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11
12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN FRANCISCO DIVISION**

15 THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA and JANET NAPOLITANO,
16 in her official capacity as President of the
University of California,

17 Plaintiffs,

18 v.

19 US DEPARTMENT OF HOMELAND
20 SECURITY and ELAINE DUKE, in her
official capacity as Acting Secretary of the
21 Department of Homeland Security,

22 Defendants.

Case No. 17-cv-05211-WHA; consolidated
with Case Nos. 17-cv-05235-WHA; 17-cv-
05329-WHA; 17-cv-05380-WHA; 17-cv-
05813-WHA.

**BRIEF AMICI CURIAE OF
INSTITUTIONS OF HIGHER
EDUCATION IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY RELIEF.**

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Amici are institutions of higher education from across the country: Amherst College, Asnuntuck Community College, Barnard College, Board of Governors of the California Community Colleges, Boston University, Bowdoin College, Brandeis University, Bucknell University, Capital Community College, Carnegie Mellon University, Case Western Reserve University, Central Connecticut State University, Charter Oak State College, Colby College, Colgate University, University of Connecticut, Eastern Connecticut State University, Emerson College, Gateway Community College, Hampshire College, Housatonic Community College, Lawrence University, Los Angeles Community College District, Los Rios Community College District, Manchester Community College, University of Maryland, University of Michigan, Middlebury College, Middlesex Community College, Mount Holyoke College, Naugatuck Valley Community College, Northeastern University, Northwestern Community College, Norwalk Community College, Pace University, Quinebaug Valley Community College, Rice University, Riverside Community College District, San Francisco Community College District, San Mateo Community College District, Smith College, Southern Connecticut State University, State Center Community College District, Three Rivers Community College, Tufts University, Tunxis Community College, Vassar College, Wellesley College, Western Connecticut State University, and Williams College.

American institutions of higher education benefit profoundly from the presence of immigrant students on our campuses. Whether they attend large public universities, private research universities and liberal arts colleges, or community colleges, these students contribute a perspective and experience that is unique and important. That is especially true of Dreamers— that is, undocumented young people who were brought to the United States as children.

Through no choice of their own, Dreamers were raised and educated in this country as Americans. They have worked and studied in American schools; have prepared and trained for all manner of careers; and have strived to innovate, achieve, and serve their communities. Yet, until the government announced the Deferred Action for Childhood Arrivals (“DACA”) program

1 in 2012, they lived under the threat that the government might one day come calling, to remove
 2 them from the country that has become their home. Though they might have dreamed of bright
 3 futures, for many their undocumented status stood as an impenetrable roadblock to one of the
 4 most fundamental tools for a successful future: Of the 65,000 undocumented youth who
 5 graduate from U.S. high schools each year, historically only approximately 5 to 10 percent were
 6 able to enroll in college.¹

7 DACA changed all of this and has provided up to 2 million Dreamers with an opportunity
 8 to apply for temporary protection from removal, an opportunity to pursue their education, and
 9 the authorization to work legally. To qualify for DACA, Dreamers are required to meet strict
 10 conditions, including having completed high school or a GED in the United States, or being
 11 currently enrolled in school. In addition, Dreamers are required to pay a significant application
 12 fee and provide detailed personal information to the government—a significant request given the
 13 hesitancy of undocumented persons to have any interaction with the government whatsoever.
 14 But the students who have signed up and placed their trust in the government received, in
 15 exchange, the opportunity to pursue higher education. They have done so in unprecedented
 16 numbers.

17 On September 5, 2017, Defendants announced they were rescinding DACA. This
 18 misguided, arbitrary and capricious decision will harm millions of remarkable young people.
 19 But, critically, it will also harm the country, which will be deprived of the many contributions
 20 Dreamers would otherwise be able to make. *Amici* collectively have educated thousands of
 21 DACA beneficiaries, and we have benefited from their talents and the passion they bring to our
 22 campuses. Even those *amici* who have no DACA beneficiaries currently on campus view
 23 DACA as core to their educational missions. In this brief, we explain how we will be harmed if

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 25 ¹ Inst. for Immigration, Globalization, & Educ., *In the Shadows of the Ivory Tower: Undocumented Undergraduates and the Liminal State of Immigration Reform* 1 (2015),
 26 <http://www.undocuscholars.org/assets/undocuscholarsreport2015.pdf>; Immigration Policy
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 28 *U.S. Economy* (2010),
http://www.mygreencard.com/downloads.php?file=Dream_Act_January2011.pdf.

1 Defendants' action is not reversed and, for that reason, *amici* support Plaintiffs and respectfully
2 urge the Court to grant Plaintiffs' motion for preliminary relief.

3 **ARGUMENT**

4 **I. DACA Has Allowed Tens of Thousands of Previously Undocumented Youth
5 To Pursue Higher Education.**

6 DACA has enabled previously undocumented students to pursue higher education in
7 several important ways.

8 *First*, in order to qualify for deferred action under DACA, an applicant must generally
9 obtain a high school diploma or GED certificate. The possibility of securing deferred action
10 provides a powerful incentive for students to stay in school, increasing the likelihood that they
11 will pursue postsecondary education, and become taxpayers and significant contributors to our
12 society.

13 *Second*, prior to DACA, undocumented students felt the need to hide their status from
14 others, which constrained their access to academic resources and their desire to apply to college.²
15 Not surprisingly, undocumented students who felt the need to hide their status from school
16 personnel or peers during high school are significantly less likely even to think college is a
17 possibility.³

18 *Third*, DACA enables students to secure social security numbers and photo identification.
19 Something as simple as flying on an airplane was previously all but impossible for
20 undocumented youth. With DACA, they can fly across the country to visit campuses, attend
21 school and academic conferences, and even obtain authorization to study abroad. Likewise, with
22 a social security number, they can apply for financial aid and fee waivers that were previously
23 unobtainable and secure credit to fund other education-related expenses. Given that DACA
24 students come from families whose parents lack legal status—and thus frequently are unable to

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26 ² Caitlin Patler & Jorge A. Cabrera, *From Undocumented to DACAdmented: Impacts of the*
27 *Deferred Action for Childhood Arrivals (DACA) Program Three Years Following its*
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http://www.chicano.ucla.edu/files/Patler_DACA_Report_061515.pdf.

28 ³ *Id.* at 16.

1 secure high-paying jobs—the availability of financial aid is all the more crucial to their ability to
2 attend college or university.

3 *Fourth*, DACA enables students to secure work authorization. With the ability to work
4 part-time jobs and participate in work-study programs, undocumented students can better afford
5 school—something previously made difficult or impossible by the inability to work lawfully.⁴
6 Likewise, the ability to secure a legitimate job following graduation from college provides a
7 powerful incentive to pursue a college education; and the inability to secure such a job likewise
8 dissuades promising students from pursuing higher education. DACA thus increases the value of
9 higher education itself for undocumented students.

10 *Fifth*, DACA has enabled students to overcome state laws that impede their ability to
11 pursue higher education. For example, DACA recipients may enroll in public colleges and
12 universities in states where they would otherwise be barred from attending,⁵ and may apply for
13 in-state tuition in others, making it far easier for them to afford a college education.⁶ *Sixth*,
14 DACA enables students to envision a future for themselves in this country, providing the
15 incentive to pursue a degree, develop skills and expertise, and invest in their future here.

16 *Finally*, because of DACA, *amici* have made extensive investments in the education of
17 DACA beneficiaries, facilitating their access to higher education like never before. Among
18 other things, *amici* have provided DACA students with financial aid, housing benefits,
19 counseling, faculty time and attention, and graduate and research assistant positions, all in
20 reliance on the DACA program. Some *amici* even provide legal services. *Amici* made these
21 investments with the expectation that those students would be able to pursue their education and
22 career in this country, in furtherance of *amici*'s educational missions, and the public interest.

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26 ⁴ See Zenén Jaimes Pérez, Center for American Progress, *How DACA Has Improved the Lives of*
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27 [content/uploads/2014/11/BenefitsOfDACABrief2.pdf](https://cdn.americanprogress.org/wp-content/uploads/2014/11/BenefitsOfDACABrief2.pdf); Patler, *supra*, at 18.

28 ⁵ See, e.g., Ala. Code § 31-13-8; S.C. Code Ann. § 59-101-430.

⁶ See Pérez, *supra*, at 4.

1 DACA has accomplished what it was intended to do: In a 2017 survey of more than
 2 3,000 DACA recipients, 45% are currently in school.⁷ And, among those who are in school,
 3 94% said that, because of DACA, they “[p]ursued educational opportunities that I previously
 4 could not.”⁸ In a different study, nearly four-fifths of DACA recipients (78%) reported that
 5 DACA made it easier to pay for school.⁹ Three-quarters of current students said DACA made it
 6 easier to attend school and to stay in school.¹⁰ These studies and *amici*’s experience confirm
 7 what should be obvious: once young people are able to come out of the shadows and avail
 8 themselves of programs available to countless other American youth, they seize and benefit from
 9 the opportunity.

10 But, while Dreamers and their families have benefited greatly from the DACA program,
 11 colleges and universities have benefited as well.

12 **II. DACA Students Contribute Immeasurably to Our Campuses.**

13 American colleges and universities have benefited immeasurably from DACA. As
 14 *amicus* Amherst’s President, Bidy Martin, wrote in a letter to the President, “[o]ur classrooms
 15 at Amherst are enriched by the academic talent, hard work, and perspectives of DACA students
 16 who go on to become doctors, teachers, engineers, and artists.”¹¹ And President Martin is far
 17 from alone. Hundreds of other university presidents have echoed those sentiments, issuing
 18 public statements on DACA’s importance to American colleges and universities, including many
 19 whose institutions have signed this brief.¹²

20 _____
 21 ⁷ Tom K. Wong, 2017 National DACA Study, <https://cdn.americanprogress.org/content/uploads/2017/08/27164928/Wong-Et-Al-New-DACA-Survey-2017-Codebook.pdf>.

22 ⁸ *Id.* at 7.

23 ⁹ Patler, *supra*, at 5 or 18.

24 ¹⁰ *Id.* at 18.

25 ¹¹ Letter from Bidy Martin, Amherst College to Donald J. Trump, President (Aug. 30, 2017), <https://www.amherst.edu/amherst-story/president/statements/node/689036>.

26 ¹² See Pomona College: Statement in Support of the Deferred Action for Childhood Arrivals
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 28 (letter opposing the nonrenewal of DACA signed by over 700 university and college presidents and
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1 **a. DACA Students Have Had Great Academic and Extra-Curricular**
 2 **Success At Our Schools.**

3 Dreamers are invaluable members of our academic communities. DACA recipients serve
 4 as the president¹³ and vice-president¹⁴ of student government, publish research in top academic
 5 journals,¹⁵ innovate and apply for patents,¹⁶ earn inclusion on the Dean's List¹⁷ and graduate
 6 *summa cum laude*,¹⁸ and serve as tutors and research assistants.¹⁹ They have won Soros

7 Vincent E. Price, President Duke University, to Donald J. Trump, President (Aug. 30, 2017),
 8 <https://today.duke.edu/2017/08/duke-university-letter-support-daca>; Letter from Drew Gilpin
 9 Faust, Harvard, to Donald J. Trump, President (Aug. 28, 2017),
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 11 from Ron Liebowitz, President, Brandeis University, to Donald J. Trump, President (Sept. 5,
 12 2017), <http://www.brandeis.edu/president/letters/2017-09-05.html>; Statement on DACA from
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 16 <https://president.williams.edu/writings/caring-for-our-undocumented-students/> (last visited Oct.
 17 29, 2017); Statement of Kathleen McCartney, President, Smith College, to Students, Staff and
 18 Faculty (Sept. 5, 2017), [https://smith.edu/president-kathleen-mccartney/letters//2017-](https://smith.edu/president-kathleen-mccartney/letters//2017-18/responding-to-daca-decision)
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 20 Emerson Community (Sept. 6, 2017) [http://www.emerson.edu/news-events/emerson-college-](http://www.emerson.edu/news-events/emerson-college-today/pelton-reaffirms-support-emerson-daca-students#.We5Ui2you70)
 21 [today/pelton-reaffirms-support-emerson-daca-students#.We5Ui2you70](http://www.emerson.edu/news-events/emerson-college-today/pelton-reaffirms-support-emerson-daca-students#.We5Ui2you70); Resolutions of the Board
 22 of Governors, California Community Colleges, Nos. 2017-04 (Sept. 18, 2017), 2017-01 (Jan. 18,
 23 2017) [http://extranet.cccco.edu/Portals/1/ExecutiveOffice/Board/2017_agendas/September/2.2-](http://extranet.cccco.edu/Portals/1/ExecutiveOffice/Board/2017_agendas/September/2.2-Resolution-DACA.pdf)
 24 [Resolution-DACA.pdf](http://extranet.cccco.edu/Portals/1/ExecutiveOffice/Board/2017_agendas/September/2.2-Resolution-DACA.pdf); Statement of Susan Herbst, President, University of Connecticut (Sept. 5,
 25 2017), <https://today.uconn.edu/2017/09/president-herbst-responds-daca-decision/>; Letter from
 26 David W. Leebron, President, Rice University (Sept. 5, 2017),
 27 <https://president.rice.edu/presidents-office/remarks/DACA-announcement>; Letter of Joseph E.
 28 Aoun, President, Northeastern University, to all members of the Northeastern Community (Sept.
 4, 2017), <http://www.northeastern.edu/president/2017/09/04/turning-ideals-into-action/>;
 Association of Vermont Independent Colleges, Statement on the Revocation of the Deferred
 Action for Childhood Arrivals (DACA) Program, [http://www.vermont-](http://www.vermont-colleges.org/Documents/DACAFinal2017.pdf)
[colleges.org/Documents/DACAFinal2017.pdf](http://www.vermont-colleges.org/Documents/DACAFinal2017.pdf).

¹³ See Jose Herrera, *DACA student leads by example*, Los Angeles Pierce College Roundup
 (Sept. 13, 2017), <http://theroundupnews.com/2017/09/13/daca-student-leads-example/>.

¹⁴ Monica Scott, *Undocumented: One immigrant's story of life under DACA*, MLive (Aug. 29,
 2017), [http://www.mlive.com/news/grand-](http://www.mlive.com/news/grand-rapids/index.ssf/2017/08/one_daca_students_story_about.html)
[rapids/index.ssf/2017/08/one_daca_students_story_about.html](http://www.mlive.com/news/grand-rapids/index.ssf/2017/08/one_daca_students_story_about.html).

¹⁵ America's Voice Online (Oct. 3, 2017), [https://americasvoice.org/blog/name-denisse-rojas-](https://americasvoice.org/blog/name-denisse-rojas-marquez-28-years-old-old-proud-undocumented-american-soon-doctor/)
[marquez-28-years-old-old-proud-undocumented-american-soon-doctor/](https://americasvoice.org/blog/name-denisse-rojas-marquez-28-years-old-old-proud-undocumented-american-soon-doctor/).

¹⁶ *American Dreamers: Kok-Leong Seow*, N.Y. Times,
 24 [https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/kok-leong-](https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/kok-leong-seow)
[seow](https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/kok-leong-seow) (last visited Oct. 29, 2017).

¹⁷ E.g., *American Dreamers: Anayancy Ramos*, N.Y. Times,
 26 [https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/anayancy-](https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/anayancy-ramos)
[ramos](https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/anayancy-ramos) (last visited Oct. 29, 2017).

¹⁸ *American Dreamers: Carlos Adolfo Gonzalez Sierra*, N.Y. Times,
 27 [https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/carlos-](https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/carlos-adolfo-gonzalez-sierra)
[adolfo-gonzalez-sierra](https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/carlos-adolfo-gonzalez-sierra) (last visited Oct. 29, 2017).

1 Fellowships²⁰ and been named Gates Cambridge Scholars and Schwarzman Scholars.²¹ They
 2 have graduated with honors and received admission to serve others in the Team for America²²
 3 and AmeriCorps VISTA²³ programs. They have founded national organizations to assist other
 4 undocumented youth.²⁴ They have pursued careers in a wide variety of fields, including health
 5 care²⁵ and service to low-income veterans.²⁶ The following are but a few examples of current
 6 and past DACA students at *amici* and other institutions of higher education who are brave
 7 enough to share their stories, and whose remarkable achievements serve as a reminder of why
 8 DACA benefits *both* students and the institutions lucky enough to have them:

- 9 • Elias Rosenfeld, now a sophomore at Brandeis University, was brought to the
 10 United States at age 6 from Venezuela by his mother who was a media executive
 11 and came on an L1 visa. His mother died when he was in fifth grade, and it was
 12 only in high school when he tried to apply for a driver's license that he learned he
 13 was undocumented because his mother's death voided her (and his) visas. Elias
 14 excelled in high school, completing 13 AP classes and ranking in the top 10% of
 15 his class. At Brandeis he is studying political science, sociology and law. When

14 ¹⁹ *E.g., American Dreamers: Gargi Y. Purohit*, N.Y. Times,
 15 <https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/gargiy-purohit> (last visited Oct. 29, 2017).

16 ²⁰ *American Dreamers: Denisse Rojas Marquez, 2016*, N.Y. Times,
 17 <https://www.pdsoros.org/meet-the-fellows/denisse-rojas-marquez> (last visited Oct. 29, 2017).

18 ²¹ *American Dreamers: Carlos Adolfo Gonzalez Sierra*, N.Y. Times,
 19 <https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/carlos-adolfo-gonzalez-sierra> (last visited Oct. 29, 2017).

20 ²² *American Dreamers: Julia Verzbickis*, N.Y. Times,
 21 <https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/julia-verzbickis> (last visited Oct. 29, 2017).

22 ²³ *American Dreamers: Brisa E. Ramirez*, N.Y. Times,
 23 <https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/brisa-ramirez> (last visited Oct. 29, 2017).

24 ²⁴ America's Voice (Oct. 3, 2017), <https://americasvoice.org/blog/name-denisse-rojas-marquez-28-years-old-old-proud-undocumented-american-soon-doctor/>; *see also American Dreamers: Jin Park*, N.Y. Times, <https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/jin-park> (last visited Oct. 29, 2017); Penny Schwartz, *A Jewish 'Dreamer' is scared, but refuses to despair*, Jewish Telegraphic Agency (Sept. 6, 2017), <https://www.jta.org/2017/09/06/news-opinion/united-states/a-jewish-dreamer-is-scared-but-refuses-to-despair>.

25 ²⁵ America's Voice (Oct. 3, 2017), <https://americasvoice.org/blog/name-denisse-rojas-marquez-28-years-old-old-proud-undocumented-american-soon-doctor/>; *American Dreamers: Belsy Garcia*, N.Y. Times, <https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/belsy-garcia> (last visited Oct. 29, 2017).

26 ²⁶ *American Dreamers: Isabelle Muhlbauer*, N.Y. Times,
 27 <https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/isabelle-muhlbauer> (last visited Oct. 29, 2017).

1 asked what America means to him, he responded: “It means my country. It’s my
2 home. There’s a connection. I want to contribute.”²⁷

- 3 • Anayancy Ramos is a student at Eastern Connecticut State University who will
4 graduate with a double major in Biology and Computer Science and a minor in
5 Bioinformatics. Before matriculating at ECSU, she attended a community college
6 where she was a Dean’s List scholar, was inducted into the Phi Theta Kappa
7 honor society, was the president of the Alpha Beta Gamma chapter, and worked
8 full time at an animal hospital. She notes that through DACA she’s been able to
9 achieve an education and a future she never thought possible, but that those
10 dreams will die if DACA forces her to retreat once more into the shadows.²⁸
- 11 • Carlos Adolfo Gonzalez Sierra came to the United States from the Dominican
12 Republic when he was eleven. Carlos graduated *summa cum laude* from Amherst
13 and studied as a Gates Scholar at Cambridge University and a Schwarzman
14 Scholar in China. Carlos emphasizes that his desire to stay is not economic: “The
15 United States is my home. It is where I feel the most comfortable.” Moreover,
16 given the education he’s received, he expresses an “inconsolable desire to
17 contribute to the country that has given me so much.”²⁹
- 18 • Eduardo Solis was brought to the United States when he was 1-month old from
19 Mexico. He is a student at UCLA, aspiring to major in either psychology or
20 sociology. At the age of 11 he founded a blog to help fellow children deal with
21 bullying. He has gained over 30,000 followers, from all over the world, and has
22 won awards recognizing his role as a teen activist. Although worried about the
23 end of DACA, Eduardo says that “[f]or now, I will continue on pledging
24 allegiance to the only flag I know and love; the American Flag.”³⁰
- 25 • Nancy A. was brought to the United States from Togo as a child. When she
26 entered high school at 13 she realized she was undocumented and, shortly
27 thereafter both she and her parents were put in deportation proceedings. Despite
28 being in these proceedings, she graduated as the valedictorian of her high school
class and then became the youngest graduate of her masters programs. She is
currently due to graduate with her Doctorate at age 27 and is a professor of
Political Science and Education at a university and community college. She
describes receiving DACA at age 23 as being “finally forgiven for a sin I had no
control over when I was a child.”³¹

27 See Penny Schwartz, *A Jewish ‘Dreamer’ is scared, but refuses to despair*, Jewish Telegraphic Agency (Sept. 6, 2017), <https://www.jta.org/2017/09/06/news-opinion/united-states/a-jewish-dreamer-is-scared-but-refuses-to-despair> (last visited Oct. 29, 2017).

28 See *American Dreamers: Anayancy Ramos*, N.Y. Times, <https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/anayancy-ramos> (last visited Oct. 29, 2017). *Amicus* Eastern Connecticut State University has provided updated details about Ramos’s course of study, with her consent.

29 See *American Dreamers: Carlos Adolfo Gonzalez Sierra*, N.Y. Times, <https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/carlos-adolfo-gonzalez-sierra> (last visited Oct. 29, 2017).

30 See *American Dreamers: Eduardo Solis*, N.Y. Times, <https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/eduardo-solis> (last visited Oct. 29, 2017).

31 See *American Dreamers: Nancy A.*, N.Y. Times, <https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/nancy-a> (last visited Oct. 29, 2017).

- 1
- 2 • Alfredo Avila was brought to the U.S. when he was just a child, and despite
 - 3 neither of his parents being able to speak English, they managed to send Alfredo
 - 4 and his siblings to school where they all learned English. Despite having to move
 - 5 around a number of times out of a fear of deportation, Alfredo excelled in school
 - 6 and is now a student in the Honors College at the University of Texas at San
 - 7 Antonio, majoring in Electrical Engineering. Alfredo works part-time as a math
 - 8 and science tutor and is involved with many student organizations, including
 - 9 serving as the President of the professional engineering student organization. His
 - 10 dream is to one day build and manage his own technology company that thrives
 - 11 off diversity and inclusion.³²

12 The success of DACA students in college and university should come as no surprise.

13 These students have overcome innumerable hardships simply to be able to apply and enroll in an

14 institute of higher education. For many of our students (whether U.S. citizens or from other

15 countries), matriculation in college or university is a natural progression after attending high

16 school and taking standardized tests. But this is not the case for DACA students. Those students

17 must perform well in school and on tests while at the same time living under the constant threat

18 that they and their families may be deported. Moreover, until DACA these students could not

19 get work authorization, and most of their parents still cannot.³³ Thus, DACA students frequently

20 have had to work multiple, poorly-paid jobs in order to help put food on the table while at the

21 same time trying to maintain their focus and performance in school and apply to college. The

22 sacrifices these students and their families have had to make simply to enroll as students at our

23 institutions are legion, and their commitment to bettering themselves and getting the most out of

24 their education is unwavering. These extraordinary young people should be cherished and

25 celebrated, so that they can achieve their dreams and contribute to the fullest for our country.

26 Banishing them once more to immigration limbo—a predicament they had no part in creating—

27 is not merely cruel, but irrational. DACA students are the ideal candidates for prosecutorial

28 discretion, which the government formerly recognized and exercised for those who applied and

³² See *American Dreamers: Alfredo Avila*, N.Y. Times, <https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/alfredo-avila> (last visited Oct. 29, 2017).

³³ Most DACA students are raised in households with incomes well below the federal poverty line. See Inst. for Immigration, Globalization, & Educ., *supra*, 7 (in a survey of undocumented students, 61.3% had annual household incomes below \$30,000 and 29% had annual household incomes between \$30,000 and \$50,000).

1 were accepted. DACA’s rescission is not based on any different conclusion about those eligible;
 2 rather, it appears to reflect an arbitrary and capricious policy shift for which talented young
 3 people will bear the brunt of the harm. If such an unlawful decision is allowed to stand—and
 4 these young people take their tremendous talent, enthusiasm, and skills elsewhere—we (both
 5 *amici* and the country as a whole) will be the losers.

6 **b. DACA Students Contribute to Campus Diversity, A Key Component of**
 7 **the Educational Experience.**

8 The Supreme Court has time and again noted the myriad benefits that a diverse student
 9 body yields for institutes of higher education. *First*, the Court has recognized “the educational
 10 benefits that flow from student body diversity,” *Fisher v. University of Texas at Austin*, 133 S.
 11 Ct. 2411, 2419 (2013) (*Fisher I*) (quotation marks omitted), namely the deeper understanding
 12 students and professors achieve when an issue or problem is analyzed by individuals who bring
 13 differing perspectives and backgrounds to the question. *See also Grutter v. Bollinger*, 539 U.S.
 14 306, 330 (2003) (noting that the “educational benefits that diversity is designed to produce . . .
 15 [are] substantial”). *Second*, “enrolling a diverse student body ‘promotes cross-racial
 16 understanding, helps to break down racial stereotypes, and enables students to better understand
 17 persons of different races.’” *Fisher v. Univ. of Texas at Austin (Fisher II)*, 136 S. Ct. 2198, 2210
 18 (2016) (quoting *Fisher I*, 133 S. Ct. at 2427; *see also Grutter*, 539 U.S. at 328, 330). While this
 19 obviously has a direct benefit to students, it also is a key component in creating a dynamic and
 20 integrated campus environment. *Third*, and “[e]qually important, student body diversity
 21 promotes learning outcomes, and better prepares students for an increasingly diverse workforce
 22 and society.” *Fisher II*, 136 S. Ct. at 2210 (internal quotation marks omitted).

23 The Supreme Court’s observations in this respect are well taken. Diversity on campus is
 24 amongst the highest priorities for *amici*, and we have seen the benefits in practice that the
 25 Supreme Court has highlighted in theory. For example, *amicus* Rice University’s mission
 26 statement notes that it seeks to fulfill its mission “by cultivating a diverse community of learning
 27
 28

1 and discovery that produces leaders across the spectrum of human endeavor.”³⁴ Likewise,
 2 *amicus* Middlebury College explains its commitment to “full and equal participation for all
 3 individuals and groups” by noting evidence that “groups of people from a variety of backgrounds
 4 and with differing viewpoints are often more resilient and adaptive in solving problems and
 5 reaching complex goals than more homogenous groups.”³⁵ These are but two examples of
 6 many.³⁶

7 The DACA students attending our schools play a significant role in fostering the
 8 inclusive and diverse on-campus atmosphere we strive to create. As reported by the United
 9 States Citizenship and Immigration Services, the 689,900 DACA recipients as of September
 10 2017 come from over 150 countries spanning every continent except Antarctica.³⁷ And, this
 11 diversity of backgrounds and ethnicities is reflected in the thousands of DACA recipients, and
 12 undocumented students, who study on our campuses.³⁸ Indeed, in many ways DACA students
 13 bring a special form of diversity to our campuses in that they are neither traditionally domestic
 14 nor traditionally international students. They have an entirely different perspective and they
 15 bring that in addition to their compelling life stories to our schools.

16 **III. The Rescission of DACA Will Harm American Colleges and Universities.**

17 If DACA’s rescission is allowed to stand, the greatest harm will of course be suffered by
 18 DACA recipients and their families. But American colleges and universities will be harmed as
 19 well.

21 ³⁴ Rice University, Statement of Office of Diversity and Inclusion, <http://diversity.rice.edu/> (last
 22 visited Oct. 29, 2017).

23 ³⁵ Middlebury College, Diversity and Inclusion, [http://www.middlebury.edu/student-
 24 life/community-living/diversity-inclusivity](http://www.middlebury.edu/student-life/community-living/diversity-inclusivity) (last visited Oct. 29, 2017).

25 ³⁶ *See, e.g.*, Vision, Mission, & Equity, Folsom Lake College, [http://www.flc.losrios.edu/about-
 26 us/vision-mission-and-equity](http://www.flc.losrios.edu/about-us/vision-mission-and-equity) (last visited Oct. 29, 2017); Mission & Diversity Statements,
 27 Brandeis University, <http://www.brandeis.edu/about/mission.html> (last visited Oct. 29, 2017).

28 ³⁷ *See* DACA Population Data, USCIS (Sept. 4, 2017),
[https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigra-
 tion%20Forms%20Data/All%20Form%20Types/DACA/daca_population_data.pdf](https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_population_data.pdf).

³⁸ *See* Jerome Dineen, *If Trump Ends DACA, Here’s How Many Students Could Be Affected*,
 USA Today College (Feb. 8, 2017), [http://college.usatoday.com/2017/02/08/if-trump-ends-daca-
 heres-how-many-students-could-be-affected/](http://college.usatoday.com/2017/02/08/if-trump-ends-daca-heres-how-many-students-could-be-affected/) (estimating that 10,000 undocumented students
 graduate from undergraduate institutions in the United States annually).

1 *First*, and foremost, we will lose important members of our academic communities. The
2 few examples cited above are not anomalous; rather, they exemplify the talent and
3 accomplishment of the thousands of DACA students we have on our campuses. As many
4 students may be forced to withdraw, *amici* will be deprived of some of our most accomplished
5 students. These students contribute not only to the diversity of perspectives in our classrooms
6 but also to the student leadership of social action initiatives in our communities. Our campuses
7 will be noticeably poorer places without those substantial contributions.

8 *Second*, the education we provide our students is a valuable commodity, and we have
9 finite resources to provide it. If DACA students lose their status and, with it, the ability to pay
10 for tuition or living expenses, they may well not be able to continue with their education. And,
11 even for those students who have saved enough money to continue, the value of an education
12 may decrease if they will be unable to secure lawful employment upon graduation. As a result,
13 *amici* will almost certainly lose students mid-way through their degree programs, and the
14 retention rate for this population will drop dramatically and beyond what institutions are
15 prepared to accommodate through normal attrition cycles. *Amici* have devoted valuable, and in
16 many cases limited, enrollment spaces to this student population that will not continue in their
17 education and cannot be replaced during a mid-point of their progression in their degree
18 program.

19 *Third*, some of our DACA students work in a variety of positions on campus, and many
20 are already trained for these positions and performing well. With the loss of employment
21 authorization, *amici* will lose these valuable contributions. The cost of refilling and retraining
22 for these roles, if we can even find adequate replacements, represents measurable harm to the
23 institutions. More broadly, the loss of work authorization will also mean that our DACA
24 students will be unable to secure stable jobs upon graduation. While of course this is primarily a
25 harm to them, given that our DACA students are among the most committed of our alumni, we
26 too will lose an important source of support (both financial and otherwise).

27
28

1 *Fourth*, DACA’s rescission has already required *amici* to dedicate valuable resources to
2 counsel students who are negatively impacted by rescission. Many of these students have
3 required mental health counseling to deal with the stress and anxiety induced by the
4 government’s sudden shift in position, as well as legal assistance to determine their range of
5 possibilities.³⁹ As institutions of higher education, we believe we should be spending our
6 resources on educating our students for the bright futures they will have, not defending and
7 counseling them against unfair and adverse actions by their government for a situation in which
8 they have no blame whatsoever.

9 *Finally*, even for those schools without many or even any DACA students, supporting
10 DACA is central to our mission as educators. *Amici* are devoted to the education of people to
11 help them realize their ambitions and potential, and to contribute to their communities, to this
12 country, and to the world. We pursue that mission on behalf of our students, regardless of
13 national origin. Indeed, core to that mission is our commitment to equal opportunity. The
14 rescission of DACA devalues that mission without any rational basis. In that respect, it harms all
15 *amici*.

16 CONCLUSION

17 DACA is an enlightened and humane policy, and it represents the very best of America.
18 It provides legal certainty for a generation of high-achieving young people who love this country
19 and were raised here. Once at college or university, DACA recipients are among the most
20 engaged both academically and otherwise. They work hard in the classroom and become deeply
21 engaged in extracurricular activities. Moreover, our DACA students are deeply committed to
22 giving back to their communities and, more broadly, the country they love. These are not the
23 types of individuals we should be pushing out of the country, or returning to a life in the
24 shadows. As institutions of higher education, we see every day the achievement and potential of
25 these young people, and we think it imperative that they be allowed to remain here and live out
26

27 ³⁹ See, e.g., Eleanor J. Bader, *As End of DACA Looms, Colleges and Organizers Ramp Up*
28 *Efforts to Protect Undocumented Students*, NACLA (Jan. 27, 2017),
<https://nacla.org/news/2017/01/27/end-daca-looms-colleges-and-organizers-ramp-efforts->

1 their dreams. Indeed, it defies rationality to prevent the government from utilizing its discretion
2 to protect this set of young people from removal. For these reasons, we urge the Court to grant
3 the Plaintiffs' motion for provision relief.

4

5 Dated: November 1, 2017

Respectfully submitted,

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7

JENNER & BLOCK LLP

8

/s/ Brian Hauck

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protect-undocumented-students.

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