

# FEDERALISM NOW

## Panel on Immigration

---

MING H. CHEN

UNIVERSITY OF COLORADO LAW SCHOOL

ASSOCIATE PROFESSOR

DIRECTOR, IMMIGRATION LAW & POLICY PROGRAM

# Immigration Federalism NOW

## Panel Questions

---

What is federalism now?

How has federalism changed?

Opportunities and constraints for policymaking in immigration?

# What is Federalism Now: Immigration Federalism

---

Federal immigration power strong

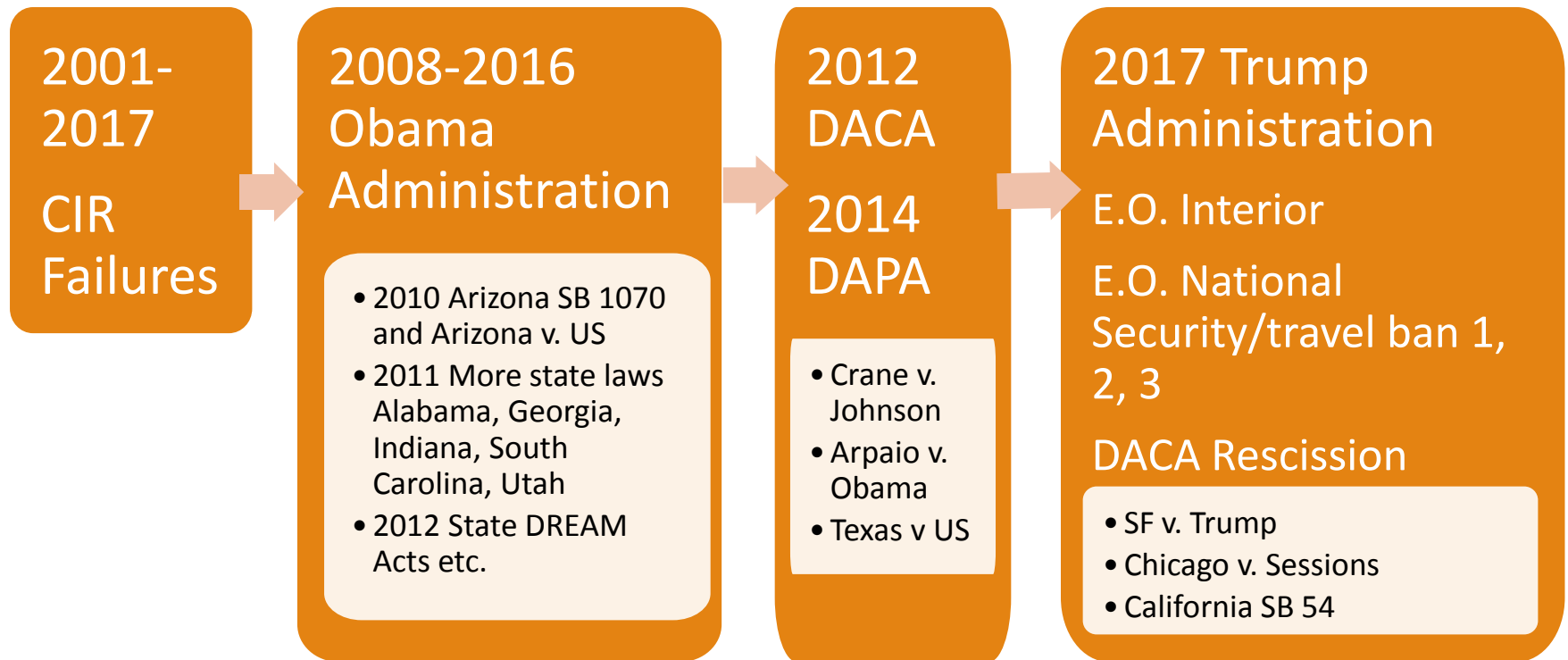
State immigration regulation ascendant

Clashes between federal-state-local immigration policies

- Sanctuary policies and immigration detainers
- Refugee admissions and state resettlement
- DACA and State DREAM Acts

# Interaction of state and federal immigration laws since 2001

---

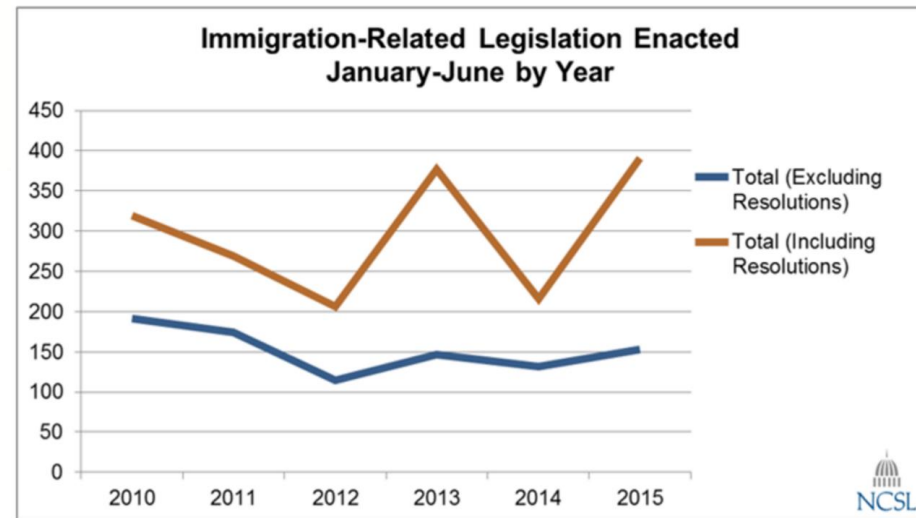


# How Has Federalism Changed?

## New immigration federalism(s)



Enacted omnibus immigration law in 2011



## Pro-integration state laws as of February 2014

	Limits on detainers or TRUST Acts*	Limits on E- Verify	Driver's licens- es for DACA recipients	Driver's licenses for unauthorized immigrants	In-state tu- ition**	Financial aid
Alabama			✓			
Alaska			✓			
Arizona						
Arkansas			✓			
California	✓	✓	✓	✓	✓	✓
Colorado			✓	✓	✓	
Connecticut	✓		✓	✓	✓	
Delaware			✓			
District of Columbia	✓		✓	✓		
Florida			✓			
Georgia			✓			
Hawaii			✓			
Idaho			✓			
Illinois		✓	✓	✓	✓	✓
Indiana			✓			
Iowa			✓			
Kansas			✓		✓	
Kentucky			✓			

**Table: Scoring of policies related to undocumented immigrants' health, total and policy area scores**

State	State Immigrant Inclusion score total	Public health and welfare benefits	Higher education	Labor and employment practices	Driver licensing and Identification	Secure Communities
California	9	3	2	2	1	1
Illinois	7	3	2	1	2	-1
Washington	4	3	0	0	2	-1
Colorado	2	-1	0	0	2	1
Texas	2	1	2	1	-1	-1
District of Columbia	1	3	-2	0	1	-1
Minnesota	1	1	2	-1	0	-1
New Mexico	1	-1	2	0	1	-1
New York	1	3	0	0	-1	-1
Oregon	0	1	0	0	0	-1
Connecticut	-1	-3	0	0	1	1
Maryland	-1	-1	0	0	1	-1
Massachusetts	-1	3	-2	0	-1	-1
Michigan	-1	1	0	-1	0	-1
Oklahoma	-1	1	0	-1	0	-1

# Opportunities and Constraints: Immigration Federalism(s)

---

Who decides on immigration policy?

- Shift from Congress to executive branch
- State- and city-initiated lawsuits constraining immigration policy
- State-county-municipal affirmative lawmaking
- Private actors: from campuses to corporations

To what end?

- Inclusionary v. exclusionary immigration policy
- Coercive v. cooperative (and uncooperative) institutional posture
- Enforcement-first and possibilities for integrative enforcement