

Writing Sample:

Political Strategy Memo: The Right to Counsel for Undocumented Immigrant Children

This political strategy memo is intended for my client, The Young Center for Immigrant Children's Rights, a nonprofit human rights organization that advocates for the best interests of immigrant children. My client's goal is to secure the passage of a bill through the United States (U.S.) House Judiciary Committee that would require that all undocumented immigrant children seeking asylum be provided government-appointed counsel during their immigration court proceedings. This memo is designed to specifically provide the political strategy needed to accomplish the client's goal. This memo may also provide steps that can be replicated by similarly positioned organizations, groups, and individuals who want to see progress on this front and are unsure of how to accomplish this goal in a political environment in which Republicans control all branches of government.

This paper represents my own work in accordance with the Georgia Tech Honor Code.

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Background and Problem Description

Undocumented immigrant children do not have the right to counsel and many appear in immigration court either with their parents, with legal aid provided on a pro bono basis by nonprofit organizations, or as occurs most frequently, without any legal representation at all (Jewett et al. 2018). There are numerous ways that this issue can be addressed. The course of action recommended is for Congress to pass legislation that ensures the right to counsel for undocumented immigrant children and that allocates funding to support such a requirement (Arulanantham 2018). Additionally, the Trump Administration could amend its budget priorities or, through the Executive Office of Immigration Review (EOIR), instruct its immigration judges to halt cases until a lawyer is appointed for an undocumented child (Arulanantham 2018).

This crisis most recently precipitated in January 2018 following the ruling of the U.S. Court of Appeals for the Ninth Circuit in *C.J.L.G. v. Sessions*. In this case, the court ruled against the right to counsel for undocumented immigrant children. The issue was further exacerbated in April 2018 when the Trump Administration formally announced its plan for a zero-tolerance immigration policy to prosecute and punish anyone entering the U.S. illegally, including families and children—a clear and intentional effort that then-Secretary of Homeland Security John Kelly explained was for the purpose of deterring asylum seekers (Barajas 2018). This most recent step by the Ninth Circuit compounded by the Trump Administration’s zero-tolerance policy has stymied progress on this front and severely undermined the right to due process for one of the most vulnerable groups in the justice system.

The impact of these decisions has been that undocumented immigrant children are expected to represent themselves in court even in high-stakes deportation cases (Arulanantham 2018). The repercussions of which have been symbolized in the form of video clips of immigrant toddlers, as young as three years old, being asked to defend the merits of their asylum claims in immigration court (Jewett et al. 2018). This issue has remained salient because of high public outrage in the form of protests against the Trump Administration’s family separation policy.

Stakeholder Analysis

There are numerous individuals, organizations, and interest groups that are actively involved in the debate over the right to counsel for undocumented immigrant children. To accomplish the client’s goal of securing passage in the House Judiciary Committee, the client should partner specifically with organizations with high influence and interest throughout the process who support the goal and can influence the public. These organizations include the American Civil Liberties Union (ACLU) and the American Immigration Council. The American public is also an influential stakeholder – albeit one that must be mobilized – that can be used as a tool for achieving the bill’s passage with the correct issue-framing strategy. Each of the highly influential organizations focuses specifically on the need for a right to counsel for undocumented children, has a national presence, has a track record of securing significant policy accomplishments in this area, and pursues its objectives through multiple avenues including Congress, administrative agencies, and the courts. These groups also have strong grassroots ties that allow them to quickly mobilize individuals in the community. The client should utilize these organizations specifically to mobilize community activists who can influence local perceptions through door-knocking campaigns and by attending town halls hosted by members of Congress. This locally-based issue-framing strategy will influence the opinions of constituents in the districts that Republican House members represent and increase the sense of urgency they have

surrounding the issue. These organizations can provide information—a critical tool in the policy debate—in the form of data and statistics to members of Congress. They can also provide narratives on behalf of the children and families that they work with who also have a stake in the proposal.

There are also interest groups with significant influence that oppose immigration reform such as NumbersUSA, the Center for Immigration Studies, and the Heritage Foundation. These interest groups rely on many of the same tactics as the proponents of the proposal. The central difference between proponents and opponents is their view of the underlying causes of the crisis and where to assign blame—both of which are strong political arguments that frame how the public views the issue (Stone 2012). Although opposition is anticipated, the client will have the advantage of getting to frame the issue first. The client should frame the issue as one of fairness by creating a media campaign with this objective. This includes advertisements on television and online illustrating the plights of these children and their treatment in the justice system including video clips of immigrant toddlers unrepresented in immigration court. The client's organizational representatives and those of the influential supporting stakeholders should be used on local and national news outlets to frame the issue as one of fairness.

Proponents of the proposal have been successful to an extent in issue-framing, as recent public opinion polls demonstrate that the public supports efforts for fairness as it relates to children brought to the U.S. through no fault of their own. For example, a CNN poll in January 2018 “asked respondents if they thought the government should continue its policy of allowing some immigrants brought to the U.S. illegally as children to remain in the U.S. without risk of deportation,” the poll found that public support was 84 percent (National Immigration Forum 2018). Another poll by the Pew Research Center in January 2018 expressed a similar sentiment (National Immigration Forum 2018). These polls illustrate a clear concern for basic fairness for undocumented immigrant children—a concern that extends to their due process rights.

Institutional Analysis

The institution that has primary authority over whether to establish a legal right to government-appointed counsel for undocumented immigrant children is the U.S. Congress, specifically the House and Senate Judiciary Committees. In 2013, the U.S. Senate passed a comprehensive immigration reform bill that in part addressed the right to counsel crisis, however, the U.S. House of Representatives did not advance the legislation (NBC News 2014). In 2018, the Republican Speaker of the House brought a “compromise” immigration bill to the floor which also failed (Golshan 2018). For this reason, the political strategy specifically addresses how to secure passage through the House Judiciary Committee.

Since Republican and Democratic members of Congress often view the underlying causes of the crisis differently and therefore shift blame to different individuals and government entities (Stone 2012), the client must garner bipartisan support. The client should gain bipartisan co-sponsors for the bill by eliciting the support of the House Problem Solvers Caucus. This caucus is composed of a bipartisan group of members that aim to ease gridlock and create reform (Johnson 2018). This should be the first group of legislators that the proposal is presented to and done so as soon as the media campaign is initiated in order to get ahead of the political opposition's counter-argument.

Although the U.S. Congress is the primary institution with jurisdiction and authority in this area, there are numerous governmental entities that will be responsible for complying with

and implementing such a policy, including the Executive Office of Immigration Review within the Department of Justice (DOJ), which has a significant amount of influence over immigration court proceedings (U.S. DOJ 2018). An increase in legal representation for asylum-seeking children coming before the immigration courts could be beneficial for the agency. The client, after gaining bipartisan bill co-sponsors, should utilize these co-sponsors as points of contact to discuss implementation and support from the DOJ. Members of Congress have significant influence over executive agencies through their powers of the purse along with their ability to provide oversight in committee hearings. This can heavily persuade the DOJ to cooperate.

Political Recommendations

Although full protection of the due process rights of undocumented immigrant children may ultimately require that the immigration courts be established as separate Article III Courts, removed from the political influence of the DOJ, the political strategy is specifically designed to achieve the client's goal within the existing constraints of the immigration court framework. I recommend the following political strategy to accomplish the client's goal: (1) partner with supporting stakeholders that have the greatest influence and interest to mobilize grassroots activists; (2) create a media campaign through online and television advertisements and through the use of organizational representatives on news and media outlets; (3) gain bipartisan bill co-sponsors from the House Problem Solvers Caucus; (4) mobilize grassroots organizations in order to turn out voters for the November midterm election.

While these recommendations are listed as steps that should be completed chronologically, all of the steps must occur as quickly as possible in order to get ahead of the efforts of the opposition and benefit from the advantage that time provides in issue-framing and creating public perceptions. The client should partner with supporting stakeholders with the greatest influence and interest such as the ACLU and the American Immigration Council to mobilize grassroots activists that can influence the constituencies of Republican House members and portray the narratives of the children and families that the organizations work with. Mobilization can be done by having activists present at local political events such as town halls and rallies as well as by conducting door-knocking campaigns and phone banking. The client should create a media campaign through online and television advertisements and use organizational representatives on local and national news outlets to frame the issue as one of fairness. This can be done in conjunction with supporting stakeholders who may be able to provide financial support and increased publicity to heighten the issue's salience in the public sphere. The client should gain bipartisan bill co-sponsors by first eliciting support from the House Problem Solvers Caucus. The support of the caucus will frame the issue as less polarized and negate arguments that the opposition may present. It will also allow the executive agencies responsible for implementing such a policy to provide members of Congress with data and information that further illustrate the severity of the issue.

The final recommendation recognizes the fact that this strategy may not be enough to secure passage of the bill. In this case, the client will be best served by partnering with local supporting organizations like the Florida Immigrant Coalition and the Coalition for Humane Immigrant Rights Los Angeles to conduct voter registration and mobilization so that a Congress more favorable to addressing the issue is elected.

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