



## Summary of the Higher Education Provisions in the U.S. Citizenship Act

The [U.S. Citizenship Act](#) (USCA) was introduced Feb. 18, 2021, by Sen. Bob Menendez (D-NJ) and Rep. Linda Sanchez (D-CA). This bill follows a promise from President Biden that he would send an immigration package to Congress at the start of his administration.

USCA incorporates proposals from several previously introduced bipartisan bills, but it appears unlikely that this legislation in its current form will move forward in a bipartisan manner. Democrats have already indicated that they likely will address the various provisions in a piecemeal fashion, for example, moving the Dream Act, which offers permanent legal protections for Dreamers—the young individuals brought here as children—on a parallel track.

Major provisions relevant for higher education in the bill include:

- Sec. 1101 would create a six-year “Lawful Prospective Immigrant” (LPI) status for eligible noncitizens, renewable for additional six-year periods, along with a pathway to citizenship. Eligibility would also be extended to spouses and children. This provision would apply to noncitizens with no criminal background present in the United States before Jan. 1, 2021. After five years, LPIs would be able to apply for “Legal Permanent Resident” (LPR) status and start the process to apply for a green card, after a background check and paying all required U.S. taxes.
- Sec. 1103 includes a version of the Dream Act which would grant eligible Dreamers LPR status and immediate access to a green card, including those already registered under the Deferred Action for Childhood Arrivals (DACA) program. After three years, all green card holders who pass additional background checks could apply to become citizens. For the purposes of USCA, Dreamers are defined as:
  - arriving in the U.S. before the age of 18;
  - earned a high school diploma, GED, or high school equivalency diploma;
  - received a degree from an institution of higher education, or completed at least two years or a program leading to a degree; or served in the U.S. military for at least two years and if discharged, received an honorable discharge; or has worked for at least three years; and
  - if required, has registered for the U.S. Selective Service
- Sec. 1103 (c) would repeal Sec. 505 of the [Illegal Immigration Reform and Responsibility Act](#), which limits the ability of states to offer in-state tuition to undocumented students.
- Sec. 1104 includes the [American Dream and Promise Act of 2019](#), which adjusts the status of eligible noncitizens designated for Temporary Protected Status (TPS) or Deferred Enforced Departure (DED) to LPR, and allows for an expedited path to citizenship similar to the Dreamers.
- Sec. 3401 would create a new green card program (not subject to the numerical limitations) for international students graduating from an accredited nonprofit or for-profit institution of higher education with a Ph.D. in a STEM field as defined by the Department of Education’s Classification of Instructional Programs.

- Sec. 3402 and 3403 address the visa backlog for immigrants waiting on green cards by eliminating numerical limitations on immigrants, including immediate family, whose visa petitions have been approved but whose wait has exceeded 10 years. Sec. 3403 eliminates the per-country caps for employment-based visas. The bill also increases overall green card numbers by capturing visas from previous years to clear backlogs. (Spouses and children of green card holders are defined as immediate family members and are not subject to the numerical cap.)
- Sec. 3405 would authorize the secretary of the homeland security, in consultation with the secretary of labor, to temporarily reduce certain employment-based visas (such as professionals with advance degrees, those with exceptional ability, and skilled and professional workers without advance degrees) during times of high unemployment in particular geographic areas or labor market sectors.
- Sec. 3407 would allow for wage-based consideration to grant visas to temporary workers. This authorizes the secretaries of homeland security and labor to prioritize H-1B applications based on wage levels (or any other nonimmigrant worker category the secretary deems appropriate). This section is similar to a rule finalized in January by the Trump administration and has been delayed until December 2021 by the Biden administration. See higher education community comments on this issue [here](#).
- Sec. 3408 would allow for “dual intent” for F-1 visa applicants, meaning these students are exempt from the requirement of demonstrating that they have a foreign residence that they do not plan to abandon. Visas are sometimes denied if a student cannot explicitly demonstrate that they plan to return to their home country after their studies.
- Sec. 3410 would authorize an extension for non-immigrant visas, including F-1s for international students, if they have a pending visa petition or application (such as H-1B) for more than one year. Extensions are made in one-year increments. Also allows for employment authorization when such extensions are granted.
- Sec. 3509 would amend the federal Higher Education Act by requiring states and public institutions of higher education to offer in-state tuition rates to refugees, asylum seekers, and other special noncitizens.