

The Grain of Sand in the Oyster

NAFSA's Small, Annoying, but Important Role in the Immigration Debate

“WHAT HAVE YOU DONE FOR US LATELY?” NAFSA’s public policy department hears this question continually from the association’s membership. It is a good and necessary question—and one of the reasons it gets asked a lot is that much of our work in public policy necessarily occurs outside of public view. We seek to influence public policy outcomes through the subtle exercise of indirect influence behind the scenes.

In 2004 in anticipation of a comprehensive immigration reform debate in the upcoming 109th Congress, NAFSA staff sought the guidance of the Board of Directors on a fateful question: Should the association advocate on this highly charged issue?

It was not obvious what the Board’s conclusion would be. No prisoners are taken in this debate, and there was (and still is) potential for vicious attacks on the association if we waded into this field. We could not assume that other associations would support our strategy.

But in the end, the unassailable logic of involvement prevailed. U.S. attractiveness as a destination for international students and scholars depends on a straightforward and predictable immigration system. The ability of our colleges and universities to hire the best qualified people to teach U.S. students, conduct research, and advance scholarship requires an employment-based immigration system that meets the needs of both workers and employers. NAFSA members who work directly or indirectly with international populations on U.S. campuses understood early that failure to reform our immigration laws and regulations would have dire consequences for the profession.

But this association’s stake in immigration reform goes beyond our immediate interest in attracting international students and scholars. The reality is that our nation’s ability to engage successfully with people from other countries is limited to the extent that our immigration system is broken, dysfunction-

al, and viewed as hostile by foreign visitors, with capricious and unfairly applied immigration laws and regulations. NAFSA’s values of peace, security, and global understanding require that the United States present a welcoming face to the world. And furthermore, the whole reason for approaching immigration reform comprehensively is that it has proven impossible to accomplish it piecemeal. If we want to achieve our interests in immigration reform, we have an interest in advancing the entire package. We are all in this together.

For all these reasons, the Board had little hesitation in authorizing us to move forward, and we have been fully engaged since 2005. But how could this little association, with a vital but small part to play, hope to impact an issue of such colossal size and scope? This is the story of how we have answered that question. It is a story of our conscious attempt to be the grain of sand in the oyster—small, sometimes annoying, but integral to what we hope will be the eventual emergence of the pearl.

We bring strengths to the effort to influence the immigration debate. First, we bring staff strength in immigration law, which the higher education associations lack, and which is expanded exponentially by the extensive knowledge and experience of our members who are specialized in this area. Second, we have a good story to tell about the benefits of international education that can flow from a just, open, functional immigration system. Our members

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can provide campus-specific examples that demonstrate the positive impact that international education can have on states and localities. Third, we are necessary to others in the immigration-reform coalition. We bring policy expertise that enables us to make big-picture arguments for international education from various perspectives: competitiveness, innovation, foreign policy, education, state and local economic impact, and job creation. Those who are specifically interested in high-skill immigration recognize that our work is integral to their ability to bring into the country the innovators of the future, the researchers who will make the next generation of breakthrough scientific discoveries, the students they want to hire for their workforce, and the professors who will teach those students.

We have challenges too, apart from our sheer smallness. Many of our members are unable to speak for their universities. They could be effective advocates for immigration reform, but they are muted if their schools want to stay out of such a controversial debate. The impression that international education is a “feel-good,” tangential issue

in the debate—lacking the immediacy of the hard-edged issues like border security and curbing illegal immigration—is hard to overcome. There can also be confusion about the role of international education in the debate. Other groups tend to represent clearly identifiable constituencies with clear, direct interests in the outcome, such as employers or immigrant families. NAFSA speaks for no such group; we speak for good public policy and the contribution of international education to such policy. NAFSA works closely with the high-skilled, employment-based immigration coalition, but we are neither an “employer” group nor a “higher education” group. It is always a struggle not to be marginalized in such circumstances. Our influence rests on our ability to link international education to these more concrete interests.

Within the parameters defined by these strengths and challenges, we settled on a nuanced approach to influencing the immigration debate. Because NAFSA’s interest in immigration reform is not large enough relative to the other interests involved for us to be effective if we are speaking alone, we

understood that others needed to champion our proposals in order to amplify our voice. We adopted a conscious coalition-building strategy, in which we are always the junior partner, based on linking our interests with larger interests. We helped larger associations understand that the achievement of our interests was integral to the achievement of theirs. We offered our extensive, member-based, grassroots network in support of their proposals, so long as they included our proposals.

We hectored our colleagues in the higher education associations: The immigration debate is coming; schools have a big stake in it; you need to pay attention. We served as informal consultants for them, explaining to them the arcana of the debate, helping them articulate the issues for their members, accompanying them to meetings with policymakers to provide expert backup. Now, most of them have gotten more comfortable with the issue and have found their voice.

We brought international education considerations to the high-skilled immigration coalition and helped the coalition understand why it needed to integrate international education into its advocacy. Now—because of their expanded understanding of the role of immigration law in attracting faculty, researchers, scientists, and students to U.S. campuses—the higher education associations are playing a greater role in this coalition, giving schools a voice at the table and enabling us to deploy our resources elsewhere.

We surfaced immigration-reform proposals that we considered essential for international education but were bitterly controversial at the time. Now, many of them have become mainstream. Indeed, all of this was controversial at the beginning—the grain of sand at its annoying best—but it isn’t anymore. And we are on our way to making some pearls.

We all know the old saying: There is no limit to what you can accomplish if you don’t care who gets the credit. Few of us act on this important insight—but everyone who is sophisticated about exercising influence does. Most of us think it’s a vic-

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tory to be quoted with credit—and it is. But it's a far greater victory to be quoted without credit, by someone more important or more powerful than you are, who doesn't know she is quoting you because she has adopted your idea as her own. We at NAFSA come closer to our goal of effecting positive change when other individuals or groups, with bigger voices, adopt our positions as their own and integrate those positions into their advocacy.

An example of this in the immigration area is the so-called 214(b) issue. When international students apply for F visas, they must prove that they do not intend to immigrate to the United States. In 2003—a time of intense pressure to be tougher on immigration—NAFSA began citing this requirement as an outmoded and ineffective barrier to international students. We advocated for its repeal, and later we plugged it into our comprehensive immigration reform proposals. This recommendation was vigorously opposed by government officials under the misguided belief that it would leave them with no effective way to deny student visas in circumstances where denial was merited. Immigration reform advocates and higher education colleagues saw the effort as futile and worried about the controversy generated by the proposal. But we remained vocal, because we view the repeal of 214(b) as it affects international students to be essential to immigration reform.

The controversy over this issue faded away so stealthily that we almost didn't notice its disappearance. Then, on October 20,

2009, in a *Wall Street Journal* op-ed, MIT president Susan Hockfield wrote, "Our immigration laws specifically require that students return to their home countries after earning their degrees and then apply for a visa if they want to return and work in the U.S. It would be hard to invent a policy more counterproductive to our national interest." We suddenly realized that everyone is saying this now—members of Congress, our higher education colleagues, Washington think tanks—and the mere statement no longer generates controversy. That's the grain of sand at work.

In the same op-ed, President Hockfield makes another suggestion, now almost banal but previously shocking, that some international students should be allowed to obtain green cards easily. Although most of the attention in the immigration debate is focused on illegal immigration, the legal immigration system is also broken, specifically including the provisions allowing talented and skilled foreigners to obtain green cards. We understood early on that some international students choose to study in the United States because they seek access to the best professors and research possibilities in the world and they want to become innovators and entrepreneurs here. These graduates of U.S. universities should not be stuck in multiple-year backlogs for green cards while biding their time in restrictive, ill-fitting statuses when they want to become part of our country and our country needs them. We were the first in our community to propose a direct path to green cards for international students. This proposal, controversial at the

time, is now common, and is included in most comprehensive immigration reform proposals.

Building ties with groups with different but complementary interests has produced other successes, including changes to optional practical training (OPT). During the immigration reform debate, a business–international education coalition worked together to ensure ongoing status for international students who were waiting for H-1B employment status to become available—the so-called H-1B "cap gap" relief. Also, OPT was extended for an additional 17 months for STEM graduates. NAFSA pioneered the advocacy on these issues and brought them to the coalitions that made successful outcomes possible.

When NAFSA decided to get involved in the immigration reform debate, the negative impact that immigration law was having on international students and higher education personnel was not a front-burner issue for other organizations. The variety of roles NAFSA members have on campuses that involve international education allowed the organization to recognize the need to participate in a debate that would have far-reaching impact on the field. NAFSA staff worked to translate our concerns to those involved in immigration reform in ways that resonated with their interests. We sought to influence the immigration reform debate in obvious and not-so-obvious ways in an effort to create an immigration system that would benefit the international education field. The strategies that we deployed helped to make our controversial proposals part of the normal discussion of reforming legal immigration.

As this is written, in December 2009, we haven't yet produced the big pearl, comprehensive immigration reform that serves international education and puts a welcoming face on the United States. But we have produced some mini-pearls—and some wins for international education. **IE**

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