment restrictions do not apply](#) to the state university system. For students who have been denied scholarships or fellowships requiring on-campus employment, teaching assistant positions and other on-campus employment due to their immigration status, the UC plan could allow them to participate in such opportunities.

Legal scholars have noted that U.S. Supreme Court precedent [supports UC's argument that Congress has no power](#) to regulate state governments in some areas, such as employment, unless there is clear language in the statute. IRCA has previously been interpreted to preclude states from employing undocumented workers, but UC's O4All may challenge this interpretation. The

O4All proposal has gained support from Deferred Action for Childhood Arrivals (DACA) recipient students. The DACA program continues to be [challenged in the courts](#).

In the meantime, New York Governor Kathy Hochul proposed issuing state work permits to asylum seekers. Asylum seekers could then be hired by the state, which could then subcontract such employees to other employers. Governor Hochul indicated that the proposal was intended to help alleviate New York's migrant and workforce crises. Ultimately, however, Governor Hochul [said she was constrained by federal law](#) from enacting the plan because she could not "indemnify or protect the employers from any kind of federal prosecution for violating immigration laws."

Under the asylum system, many asylum seekers must wait for 150 days before they are eligible to apply for work authorization through the federal immigration system. Given U.S. Citizenship and Immigration Services (USCIS) long processing times, applicants often wait for over a year before they obtain work authorization documentation.

Proposals similar to UC's and Governor Hochul's proposals have been [criticized by some immigrants](#), who have noted that such plans would provide work authorization to some immigrants faster than others, who have been waiting for work authorization much longer – due to long USCIS processing times or regulatory restrictions.

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