

Nos. 18-587, 18-588, 18-589

---

**In the Supreme Court of the United States**

DEPARTMENT OF HOMELAND SECURITY, *et al.*, *Petitioners*,  
v.  
REGENTS OF THE UNIVERSITY OF CALIFORNIA, *et al.*,  
*Respondents*.

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES, *et al.*, *Petitioners*,  
v.  
NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF  
COLORED PEOPLE, *et al.*, *Respondents*

KEVIN K. MCALEENAN, ACTING SECRETARY OF HOMELAND  
SECURITY, *et al.*, *Petitioners*,  
v.  
MARTIN JONATHAN BATALLA VIDAL, *et al.*, *Respondents*.

**On Writs of Certiorari to the United States Courts of  
Appeals for the Ninth, District of Columbia, and  
Second Circuits**

**Brief for the States of Nevada, Michigan, Wisconsin, Governor  
Laura Kelly of Kansas, and Governor Steve Bullock of  
Montana as Amici Curiae in Support of Respondents**

DANA NESSEL <i>Michigan Attorney General</i>	AARON D. FORD <i>Attorney General of Nevada</i>
ERIC J. WILSON <i>Deputy Attorney General State of Wisconsin</i>	HEIDI PARRY STERN* <i>Solicitor General</i>
LAURA KELLY <i>Governor of Kansas</i>	CRAIG A. NEWBY <i>Deputy Solicitor General</i>
STEVE BULLOCK <i>Governor of Montana</i>	100 North Carson Street Carson City, NV 89701 (775) 684-1100
<i>Counsel for Amici Curiae</i>	HStern@ag.nv.gov <i>* Counsel of Record</i>

## **QUESTIONS PRESENTED**

1. Whether the Department of Homeland Security (DHS)'s decision to wind down the DACA policy is judicially reviewable.
2. Whether the DHS's decision to wind down the DACA policy is lawful.

**TABLE OF CONTENTS**

QUESTIONS PRESENTED . . . . . i

TABLE OF AUTHORITIES . . . . . iii

INTEREST OF AMICI CURIAE . . . . . 1

INTRODUCTION AND  
SUMMARY OF ARGUMENT . . . . . 1

ARGUMENT . . . . . 3

A. The States’ Economies Benefit From DACA . . . . 4

B. DACA Aids the States in Providing Social  
Services to Residents . . . . . 9

C. Public Colleges and Universities Benefit From  
DACA. . . . . 11

D. DACA Grantees are Valued State Employees. . 16

E. DACA Contributes to Public Safety. . . . . 16

CONCLUSION. . . . . 18

## TABLE OF AUTHORITIES

### CASES

<i>Texas v. United States</i> , 328 F. Supp. 3d 662 (S.D. Tex. 2018) . . . . .	4
-----------------------------------------------------------------------------------	---

### OTHER AUTHORITIES

<i>Approximate Active DACA Recipients: As of April 30, 2019</i> , U.S. CITIZENSHIP AND IMM. SVC., <a href="https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/Approximate_Active_DACA_Recipients_-_Apr_30_2019.pdf">https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/Approximate_Active_DACA_Recipients_-_Apr_30_2019.pdf</a> . . . . .	3
Ike Brannon, <i>The Economic and Budgetary Cost of Repealing DACA at the State Level</i> , THE CATO INSTITUTE (Aug. 31, 2017), <a href="https://www.cato.org/blog/economic-budgetary-cost-repealing-daca-state-level">https://www.cato.org/blog/economic-budgetary-cost-repealing-daca-state-level</a> . . . . .	7
Jill Casner-Lotto, <i>Dreaming Big: What Community Colleges Can Do to Help Undocumented Immigrant Youth Achieve Their Potential</i> , COMMUNITY COLLEGE CONSORTIUM FOR IMMIGRANT EDUCATION (Sept. 1, 2012), <a href="https://www.cccie.org/wp-content/uploads/2010/06/DREAMING_BIG_CCCIE_Report_9-2012_final_version.pdf">https://www.cccie.org/wp-content/uploads/2010/06/DREAMING_BIG_CCCIE_Report_9-2012_final_version.pdf</a> . . . . .	12, 13

- Misha Hill & Meg Wiehe, *State & Local Tax Contributions of Young Undocumented Immigrants*, INSTITUTE ON TAXATION & ECONOMIC POLICY, Apr. 2018, <https://itep.org/wp-content/uploads/2018DACA.pdf> . . . . . 7
- Tom Jawetz & Nicole Prchal Svajlenka, *Thousands of DACA Recipients Are Already Losing their Protection from Deportation*, CENTER FOR AMERICAN PROGRESS (Nov. 9, 2017), <https://www.americanprogress.org/issues/immigration/news/2017/11/09/442502/thousands-daca-recipients-already-losing-protection-deportation/> . . . . . 15
- Kansas Labor Market Report* (Aug. 2019), <https://klic.dol.ks.gov/gsipub/index.asp?docid=472> . . . . . 8
- Dara Lind, *9 facts that explain DACA, the immigration program Trump is ending*, VOX.COM (Jan. 30, 2018), <https://www.vox.com/policy-and-politics/2017/8/31/16226934/daca-trump-dreamers-immigration> . . . . . 9
- Lisa Mascaro, *Pen Pal Inspires Sen. Harry Reid on Immigration Reform*, L.A. TIMES, July 12, 2013 . . . . . 2
- Silva Mathema, *What DACA Recipients Stand to Lose - And What States Can Do About It*, CENTER FOR AMERICAN PROGRESS (Sept. 13, 2018), <https://www.americanprogress.org/issues/immigration/reports/2018/09/13/458008/daca-recipients-stand-lose-states-can/> . . . . . 14

- MIT News Office, *President Reif writes to support preservation of DACA* (Aug. 31, 2017), <http://news.mit.edu/2017/president-reif-writes-support-preservation-daca-0831>. . . . . 13, 14
- NATIONAL CONFERENCE OF STATE LEGISLATURES, *Deferred Action for Childhood Arrivals/Federal Policy and Examples of State Actions* (Apr. 25, 2018), <http://www.ncsl.org/research/immigration/deferred-action.aspx> . . . . . 15
- NEW AMERICAN ECONOMY RESEARCH FUND, *The Contributions of New Americans in Montana* (Aug. 2016), <http://research.newamerican-economy.org/wp-content/uploads/2017/02/nae-mt-report.pdf>. . . . . 8, 9
- NEW AMERICAN ECONOMY RESEARCH FUND, *Examining the Contributions of the DACA-Eligible Population in Key States*, (Nov. 6, 2017), <https://research.newamericaneconomy.org/report/examining-the-contributions-of-the-daca-eligible-population-in-key-states/>. . . . . 5, 6
- NEW AMERICAN ECONOMY RESEARCH FUND, *Overcoming The Odds: The Contributions of DACA-Eligible Immigrants and TPS Holders to the U.S. Economy*, (June 3, 2019), <https://research.newamericaneconomy.org/report/overcoming-the-odds-the-contributions-of-daca-eligible-immigrants-and-tps-holders-to-the-u-s-economy/> . . . . . 7

Ed O’Keefe and David Nakamura, *Trump, top Democrats agree to work on deal to save ‘dreamers’ from deportation*, THE WASHINGTON POST (Sept. 14, 2017) . . . . . 2

*Statement in Support of the Deferred Action for Childhood Arrivals (DACA) Program and our Undocumented Immigrant Students* (Nov. 21, 2016), <https://www.pomona.edu/support-daca>. . 12

Nicole Prchal Svajlenka, *What We Know About DACA Recipients, by State*, (Sept. 12, 2019), CENTER FOR AMERICAN PROGRESS, <https://www.americanprogress.org/issues/immigration/news/2019/09/12/474422/know-daca-recipients-state/>. . . . . 5, 6, 10

Nicole Prchal Svajlenka, et al., *A New Threat to DACA Could Cost States Billions of Dollars*, CENTER FOR AMERICAN PROGRESS, (July 21, 2017), <https://www.americanprogress.org/issues/immigration/news/2017/07/21/436419/new-threat-daca-cost-states-billions-dollars/>. . . . . 8, 9

John Trent, NEVADA TODAY (Sept. 1, 2017), <https://www.unr.edu/nevada-today/news/2017/president-johnson-daca-statement> . . . . . 11

*U.S. Census Figures, 2013–2017*. <https://www.census.gov/quickfacts/fact/table/MI> . . . . . 6

- U.S. CITIZENSHIP AND IMMIGRATION SERVICES, *Approximate Active DACA Recipients – State or Territory of Residence as of August 31, 2018*, [https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/DACA\\_Population\\_Data\\_August\\_31\\_2018.pdf](https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/DACA_Population_Data_August_31_2018.pdf). . . . . 7
- UNIVERSITY OF WISCONSIN-MADISON, *Statement from Chancellor Blank on Executive Order on Immigration* (Jan. 30, 2017), <https://news.wisc.edu/statement-from-chancellor-blank-on-executive-order-on-immigration/> . . . . . 15
- Tom K. Wong, et al., *DACA Recipients’ Economic and Educational Gains Continue to Grow*, CENTER FOR AMERICAN PROGRESS, (Aug. 28, 2017), <https://www.americanprogress.org/issues/immigration/news/2017/08/28/437956/daca-recipients-economic-educational-gains-continue-grow/> . . . . . 13
- Jie Zong, et al., *A Profile of Current DACA Recipients by Education, Industry, and Occupation*, MIGRATION POLICY INST. (Nov. 2017), <https://www.migrationpolicy.org/research/profile-current-daca-recipients-education-industry-and-occupation>. . . . . 4, 5



## **INTEREST OF AMICI CURIAE<sup>1</sup>**

Amici curiae are the States of Nevada, Michigan, and Wisconsin, Laura Kelly, Governor of Kansas, and Steve Bullock, Governor of Montana (“the States”). The interest of amici here lies in the positive impact DACA and its recipients have had on the States and the country as a whole. Rescinding DACA would accordingly harm the States and the country as a whole.

## **INTRODUCTION AND SUMMARY OF ARGUMENT**

The Deferred Action for Childhood Arrivals program (DACA) has provided the States (and the country) significant, calculable benefits. As detailed below, these include significant economic contributions, improved public health, better public education, contribution as employees for the States, and overall public safety. Because these calculable benefits are at risk, the States join Respondents’ position that DACA’s rescission is subject to judicial review and was, in this instance, unlawfully rescinded.

The categories listed above quantify the significance that rescinding DACA would have on the States. The deepest injury, however, would be the human toll on DACA recipients themselves, which are not so easily calculable, yet nonetheless real.

---

<sup>1</sup> Rule 37 statement: All parties issued blanket consents to the filing of amicus briefs. No one but amici and their counsel authored any of this brief or funded its preparation and submission.

For instance, Nevada is home to numerous DACA recipients. Astrid Silva is one such recipient. At the age of four, Ms. Silva was pulled across the Rio Grande River with her mother, carrying a Ken doll.<sup>2</sup> Once top-of-her-class in her magnet high school, she feared deportation if she applied to a university to pursue her dream of being an architect.<sup>3</sup> Instead of giving up, she wrote and delivered letters to then-Senator Harry Reid.<sup>4</sup>

After President Obama implemented DACA, Ms. Silva wrote the following to Senator Reid:

I sit today holding my work permit and studying for my drivers permit. I turned 25 on March 11 and I can tell you that I feel like my life has finally begun. I have so many ideas and dreams to accomplish.... I feel like I am one step closer to being part of this, my country.<sup>5</sup>

As the current President of the United States has tweeted, “Does anybody really want to throw out good, educated and accomplished young people who have jobs, some serving in the military? Really!”<sup>6</sup> The

---

<sup>2</sup> Lisa Mascaro, *Pen Pal Inspires Sen. Harry Reid on Immigration Reform*, L.A. TIMES, July 12, 2013.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> See Ed O’Keefe and David Nakamura, *Trump, top Democrats agree to work on deal to save ‘dreamers’ from deportation*, THE WASHINGTON POST (Sept. 14, 2017).

accomplishment of goals and dreams by DACA recipients like Ms. Silva benefit the States and the country, and are among the most important intangible benefits of DACA.

DACA should not be rescinded without judicial review and proper legal justification.

### **ARGUMENT**

Currently, more than 669,000 DACA recipients throughout the United States are able to go to work or school and live without fear of deportation while pursuing their dreams.<sup>7</sup> They are students and teachers, military service members, law enforcement officers, fire fighters, health care workers, child and elder care workers, and treasured friends and neighbors. Allowing these individuals to participate in American society generates significant positive impacts for the States and the country as a whole. We recognize not only the economic value of these individuals, but also the myriad social benefits that result from permitting them to participate fully in our communities. As detailed below, in addition to contributing sorely needed tax revenue, their participation in DACA enriches our colleges and universities, reduces the burden on our public health

---

<sup>7</sup> *Approximate Active DACA Recipients: As of April 30, 2019*, U . S . C I T I Z E N S H I P A N D I M M . S V C . , [https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/Approximate Active DACA Recipients - Apr 30 2019.pdf](https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/Approximate%20Active%20DACA%20Recipients%20Apr%2030%202019.pdf).

and social safety net systems, and enhances public safety.

#### **A. The States' Economies Benefit From DACA.**

DACA provides recipients with the ability to apply for work authorizations, which allow them to work legally in the United States. With work authorization, many DACA recipients have obtained new or higher-paying jobs, allowing them to be productive members of our communities. The rescission of DACA nationwide could lead to the loss of work authorization for 915 DACA recipients every day from the time it goes into effect.<sup>8</sup> Businesses will face an estimated \$6.3 billion in costs to replace employees if DACA is rescinded.<sup>9</sup>

Businesses throughout the States will face a loss of demand for goods and services from the diminished purchasing power of the Dreamers and their families, while the state and local governments will see reduced tax revenues. For instance, DACA recipients in Nevada exercised an estimated \$261.8 million in spending power in 2015, and paid an estimated \$19.9 million in

---

<sup>8</sup> Jie Zong, et al., *A Profile of Current DACA Recipients by Education, Industry, and Occupation*, MIGRATION POLICY INST. (Nov. 2017), <https://www.migrationpolicy.org/research/profile-current-daca-recipients-education-industry-and-occupation>.

<sup>9</sup> *See Texas v. United States*, 328 F. Supp. 3d 662, 695 (S.D. Tex. 2018).

state and local taxes.<sup>10</sup> Approximately 1,500 DACA recipients own homes in Nevada.<sup>11</sup>

Wisconsin had 6,720 DACA recipients as of 2017.<sup>12</sup> More than 90 percent of Wisconsin's DACA recipients worked, unless currently in school or the military.<sup>13</sup> Wisconsin's DACA recipients exercised an estimated spending power of \$110.7 million in 2015, paying a total of \$17.6 million in taxes (of which \$10.1 million were state and local taxes).<sup>14</sup> Wisconsin's DACA recipients paid \$26.5 million in rent in Wisconsin in 2017.<sup>15</sup>

In Michigan, according to the Migration Policy Institution, there are 13,000 Michigan residents who are eligible for deferred action under DACA, and 5,610 are participating (44%) as of August 2018.<sup>16</sup> Consistent

---

<sup>10</sup> NEW AMERICAN ECONOMY RESEARCH FUND, *Examining the Contributions of the DACA-Eligible Population in Key States*, (Nov. 6, 2017), <https://research.newamericaneconomy.org/report/examining-the-contributions-of-the-daca-eligible-population-in-key-states/>.

<sup>11</sup> Nicole Prchal Svajlenka, *What We Know About DACA Recipients, by State*, (Sept. 12, 2019), CENTER FOR AMERICAN PROGRESS, <https://www.americanprogress.org/issues/immigration/news/2019/09/12/474422/know-daca-recipients-state/>.

<sup>12</sup> *Id.*

<sup>13</sup> NEW AMERICAN ECONOMY RESEARCH FUND, *supra* note 10.

<sup>14</sup> *Id.*

<sup>15</sup> Svajlenka, *supra* note 11.

<sup>16</sup> Zong, et al., *supra* note 9.

with other states, Michigan's DACA recipients are active in the work force. By one metric, more than 90% of Michigan's DACA-eligible population were employed.<sup>17</sup> In contrast, only 61.2% of the state's population over the age of 16 was in the work force.<sup>18</sup>

For 2015, the New American Economy Research Fund determined that Michigan's DACA-eligible residents earned \$182 million in income and paid \$13.6 million in state and local taxes, for a total of \$27 million in taxes generally.<sup>19</sup> A September 2019 report marked tax payments at \$23.3 million in state and local taxes for DACA-eligible residents, and a total of \$42 million in taxes.<sup>20</sup> For Michigan, one of only two states in the country to lose population in the 2010 census, the role these residents play in the Michigan economy and workforce is vital. Michigan losing these hard-working and productive residents would have a significant, adverse effect on the Michigan economy.

---

<sup>17</sup> From 2015, the figure was 92.5%, where the state with the lowest percentage was still 86%. *See* NEW AMERICAN ECONOMY RESEARCH FUND, *supra* note 10.

<sup>18</sup> *See U.S. Census Figures, 2013–2017*. <https://www.census.gov/quickfacts/fact/table/MI>.

<sup>19</sup> NEW AMERICAN ECONOMY RESEARCH FUND, *supra* note 10.

<sup>20</sup> Svajlenka, *supra* note 11.

In Kansas, nearly 6,000 DACA recipients<sup>21</sup> generate \$111 million in annual spending power<sup>22</sup> and pay \$12.6 million annually in state and local taxes.<sup>23</sup> The Cato Institute conservatively estimates that rescinding DACA will cost the Kansas economy \$1.76 billion over the next decade,<sup>24</sup> while the Center for American Progress estimates that the Kansas economy would

---

<sup>21</sup> U.S. CITIZENSHIP AND IMMIGRATION SERVICES, *Approximate Active DACA Recipients – State or Territory of Residence as of August 31, 2018*, [https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/DACA\\_Population\\_Data\\_August\\_31\\_2018.pdf](https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/DACA_Population_Data_August_31_2018.pdf).

<sup>22</sup> NEW AMERICAN ECONOMY RESEARCH FUND, *Overcoming The Odds: The Contributions of DACA-Eligible Immigrants and TPS Holders to the U.S. Economy*, (June 3, 2019), <https://research.newamericaneconomy.org/report/overcoming-the-odds-the-contributions-of-daca-eligible-immigrants-and-tps-holders-to-the-u-s-economy/>.

<sup>23</sup> Misha Hill & Meg Wiehe, *State & Local Tax Contributions of Young Undocumented Immigrants*, INSTITUTE ON TAXATION & ECONOMIC POLICY, Apr. 2018, <https://itcp.org/wp-content/uploads/2018DACA.pdf>.

<sup>24</sup> Ike Brannon, *The Economic and Budgetary Cost of Repealing DACA at the State Level*, THE CATO INSTITUTE (Aug. 31, 2017), <https://www.cato.org/blog/economic-budgetary-cost-repealing-daca-state-level>.

lose \$335 million in annual gross domestic product.<sup>25</sup> This is contrary to claims that the presence of DACA recipients imposes significant costs to state budgets and social services resources.

Kansas is experiencing its lowest unemployment rate in 20 years, with only 3.2% of Kansans looking for work.<sup>26</sup> In this low-unemployment economy, Kansas relies on its DACA recipients to fill both high- and low-skilled jobs that it could not otherwise fill. For Kansas, terminating DACA will prevent it from realizing the benefits of its investments in DACA recipients, significantly weakening Kansas's economy.

Montana is one of several states in the country that, while not boasting a large foreign-born population, is increasingly drawing more immigrants. Among them are DACA recipients. In 2010, the state was home to less than 20,000 foreign-born residents.<sup>27</sup> Between 2010 and 2014, that number grew by 19.1 percent—or more than three times as fast as the number of foreign-

---

<sup>25</sup> Nicole Prchal Svajlenka, et al., *A New Threat to DACA Could Cost States Billions of Dollars*, CENTER FOR AMERICAN PROGRESS, (July 21, 2017), <https://www.americanprogress.org/issues/immigration/news/2017/07/21/436419/new-threat-daca-cost-states-billions-dollars/>.

<sup>26</sup> *Kansas Labor Market Report* (Aug. 2019), <https://klic.dol.ks.gov/gsipub/index.asp?docid=472>.

<sup>27</sup> See NEW AMERICAN ECONOMY RESEARCH FUND, *The Contributions of New Americans in Montana* (Aug. 2016), <http://research.newamericaneconomy.org/wp-content/uploads/2017/02/nae-mt-report.pdf>.



born residents increased in the country as a whole.<sup>28</sup> Only three other states had higher rates of growth during that period.<sup>29</sup> Today, Montana is home to almost 24,000 individuals who were born in another country.<sup>30</sup> Montana's immigrants are playing a valuable role in helping Montana meet its healthcare workforce needs, both now and in the future.<sup>31</sup> Should DACA be rescinded, Montana would suffer a minimum of \$3,507,840 in economic loss.<sup>32</sup>

In total, DACA recipients are an overwhelmingly beneficial—even essential—part of state economies.

## **B. DACA Aids the States in Providing Social Services to Residents.**

Rescinding DACA would affect the financial security and welfare of families that today are supported by DACA grantees. Nationwide, 73 percent of DACA grantees live with an American citizen spouse, child, or sibling.<sup>33</sup> In Nevada, 27,600 individuals live in mixed-status households with an estimated 4,600 United

---

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> See NEW AMERICAN ECONOMY RESEARCH FUND. *supra* note 27.

<sup>32</sup> Svajlenka, et al., *supra* note 25.

<sup>33</sup> Dara Lind, *9 facts that explain DACA, the immigration program Trump is ending*, VOX.COM (Jan. 30, 2018), <https://www.vox.com/policy-and-politics/2017/8/31/16226934/daca-trump-dreamers-immigration>.

States-born children of DACA recipients.<sup>34</sup> Losing DACA status threatens to throw families into financial chaos, because many depend on the incomes and health insurance of the DACA recipients in their families. It also threatens to tear families apart, as native-born children of DACA recipients could be separated from their parents if removal proceedings are instituted against them.

DACA grantees' loss of income and health insurance will place increased burdens on the States' public health and social safety net programs. Undocumented immigrants are more hesitant to seek out and use health services and medical treatment.<sup>35</sup> Respondents in this case have described how they and other undocumented immigrants are hesitant to seek healthcare treatment when they need it.<sup>36</sup> In addition, recipients were able to obtain health insurance because of DACA, often through their new employers. They will likely lose this health insurance because of the rescission, leading to worse health outcomes<sup>37</sup> and greater strain on public health resources from treating uninsured patients at state facilities.<sup>38</sup>

---

<sup>34</sup> Svajlenka, *supra* note 11.

<sup>35</sup> Wong Decl., SER 1159

<sup>36</sup> J.A. 934, 962.

<sup>37</sup> McLeod Decl., SER 759-760.

<sup>38</sup> Lorenz Decl., SER 715.

### **C. Public Colleges and Universities Benefit From DACA.**

Public colleges and universities in the States benefit tremendously from the participation of DACA grantees, who as both students and valued employees, contribute tuition revenue, skills, and knowledge, while enhancing diversity for all students. For example, University of Nevada, Reno President Marc Johnson wrote in a September 1, 2017 statement to faculty, staff and students:

Since the Deferred Action for Childhood Arrivals (DACA) program was started in 2012, we have witnessed the critical benefits of this program for our students, and the highly positive impacts on our institution and community. . . We will continue to embrace our mission and support the members of our diverse groups, who are a valued and critical part of our campus community.<sup>39</sup>

In this case, several DACA recipient respondents have attested to how DACA enabled them to attend universities. Many are exemplary students with great academic success.<sup>40</sup>

---

<sup>39</sup> John Trent, NEVADA TODAY (Sept. 1, 2017), <https://www.unr.edu/nevada-today/news/2017/president-johnson-daca-statement>.

<sup>40</sup> See J.A. 921-923, 926-929 (UC Berkeley graduate, USCF med student); J.A. 937-938 (UCSD graduate); J.A. 957-960 (UC Berkeley graduate, Harvard Law School student); J.A. 967, 969-67, 973-74 (attended Maryland community college, U.C. Berkeley PhD student); SER 543-544 (high school valedictorian, UCLA student); SER 556 (UCLA law student); SER 618-619 (high school

Recognizing these successes, leaders of over 600 colleges and universities, including Nevada State College, five University of Wisconsin campuses (specifically including the University of Wisconsin-Madison flagship campus), Kansas State University, Northern Michigan University, and numerous other public universities, four-year colleges and community colleges from amici joined in a statement describing the “critical benefits” of DACA to their educational communities. Describing the continuation of DACA as a “moral imperative and a national necessity,” they wrote: “America needs talent – and these students, who have been raised and educated in the United States, are already part of our national communities and economies.”<sup>41</sup>

Public colleges and universities provide needed educational services to DACA students, who often cannot afford the tuition and costs of private universities, and choose schools close to their home communities. Community colleges in particular have traditionally served immigrant students, including DACA students, as a gateway into higher education.<sup>42</sup>

---

valedictorian, UCSD graduate, UCLA medical school student); SER 1112-1113 (UC Irvine PhD student and Ford Fellowship recipient).

<sup>41</sup> *Statement in Support of the Deferred Action for Childhood Arrivals (DACA) Program and our Undocumented Immigrant Students* (Nov. 21, 2016), <https://www.pomona.edu/support-daca>.

<sup>42</sup> Jill Casner-Lotto, *Dreaming Big: What Community Colleges Can Do to Help Undocumented Immigrant Youth Achieve Their Potential*, COMMUNITY COLLEGE CONSORTIUM FOR IMMIGRANT

Nationwide, 94 percent of DACA grantees currently in school report that the grant of deferred action has allowed them to pursue education opportunities they otherwise would not have been able to pursue.<sup>43</sup> According to one nationwide study, 45% of DACA recipients were currently in school, and of that group, more than 70% were pursuing a bachelor's degree or higher.<sup>44</sup> As a result, the rescission of DACA would result in the loss of large sums in tuition revenue.

If DACA is rescinded, many of these students, who work and support themselves while in school, will be forced to drop out before finishing their degrees. In addition, because these students have been educated in our public primary and secondary schools, our public educational system, and our nation as a whole, loses its investment in these talented students, “without any discernable benefit.”<sup>45</sup> As noted by MIT President L.

---

EDUCATION (Sept. 1, 2012) at p.1, [https://www.cccie.org/wp-content/uploads/2010/06/DREAMING\\_BIG\\_CCCIE\\_Report\\_9-2012\\_final\\_version.pdf](https://www.cccie.org/wp-content/uploads/2010/06/DREAMING_BIG_CCCIE_Report_9-2012_final_version.pdf).

<sup>43</sup> Tom K. Wong, et al., *DACA Recipients' Economic and Educational Gains Continue to Grow*, CENTER FOR AMERICAN PROGRESS, (Aug. 28, 2017), <https://www.americanprogress.org/issues/immigration/news/2017/08/28/437956/daca-recipients-economic-educational-gains-continue-grow/>.

<sup>44</sup> *Id.*

<sup>45</sup> MIT News Office, *President Reif writes to support preservation of DACA* (Aug. 31, 2017), <http://news.mit.edu/2017/president-reif-writes-support-preservation-daca-0831>.

Rafael Reif, “We should treat these educated, English-speaking strivers not as a burden, but as a resource.”<sup>46</sup>

Because some states provide in-state tuition rates at public colleges and universities to DACA students, but require other immigrants to pay full tuition, many of these students will find it unaffordable to continue with any form of higher education if DACA is rescinded. Likewise, DACA students will lose the ability to pay in-state tuition at public colleges and universities in at least three states: Virginia, Massachusetts, and Ohio. Among the nearly 20,600 people with DACA status, students in those states are at risk of losing their access to public colleges and universities because of the prohibitive difference between in-state and out-of-state tuition.<sup>47</sup>

At Virginia Commonwealth University, for example, out-of-state tuition costs \$35,798 per year—\$20,000 more than in-state tuition and fees.<sup>48</sup> In addition, in February 2017, Angel Cabrera, president of Virginia’s George Mason University, estimated that without

---

<sup>46</sup> *Id.*

<sup>47</sup> Silva Mathema, *What DACA Recipients Stand to Lose - And What States Can Do About It*, CENTER FOR AMERICAN PROGRESS (Sept. 13, 2018), <https://www.americanprogress.org/issues/immigration/reports/2018/09/13/458008/daca-recipients-stand-lose-states-can/>.

<sup>48</sup> *Id.*

DACA, between 150 and 300 students might have to leave the university due to unaffordable tuition.<sup>49</sup>

For another set of states, losing DACA status will bar students from attending public colleges and universities altogether. Currently, Alabama and South Carolina bar unauthorized immigrants from enrolling in their public institutions. Certain universities in Georgia also deny enrollment to undocumented students.<sup>50</sup>

Even for those students who find a way to remain in school, as well as DACA recipients who serve as faculty and staff, their experience as part of the educational community will be curtailed without DACA. For example, without advance parole, DACA recipients will not be able to travel abroad for studies or educational meetings, and the colleges and universities will lose the ability to select the best candidates to represent the institution in these programs and forums.<sup>51</sup>

---

<sup>49</sup> Tom Jawetz & Nicole Prchal Svajlenka, *Thousands of DACA Recipients Are Already Losing their Protection from Deportation*, CENTER FOR AMERICAN PROGRESS (Nov. 9, 2017), <https://www.americanprogress.org/issues/immigration/news/2017/11/09/442502/thousands-daca-recipients-already-losing-protection-deportation/>.

<sup>50</sup> NATIONAL CONFERENCE OF STATE LEGISLATURES, *Deferred Action for Childhood Arrivals/Federal Policy and Examples of State Actions* (Apr. 25, 2018), <http://www.ncsl.org/research/immigration/deferred-action.aspx>.

<sup>51</sup> See, e.g., UNIVERSITY OF WISCONSIN-MADISON, *Statement from Chancellor Blank on Executive Order on Immigration* (Jan. 30, 2017), <https://news.wisc.edu/statement-from-chancellor-blank-on-executive-order-on-immigration/>.

**D. DACA Grantees are Valued State Employees.**

DACA grantees serve the States not only in our colleges and universities, but also throughout state and local government, often serving in roles that make use of their unique skills and life experiences. Record evidence shows that DACA recipients perform jobs for which it can be hard to find a replacement hire, such as serving as interpreters at the County of Santa Clara's hospitals.<sup>52</sup> Because of their own background and ability to speak Spanish, DACA employees are uniquely able to connect with and understand the struggles these hospital clients face.

DACA grantees have also been employed throughout state and local government agencies, often interacting and serving the communities where they themselves live. They are law enforcement officers, nurses, fire fighters, special needs teachers, home health care workers, and more. If DACA is rescinded the States would lose many highly valued, passionate, and productive employees, whose skill sets and experience would be costly for the States to replace.

**E. DACA Contributes to Public Safety.**

Many of the undersigned serve as chief law enforcement officials in our states, and we recognize the important public safety benefits that flow from DACA. Residents who live in fear of deportation are less likely to report crimes committed against them, and less likely to serve as witnesses to crimes they

---

<sup>52</sup> Marquez Decl., SER 744-745; Mendez Decl., SER 781; Duenas Decl., SER 424; Melvoin Decl., SER 768-769.



encounter, choosing to remain in the shadows. As just one of many examples, a DACA respondent stated that she did not report when she was robbed at gunpoint prior to DACA because of fear she would be deported.<sup>53</sup>

Record evidence in this case supports her statement. For instance, in a survey of over 3,000 DACA recipients, 53% said after the rescission they would be less likely to report a crime, 46% said they would be less likely to report a crime even if they were the victim, and 60% said they would be less likely to report wage theft.<sup>54</sup> In another survey of DACA recipients, 59% said they would report a crime after receiving DACA status but would not have before.<sup>55</sup>

Effective law enforcement requires cooperation between residents and law enforcement officers. That cooperation is lacking when residents live in fear of deportation. Indeed, unscrupulous criminals often target undocumented residents because they understand the particular vulnerability of this population. As a result, granting deferred action to young community members who themselves pose no threat to public safety enhances the safety of the entire community. Local prosecutors have observed this firsthand in the communities they serve and protect.<sup>56</sup>

---

<sup>53</sup> J.A. 923.

<sup>54</sup> See Wong Decl., SER 1159.

<sup>55</sup> See Gonzalez Decl., SER 534.

<sup>56</sup> Gascon Decl., SER 504-505; O'Malley Decl., SER 883.

**CONCLUSION**

DACA grantees, having emerged from the shadows into public life, have enriched the Amici States. Forcing these productive and industrious young residents out of their places in our communities would impose significant economic and social costs on our States and the country as a whole.

For these reasons, the Amici States submit that the rescission of DACA is subject to judicial review and that the efforts to rescind DACA in this instance are unlawful, as adjudicated by the lower courts.

Respectfully submitted,

DANA NESSEL  
*Michigan Attorney General*

ERIC J. WILSON  
*Deputy Attorney General  
State of Wisconsin*

LAURA KELLY  
*Governor of Kansas*

STEVE BULLOCK  
*Governor of Montana*

AARON D. FORD  
*Attorney General of Nevada*

HEIDI PARRY STERN\*  
*Solicitor General*

CRAIG A. NEWBY  
*Deputy Solicitor General*  
100 North Carson Street  
Carson City, NV 89701  
(775) 684-1100

HStern@ag.nv.gov  
\* *Counsel of Record*

*Counsel for Amici Curiae*

OCTOBER 4, 2019