

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

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

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

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

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

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

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**Brief for *Amici Curiae* Institutions of Higher  
Education in Support of Respondents**

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**LIST OF *AMICI CURIAE***

This brief is filed on behalf of the following 165 institutions of higher education located in 32 states and the District of Columbia:

Adler University  
Agnes Scott College  
Alamo Community College District  
American University  
Amherst College  
Arizona State University  
Augustana College  
Austin Community College District  
Barnard College  
Beloit College  
Benedictine University - Mesa  
Berklee College of Music  
Boston University  
Bowdoin College  
Brandeis University  
Bryn Mawr College  
Bucknell University  
California Community Colleges Board of Governors  
Carleton College  
Carnegie Mellon University  
Case Western Reserve University  
Christian Brothers University  
Claremont Graduate University  
Claremont McKenna College  
Colby College  
Colorado Mountain College

Colorado State University System  
Colorado State University  
Colorado State University-Global  
Colorado State University-Pueblo  
Columbia College  
Connecticut College  
Connecticut State Colleges & Universities  
Asnuntuck Community College  
Capital Community College  
Central Connecticut State University  
Charter Oak State College  
Eastern Connecticut State University  
Gateway Community College  
Housatonic Community College  
Manchester Community College  
Middlesex Community College  
Naugatuck Valley Community College  
Northwestern Community College  
Norwalk Community College  
Quinebaug Valley Community College  
Southern Connecticut State University  
Three Rivers Community College  
Tunxis Community College  
Western Connecticut State University  
Contra Costa Community College District  
Cornell College  
Dominican University  
Elon University  
Emerson College  
Foothill-De Anza Community College District  
Fort Lewis College  
Franklin & Marshall College  
Gettysburg College  
Goucher College

Grand View University  
Grinnell College  
Guilford College  
Hamilton College  
Haverford College  
Illinois Institute of Technology  
Indiana University  
Ithaca College  
Kalamazoo College  
Knox College  
Lafayette College  
Lawrence University  
Lewis and Clark College  
Los Angeles Community College District  
Loyola University of Chicago  
Macalester College  
Maricopa County Community College District  
Marietta College  
Maryland Institute College of Art  
Marymount University  
Massachusetts College of Liberal Arts  
MassBay Community College  
Menlo College  
Metropolitan State University of Denver  
Middlebury College  
Minnesota State Colleges and Universities  
Moravian College  
Mount Holyoke College  
National Louis University  
Nevada System of Higher Education  
    College of Southern Nevada  
    Desert Research Institute  
    Great Basin College  
    Nevada State College

Truckee Meadows Community College  
University of Nevada, Las Vegas  
University of Nevada, Reno  
Western Nevada College  
Northampton Community College  
Northeastern University  
Northern Essex Community College  
Northwestern Community College  
Oberlin College  
Oglethorpe University  
Oregon State University  
Passaic County Community College  
Pima County Community College District  
Pomona College  
Quinsigamond Community College  
Reed College  
Rhode Island School of Design  
Rhodes College  
Rice University  
Riverside Community College District  
Rochester Institute of Technology  
Roosevelt University  
Rutgers University-Camden  
Rutgers University-Newark  
Salisbury University  
San Bernardino Community College District  
Sarah Lawrence College  
School of the Art Institute of Chicago  
Seattle Pacific University  
Seattle University  
Simmons University  
Smith College  
Southeastern University  
Southern New Hampshire University

St. Edward's University  
State Center Community College District  
Swarthmore College  
TCS Education System  
    Pacific Oaks College & Children's School  
    Saybrook University  
    The Chicago School of Professional Psychology  
    The Santa Barbara & Ventura Colleges of Law  
The College of Wooster  
The New School  
The Trustees of the California State University  
Trinity Washington University  
Tufts University  
University of Arkansas  
University of Colorado  
University of Connecticut  
University of Denver  
University of Illinois System  
University of Maryland Baltimore  
University of Maryland College Park  
University of Michigan  
University of New England  
University of Northern Colorado  
University of Puget Sound  
University of San Diego  
University of Utah  
Vassar College  
Virginia Wesleyan University  
Wayne State University  
Weber State University  
Wellesley College  
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Williams College

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

*Amici* are 165 institutions of higher education located in 32 states and the District of Columbia. *Amici* include large public universities, private research universities, liberal arts colleges, community colleges, and faith-based institutions. We are located in urban centers and rural farm areas throughout states that span the political spectrum. Collectively, *amici* have taught and employed millions of people.

*Amici* have seen firsthand the positive effects of Deferred Action for Childhood Arrivals (“DACA”) on their campuses. DACA has facilitated the pursuit of higher education by undocumented youth in unprecedented numbers, ensuring that once enrolled, these students are positioned to succeed. As a result of DACA, thousands of talented and hard-working young people have made significant and wide-ranging contributions to *amici’s* campuses. They form a key part of our campus life and as institutions we benefit

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<sup>1</sup> The parties have given blanket consent to the filing of *amicus curiae* briefs in this case. Pursuant to Supreme Court Rule 37.6, counsel for *amici* state that no counsel for a party authored this brief in whole or in part, and no person other than *amici*, their members, or their counsel made any monetary contribution intended to fund the preparation or submission of this brief. Out of an abundance of caution, counsel notes that Jenner & Block LLP, counsel for Respondents the Trustees of Princeton University, Microsoft Corporation, Maria De La Cruz Perales Sanchez, represented some of *amici* in the Second and Ninth Circuits and filed a brief similar in some respects to this one. However, Jenner & Block played no role in authoring this brief beyond the work it had already done in connection with the Second and Ninth Circuit briefs.

greatly from the energy and academic excellence they bring. *Amici* have also made substantial investments in the education of undocumented youth in reliance on DACA. Although these students unquestionably benefit from being able to attend our institutions—and this is something DACA certainly facilitates—we as institutions also benefit significantly from the many contributions, discussed herein, this remarkable group of young people make to our schools and communities.

We believe the perspective we bring as institutions is relevant to this case because it will demonstrate to the Court that another group—beyond DACA recipients themselves—will be harmed by the Petitioners’ actions. *Amici* Institutions of Higher Education share the Respondents’ interest in a diverse student body, and this brief demonstrates that Petitioners’ arbitrary and capricious actions will impact institutions of all sizes throughout the nation.

## **INTRODUCTION AND SUMMARY OF ARGUMENT**

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, 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 DACA was announced in 2012, they lived under the threat that the government might one day come calling and remove them from the country that has become their home. Though they might have dreamed of bright futures, for many their undocumented status stood as an impenetrable roadblock to one of the most fundamental tools for a successful future: College.

DACA changed this and has provided up to 1.3 million Dreamers with an opportunity to apply for temporary protection from removal, to pursue their education, and to work legally in the United States.<sup>2</sup> To qualify for DACA, Dreamers are required to meet strict conditions, including, completing high school, obtaining a GED, or being currently enrolled in school in the United States. In addition, Dreamers are required to pay a significant application fee and provide detailed personal information to the government—a significant request given the hesitancy of undocumented persons to have any interaction with the government whatsoever. But the students who have signed up and placed their trust in the government received in exchange the opportunity to pursue higher education. And they have done so in unprecedented numbers. Indeed, in fall 2017, estimates show that of the close to

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<sup>2</sup> *Deferred Action for Childhood Arrivals (DACA) Data Tools*, MIGRATION POLICY INST., <https://www.migrationpolicy.org/programs/data-hub/deferred-action-childhood-arrivals-daca-profiles> (last visited Sept. 27, 2019).

700,000 then-active DACA recipients, over 120,000 were in post-secondary education.<sup>3</sup>

On September 5, 2017, Petitioners announced they were rescinding DACA. This misguided, arbitrary and capricious decision will harm the thousands of remarkable young people who are already DACA recipients and millions more who would seek to take advantage of the opportunities that DACA provides. But, critically, it will also harm the country, which will be deprived of the many contributions Dreamers would otherwise be able to make.

Challenges to DACA's rescission were filed in the United States District Court for the Northern District of California, *Regents of Univ. of Cal. v. DHS*, 279 F. Supp. 3d 1011 (N.D. Cal. 2018), the District of Columbia, *NAACP v. Trump*, 298 F. Supp. 3d 209 (D.D.C. 2018), and the Eastern District of New York, *Batalla Vidal v. Nielsen*, 279 F. Supp. 3d 401 (E.D.N.Y. 2018). These cases were each appealed to their respective circuit courts before the Court granted certiorari. The cases were consolidated and are now before the Court. In all three cases, lower courts either

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<sup>3</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> (follow "DACA Recipients by State" hyperlink to excel document) (The data provided comes from a Migration Policy Institute analysis of U.S. Census Bureau data from the pooled 2010-2014 American Community Surveys and 2008 Survey of Income and Program Participation, with legal status assignments by James Bachmeier of Temple University and Jennifer Van Hook of the Pennsylvania State University, Population Research Institute.).

enjoined or vacated Petitioners' decision to rescind DACA.

*Amici* collectively have educated thousands of DACA beneficiaries, and we have benefited from their talents and the passion they bring to our campuses. Even those *amici* who have no DACA beneficiaries currently on campus view DACA as core to their educational missions. In this brief, *amici* explain how we will be harmed if DACA is rescinded. For that reason, *amici* support Respondents and respectfully urge the Court to affirm the judgments of the courts below.

## ARGUMENT

### I. DACA HAS ALLOWED TENS OF THOUSANDS OF PREVIOUSLY UNDOCUMENTED YOUTH TO PURSUE HIGHER EDUCATION.

DACA has enabled previously undocumented students to pursue higher education in several important ways that benefit the *amici* institutions through heightened interest in enrollment, financial support, improved diversity, and myriad contributions to campus life.

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

*Second*, prior to DACA, undocumented students felt the need to hide their status from others, which constrained their access to academic resources and their ability to apply to college.<sup>4</sup> Not surprisingly, undocumented students who felt the need to hide their status from school personnel or peers during high school are significantly less likely even to think college is a possibility.<sup>5</sup> DACA provides hard-working and passionate young individuals with the assurance that they can attend higher education without fear of deportation. In a 2019 survey of more than 1,100 DACA recipients by the Center for American Progress (the “2019 CAP survey”), 93 percent of those enrolled in school stated that DACA allowed them to pursue educational opportunities that they previously could not.<sup>6</sup> In fact, those who receive DACA are almost as likely as U.S. citizens of the same age group to be enrolled in college; an analysis of U.S. Census data and data from the United States Citizenship and Immigration Services (“USCIS”) on DACA recipients

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<sup>4</sup> Caitlin Patler & Jorge A. Cabrera, *From Undocumented to DACAmented: Impacts of the Deferred Action for Childhood Arrivals (DACA) Program Three Years Following its Announcement* 15 (June 2015), [http://www.chicano.ucla.edu/files/Patler\\_DACA\\_Report\\_061515.pdf](http://www.chicano.ucla.edu/files/Patler_DACA_Report_061515.pdf).

<sup>5</sup> *Id.* at 16.

<sup>6</sup> Tom K. Wong et al., *DACA Recipients’ Livelihoods, Families, and Sense of Security Are at Stake This November*, CTR. FOR AMERICAN PROGRESS (Sept. 19, 2019), <https://www.americanprogress.org/issues/immigration/news/2019/09/19/474636/daca-recipients-livelihoods-families-sense-security-stake-November/> (This study included 1,105 DACA recipients in 40 states as well as the District of Columbia.).



from 2010-2014 indicates that 18 percent of DACA recipients were enrolled in college versus 20 percent of U.S. citizens of the same age group.<sup>7</sup> The 2019 CAP survey found that over 53 percent of all respondents over the age of 25 reported obtaining a bachelor's degree or higher.<sup>8</sup>

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

*Fourth*, DACA enables students to apply for work authorization. With the ability to work part-time jobs and participate in work-study programs, undocumented students can better afford school—something previously made difficult or impossible by

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<sup>7</sup> Zong et al., *supra* note 3.

<sup>8</sup> Wong et al., *supra* note 6.

the inability to work lawfully.<sup>9</sup> Likewise, the ability to secure a legitimate job following graduation from college provides a powerful incentive to pursue a college education; and the inability to secure such a job likewise dissuades promising students from pursuing higher education. DACA thus increases the value of higher education itself for undocumented students.

*Fifth*, DACA has enabled students to overcome state laws that impede their ability to pursue higher education. For example, DACA recipients may enroll in public colleges and universities in states where they would otherwise be barred from attending,<sup>10</sup> and may apply for in-state tuition in others, making it far easier for them to afford a college education.<sup>11</sup> Over 20 states provide access to in-state tuition (at the state, institutional, or system level) to undocumented students who meet residency requirements.<sup>12</sup> The continued existence of DACA is essential to allow students in these states to utilize these opportunities without fear of deportation.

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<sup>9</sup> See Zenen J. Pérez, *How DACA Has Improved the Lives of Undocumented Young People*, CTR. FOR AMERICAN PROGRESS 5 (Nov. 19, 2014), <https://cdn.americanprogress.org/wp-content/uploads/2014/11/BenefitsOfDACABrief2.pdf>; Patler & Cabrera, *supra* note 4, at 18.

<sup>10</sup> See, e.g., Ala. Code § 31-13-8; S.C. Code Ann. § 59-101-430.

<sup>11</sup> See Pérez, *supra* note 9, at 4.

<sup>12</sup> *Basic Facts about In-State Tuition for Undocumented Immigrant Students*, NAT'L IMMIGRATION LAW CTR. (June 21, 2019), <https://www.nilc.org/wp-content/uploads/2017/11/instate-tuition-basicfacts.pdf>.

*Sixth*, DACA enables students to envision a future for themselves in this country, providing the incentive to pursue a degree, develop skills and expertise, and invest in their future here. In an August 2019 survey by TheDream.US of over 1,800 of their Dreamer scholars (“TheDream.US 2019 survey”), 84 percent indicated they intended to complete a master’s, doctoral, or professional degree after college; 57 percent indicated that they were pursuing a degree that required occupational licensing.<sup>13</sup> Likewise, DACA also enables Dreamers to major in high demand and technical career fields. In the 2019 CAP survey, 24 percent of respondents indicated that they were majoring in STEM-related fields, including biology, engineering, and computer and information science. Similarly, 15 percent of respondents indicated they were majoring in health fields, including nursing, public health, and biomedical sciences.<sup>14</sup> Even more telling is that 94 percent of DACA recipients indicated that they had at least some concern that being undocumented poses a barrier to achieving long-term

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<sup>13</sup> TheDream.US, *2018-2019 Scholar Survey* (Aug. 2019) [hereinafter “TheDream.US Survey”] (on file with author). TheDream.US is a national college access program that awards scholarships to Dreamers to attend college and university. They partner with over 70 colleges and universities nation-wide. Ninety-three percent of their 3,000 scholars are DACA recipients, accordingly, data regarding these scholars is highly informative regarding DACA’s higher educational benefits. In August 2019, TheDream.US conducted an updated survey of its scholars and received over 1,800 responses.

<sup>14</sup> Wong et al., *supra* note 6.

career goals, a concern that would likely bear out if DACA is rescinded.<sup>15</sup>

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

DACA has accomplished what it was intended to do: In a 2017 estimate of DACA recipients, the Migration Policy Institute estimated that over 120,000 DACA recipients were enrolled in post-secondary education.<sup>16</sup> Likewise, the 2019 CAP survey found that 40 percent are currently in school.<sup>17</sup> Among those who are in school, 93 percent said that, because of DACA, they “pursued educational opportunities that [they]

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<sup>15</sup> Zong et al., *supra* note 3.

<sup>16</sup> *Id.*

<sup>17</sup> Wong et al., *supra* note 6. Another 56 percent of respondents are currently employed, meaning in all, 96 percent of respondents are currently employed or enrolled in school.

previously could not.”<sup>18</sup> In a different study, nearly four-fifths of DACA recipients (78%) reported that DACA made it easier to pay for school.<sup>19</sup> Three-quarters of current students said DACA made it easier to attend school and to stay in school.<sup>20</sup> These studies and *amici*’s experience confirm the obvious: Once young people are able to come out of the shadows and avail themselves of programs available to countless other American youth, they seize and benefit from the opportunity.

## II. DACA STUDENTS CONTRIBUTE IMMEASURABLY TO OUR CAMPUSES.

American colleges and universities have benefited immeasurably from DACA. As *amicus* Amherst’s President, Bidy Martin, wrote in a letter to the President of the United States, “[o]ur classrooms at Amherst are enriched by the academic talent, hard work, and perspectives of DACA students who go on to become doctors, teachers, engineers, and artists.”<sup>21</sup> And President Martin is far from alone. Hundreds of other university presidents have echoed those sentiments, issuing public statements on DACA’s importance to

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<sup>18</sup> *Id.*

<sup>19</sup> Patler & Cabrera, *supra* note 4, at 5, 18.

<sup>20</sup> *Id.* at 18.

<sup>21</sup> Letter from Bidy Martin, President, Amherst College, to Donald J. Trump, President (Aug. 30, 2017), <https://www.amherst.edu/amherst-story/president/statements/node/689036>.

American colleges and universities, including many whose institutions have signed this brief as *amici*.<sup>22</sup>

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<sup>22</sup> See, e.g., Pomona Coll., *Statement in Support of the Deferred Action for Childhood Arrivals (DACA) Program and Our Undocumented Students*, <https://www.pomona.edu/news/2016/11/21-college-university-presidents-call-us-uphold-and-continue-daca> (last visited Sept. 27, 2019) (letter opposing the nonrenewal of DACA signed by over 700 university and college presidents and chancellors); see also, e.g., *California Community Colleges Chancellor Eloy Ortiz Oakley's Statement on the Trump Administration's Action to End DACA for Dreamers* (Sept. 5, 2017), <https://www.cccco.edu/About-Us/News-and-Media/Press-Releases/Statement-Ending-DACA>; Letter from Andrew D. Hamilton, President, New York University to Donald J. Trump, President (Sept. 1, 2017), <http://www.nyu.edu/content/dam/nyu/president/documents/09-01-17-daca-letter.pdf>; Letter from Vincent E. Price, President, Duke University, to Donald J. Trump, President (Aug. 30, 2017), <https://today.duke.edu/2017/08/duke-university-letter-support-daca>; Letter from Drew Gilpin Faust, President, Harvard University, to Donald J. Trump, President (Aug. 28, 2017), <https://www.harvard.edu/president/news/2017/letter-to-president-trump-regarding-daca>; Letter from Ron Liebowitz, President, Brandeis University, to Donald J. Trump, President (Sept. 5, 2017), <http://www.brandeis.edu/president/letters/2017-09-05.html>; Univ. of Michigan, *Statement on DACA from President Mark Schlissel* (Sept. 3, 2017), <https://president.umich.edu/news-communications/statements/statement-on-daca-from-president-mark-schlissel/>; Letter from Adam Falk, President, Williams College, to the Williams Community (Nov. 17, 2016), <https://president.williams.edu/writings/caring-for-our-undocumented-students/>; Letter from Kathleen McCartney, President, Smith College, to Students, Staff and Faculty (Sept. 5, 2017), <https://smith.edu/president-kathleen-mccartney/letters/2017-18/responding-to-daca-decision>; Letter from Lee Pelton, President, Emerson College, to Emerson Community (Sept. 6, 2017) <http://www.emerson.edu/news-events/emerson-college-today/pelton-reaffirms-support-emerson-daca-students#.We5Ui2you70>; Resolution of the Board of Governors,

### **A. DACA Students Have Had Great Academic and Co-Curricular Success at Our Schools.**

Dreamers are invaluable members of our academic communities. In TheDream.US 2019 survey, 52 percent of respondents indicated that they had an on- or off-campus leadership role.<sup>23</sup> DACA recipients serve as the presidents and vice-presidents of student governments,<sup>24</sup> publish research in top academic

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California Community Colleges, No. 2017-01, [https://www.ccleague.org/sites/default/files/federal\\_advocacy/BOG\\_Election\\_REVISED-Resolution%20%281%29.pdf](https://www.ccleague.org/sites/default/files/federal_advocacy/BOG_Election_REVISED-Resolution%20%281%29.pdf) (last visited Sept. 27, 2019); Statement of Susan Herbst, President, University of Connecticut, to the University of Connecticut Community (Sept. 5, 2017), <https://today.uconn.edu/2017/09/president-herbst-responds-daca-decision/>; Letter from David W. Leebron, President, Rice University (Sept. 5, 2017), <https://president.rice.edu/daca-announcement/>; Letter of Joseph E. 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/>; Ass'n of Vermont Indep. Colls., *Statement on the Revocation of the Deferred Action for Childhood Arrivals (DACA) Program*, <http://www.vermont-colleges.org/Documents/DACAFinal2017.pdf> (last visited Sept. 27, 2019).

<sup>23</sup> TheDream.US Survey, *supra* note 13.

<sup>24</sup> 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/> (discussing experience as student body president); Monica Scott, *Undocumented: One immigrant's story of life under DACA*, MLive (Aug. 29, 2017), [https://www.mlive.com/news/grand-rapids/2017/08/one\\_daca\\_students\\_story\\_about.html](https://www.mlive.com/news/grand-rapids/2017/08/one_daca_students_story_about.html) (discussing experience as vice-president of student body).

journals,<sup>25</sup> innovate and apply for patents,<sup>26</sup> earn inclusion on the Dean’s List,<sup>27</sup> graduate *summa cum laude*,<sup>28</sup> and serve as tutors and research assistants.<sup>29</sup> They have won Soros Fellowships and been named Gates Cambridge Scholars and Schwarzman Scholars.<sup>30</sup> They take on extra learning opportunities beyond their classes as they prepare for their futures—74 percent participated in internships.<sup>31</sup> They have gone on to serve others in the Teach For America and AmeriCorps

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<sup>25</sup> America’s Voice (Oct. 3, 2017), <https://americasvoice.org/blog/name-denisse-rojas-marquez-28-years-old-old-proud-undocumented-american-soon-doctor/>.

<sup>26</sup> *American Dreamers: Kok-Leong Seow*, N.Y. Times, <https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/kok-leong-seow> (last visited Sept. 27, 2019).

<sup>27</sup> *E.g., American Dreamers: Anayancy Ramos*, N.Y. Times, <https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/anayancy-ramos> (last visited Sept. 27, 2019).

<sup>28</sup> *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 Sept. 27, 2019).

<sup>29</sup> *E.g., American Dreamers: Gargi Y. Purohit*, N.Y. Times, <https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/gargiy-purohit> (last visited Sept. 27, 2019).

<sup>30</sup> *American Dreamers: Denisse Rojas Marquez*, 2016, N.Y. Times, (2016) <https://www.pdsoros.org/meet-the-fellows/denisse-rojas-marquez> (last visited Sept. 27, 2019) (discussing selection as Soros Fellow); *American Dreamers: Carlos Adolfo Gonzalez Sierra*, *supra* note 28 (discussing selection as Gates and Schwarzman Scholars).

<sup>31</sup> TheDream.US Survey, *supra* note 13.



VISTA programs.<sup>32</sup> They have founded national organizations to assist other undocumented youth.<sup>33</sup>

The following are but a few examples of current and past DACA students at *amici* and other institutions of higher education who are brave enough to share their stories, and whose remarkable achievements serve as a reminder of why DACA benefits students, the institutions lucky enough to have them, and the country:

- Reyna Montoya was born in Tijuana, Mexico and migrated to Arizona in 2003 while fleeing violence in Mexico. She holds bachelor degrees in Political Science and Transborder Studies from Arizona State University where she also minored in Dance. Reyna also obtained a Masters of Education in Secondary Education

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<sup>32</sup> *American Dreamers: Julia Verzbickis*, N.Y. Times, <https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/julia-verzbickis> (last visited Sept. 27, 2019) (discussing selection for Teach for America); *American Dreamers: Brisa E. Ramirez*, N.Y. Times, <https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/brisa-ramirez> (last visited Sept. 27, 2019) (discussing selection for VISTA program).

<sup>33</sup> 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 Sept. 27, 2019); 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>.

from Grand Canyon University. She has engaged in local, statewide, and national platforms to advance justice for immigrant communities. Reyna is a 2016 Soros Justice Fellow, a 2017 Echoing Green Fellow, and a Forbes: 30 Under 30 Social Entrepreneur. She is also a founding member of the first Teach For America DACA Advisory Board.<sup>34</sup>

- Elias Rosenfeld is currently a junior at Brandeis University. Elias was brought to the United States at age six from Venezuela by his mother who was a media executive and came on an L1 visa. His mother died when he was in fifth grade, and it was only in high school when he tried to apply for a driver's license that he learned he was undocumented because his mother's death voided her (and his) visas. Elias excelled in high school, completing 13 AP classes, and ranked in the top 10 percent of his class. At Brandeis he studies political science, sociology, and law. When asked what America means to him, he responded: "It means my country. It's my home. There's a connection. I want to contribute."<sup>35</sup>

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<sup>34</sup> *About the Team: Reyna Montoya*, ALIENTO, <https://www.alientoaz.org/the-team/xiln91utxdyjpwkt94p3h0icez8419> (last visited Sept. 27, 2019).

<sup>35</sup> See Schwartz, *supra* note 33.

- Anayancy Ramos attended Eastern Connecticut State University with a double major in Biology and Computer Science and a minor in Bioinformatics. Before matriculating at ECSU, she attended a community college where she was a Dean's List scholar, was inducted into the Phi Theta Kappa honor society, was the president of the Alpha Beta Gamma chapter, and worked full time at an animal hospital. She notes that through DACA she's been able to achieve an education and a future she never thought possible, but that those dreams will die if DACA forces her to retreat once more into the shadows.<sup>36</sup>
- Carlos Adolfo Gonzalez Sierra came to the United States from the Dominican Republic when he was eleven. Carlos graduated *summa cum laude* from Amherst and studied as a Gates Scholar at Cambridge University and a Schwarzman Scholar in China. Carlos emphasizes that his desire to stay in the United States is not economic: "The United States is my home. It is where I feel the most comfortable." Moreover, given the education he's received, he expresses an "inconsolable desire to contribute to the country that has given me so much."<sup>37</sup>

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<sup>36</sup> See *American Dreamers: Anayancy Ramos*, *supra* note 27. *Amicus* Eastern Connecticut State University has provided updated details about Ramos's course of study, with her consent.

<sup>37</sup> See *American Dreamers: Carlos Adolfo Gonzalez Sierra*, *supra* note 28.

- Eduardo Solis was brought to the United States from Mexico when he was one month old. At the age of eleven he founded a blog to help fellow children deal with bullying. He has gained over 30,000 followers from all over the world and has won awards recognizing his role as a teen activist. He attends UCLA, aspiring to major in either psychology or sociology. Although worried about the end of DACA, Eduardo says that “[f]or now, I will continue on pledging allegiance to the only flag I know and love; the American Flag.”<sup>38</sup>
- Nancy A. was brought to the United States from Togo as a child. When she entered high school at age thirteen, she realized she was undocumented and, shortly thereafter, both she and her parents were put in deportation proceedings. Despite 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.”<sup>39</sup>

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<sup>38</sup> See *American Dreamers: Eduardo Solis*, N.Y. Times, <https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/eduardo-solis> (last visited Sept. 27, 2019).

<sup>39</sup> See *American Dreamers: Nancy A.*, N.Y. Times, <https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/nancy-a> (last visited Sept. 27, 2019).

- Alfredo Avila was brought to the United States when he was just a child, and despite neither of his parents being able to speak English, they managed to send Alfredo and his siblings to school where they all learned English. Despite having to move around several times out of a fear of deportation, Alfredo excelled in school and attended the Honors College at the University of Texas at San Antonio, where he majored in Electrical Engineering. Alfredo worked part-time as a math and science tutor and was involved with many student organizations, including serving as the President of the professional engineering student organization. His dream is to one day build and manage his own technology company that thrives off diversity and inclusion.<sup>40</sup>
- Dalia Larios is an Arizona State University alum who was born in Mexico and raised in the United States. In high school, Dalia graduated within the top 1 percent of her class. Despite her desire to use her studies to help communities in need, her longing to earn a college degree was threatened by her status as an undocumented immigrant. Nonetheless, she remained determined and graduated from Arizona State University with a major in Biological Sciences (Genetics, Cell and Developmental Biology) and a 4.0 GPA. Dalia recently graduated Harvard

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<sup>40</sup> See *American Dreamers: Alfredo Avila*, N.Y. Times, <https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/alfredo-avila> (last visited Sept. 27, 2019).

Medical School where she continued to advocate for equitable access to education and healthcare in vulnerable populations.<sup>41</sup>

- Isabel (alias) was able to return to school as an adult and finish her Business Management degree at National Louis University upon receiving DACA. She graduated college with a 4.0 GPA and is currently working as a technical support specialist for a top financial tech company. Isabel hopes to one day become a successful entrepreneur and to own her own restaurant group. DACA changed her life, allowing her to obtain a state ID, apply for better jobs, and help her family. But, most importantly, it made her feel like a human.<sup>42</sup>
- Erik graduated *summa cum laude* from Rutgers University - Newark with a bachelor's degree in Public Administration and Nonprofit Management. He was a member of the Pi Alpha Alpha Honors Society for public administration, and also interned for a member of Congress, a local Assemblyman, and a non-profit. After obtaining his degree, he continued his Rutgers education with a Master's in Public Administration, concentrating in Public and Nonprofit Performance Management. Erik dreams of going to law school and then working

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<sup>41</sup> See Arizona State Univ., *DREAMzone – DACA Alumni Success Stories*, <https://eoss.asu.edu/access/dreamzone> (last visited Sept. 27, 2019).

<sup>42</sup> Interview by TheDream.US with Isabel (alias) (Sept. 2019).

for the government, and possibly even running for office one day. None of which would be possible without DACA.<sup>43</sup>

- Uzair was brought to the United States from Pakistan at just five months old. He received DACA five years ago and is now a student at the University of Houston as well as an aspiring nurse. Uzair wants to become a nurse because he has witnessed firsthand his parents' struggle to pay astronomical medical bills, resulting from a lack of health benefits due to his and his parents' undocumented status. Likewise, throughout high school he volunteered with the Red Cross and developed a passion for caring for others and the community. Uzair will be the first in his family to graduate from college, and he is grateful that his status will allow him the opportunity to provide for his parents and give back to his community.<sup>44</sup>

The success of DACA students in college and university should come as no surprise. These students have overcome innumerable hardships simply to be able to apply and enroll in an institution of higher education. For many of our students (whether U.S. citizens or from other countries), matriculation in college or university is a natural progression after attending high school and taking standardized tests. But this is not the case for DACA students. Those

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<sup>43</sup> Interview by TheDream.US with Erik (Sept. 2019).

<sup>44</sup> Interview by TheDream.US with Uzair (Sept. 2019).

students must perform well in school and on tests while at the same time living under the constant threat that they and their families may be deported.<sup>45</sup> Moreover, until DACA, these students could not apply for work authorization, and most of their parents still cannot.<sup>46</sup> Thus, DACA students frequently have had to work multiple, poorly-paid jobs to help put food on the table while at the same time trying to maintain their focus and performance in school and apply to college. The sacrifices these students and their families have had to make simply to enroll as students at our institutions are legion, and their commitment to bettering themselves and getting the most out of their education is unwavering. These extraordinary young people should be cherished and celebrated, so that they can achieve their dreams and contribute to the fullest for our country. Banishing them once more to immigration limbo—a predicament they had no part in creating—is not merely cruel, but irrational. DACA students are the ideal candidates for prosecutorial

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<sup>45</sup> TheDream.US Survey, *supra* note 13 (In TheDream.US 2019 survey 94 percent of scholars indicated that they experience anxiety due to their legal status and the potential to lose that status, anxiety likely fueled by the administration’s rescission of DACA and ongoing litigation.).

<sup>46</sup> Most DACA students are raised in households with incomes well below the federal poverty line. See Marcelo Suárez-Orozco et al., Inst. for Immigration, Globalization, & Educ., *In the Shadows of the Ivory Tower: Undocumented Undergraduates and the Liminal State of Immigration Reform* 1 (2015), <https://scholarship.org/uc/item/2hq679z4> (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).



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

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

The Supreme Court has time and again noted the myriad benefits that a diverse student body yields for institutions of higher education. *First*, the Court has recognized “the educational benefits that flow from student body diversity,” *Fisher v. Univ. of Texas at Austin*, 570 U.S. 297, 310 (2013) (*Fisher I*) (quotation marks omitted), namely the deeper understanding students and professors achieve when an issue or problem is analyzed by individuals who bring differing perspectives and backgrounds to the question. *See also Grutter v. Bollinger*, 539 U.S. 306, 330 (2003) (noting that the “educational benefits that diversity is designed to produce . . . [are] substantial.”). *Second*, “enrolling a diverse student body ‘promotes cross-racial understanding, helps to break down racial stereotypes, and enables students to better understand persons of different races.’” *Fisher v. Univ. of Texas at Austin (Fisher II)*, 136 S. Ct. 2198, 2210 (2016) (quoting

*Grutter*, 539 U.S. at 328, 330). While this obviously has a direct benefit to students, it also is a key component in creating a dynamic and integrated campus environment. *Third*, and “[e]qually important, student body diversity promotes learning outcomes, and better prepares students for an increasingly diverse workforce and society.” *Fisher II*, 136 S. Ct. at 2210 (internal quotation marks omitted).

Diversity on campus is amongst the highest priorities for *amici*, and we have seen the benefits in practice that the Supreme Court has highlighted in its opinions. For example, *amicus* Rice University’s mission statement notes that it seeks to fulfill its mission “by cultivating a diverse community of learning and discovery that produces leaders across the spectrum of human endeavor.”<sup>47</sup> Likewise, *amicus* Middlebury College explains its commitment to “full and equal participation for all individuals and groups” by noting evidence that “groups of people from a variety of backgrounds and with differing viewpoints are often more resilient and adaptive in solving problems and reaching complex goals than more homogenous groups.”<sup>48</sup> These are but two examples of many.<sup>49</sup>

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<sup>47</sup> Rice Univ., *Statement of Office of Diversity and Inclusion*, <https://www.rice.edu/mission-values> (last visited Sept. 27, 2019).

<sup>48</sup> Middlebury Coll., *Diversity and Inclusion*, <http://www.middlebury.edu/student-life/community-living/diversity-inclusivity> (last visited Sept. 27, 2019).

<sup>49</sup> See, e.g., Folsom Lake Coll., *Strategic Plan 2017-2020*, <https://losrios.edu/docs/lrccd/board/2017/enc/20170614-flc-strat-plan.pdf> (last visited Sept. 27, 2019); Brandeis Univ., *Mission &*

The DACA students attending our schools play a significant role in fostering the inclusive and diverse on-campus atmosphere we strive to create. As reported by USCIS, as of April 30, 2019, the 669,080 active DACA recipients come from over 150 countries, spanning every continent except Antarctica.<sup>50</sup> DACA recipients are also often the first in their family to have the opportunity to attend college. In TheDream.US 2019 survey, 81 percent of Dreamer scholars identified as first-generation college students.<sup>51</sup> And as discussed *supra*, DACA recipients often come from households with incomes well below the federal poverty line.<sup>52</sup>

This diversity of backgrounds and ethnicities is reflected in the thousands of DACA recipients, and undocumented students, who study on our campuses.<sup>53</sup>

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*Diversity Statements*, <http://www.brandeis.edu/about/mission.html> (last visited Sept. 27, 2019).

<sup>50</sup> See *DACA Population Data*, USCIS (Apr. 30, 2019), [https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/Approximate\\_Active\\_DACA\\_Recipients\\_Demographics\\_-\\_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_Demographics_-_Apr_30_2019.pdf).

<sup>51</sup> TheDream.US Survey, *supra* note 13.

<sup>52</sup> See Suárez-Orozco et al., *supra* note 46.

<sup>53</sup> Zong et al., *supra* note 3 (In fall 2017, it was estimated that of the close to 700,000 then active DACA recipients, over 120,000 were currently in post-secondary education, and over 137,000 were in secondary school.); see also TheDream.US Survey, *supra* note 13 (TheDream.US scholars represent 94 countries across the world, demonstrating the link between DACA and increasing diversity at college and universities.).

In addition to their compelling life stories, they bring a wealth of different perspectives to our schools.

### III. THE RESCISSION OF DACA WILL HARM AMERICAN COLLEGES AND UNIVERSITIES.

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

*First*, and foremost, we will lose important members of our academic communities. The few examples cited above are not anomalous; rather, they exemplify the talent and accomplishment of the thousands of DACA students we have on our campuses. As many students may be forced to withdraw, *amici* will be deprived of some of our most accomplished students. Additionally, a spring 2019 analysis of U.S. Census Bureau data indicates that 98,000 Dreamers graduate from high school annually in the United States.<sup>54</sup> Without DACA many of these students will be unable to pursue college, depriving *amici* of thousands of hard-working students each year. These students contribute not only to the diversity of perspectives in our classrooms but also to the student leadership of social action initiatives

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<sup>54</sup> Jie Zong & Jeanne Batalova, *How Many Unauthorized Immigrants Graduate from U.S. High Schools Annually?*, MIGRATION POLICY INST. (Apr. 2019), <https://www.migrationpolicy.org/research/unauthorized-immigrants-graduate-us-high-schools>.

in our communities.<sup>55</sup> Our campuses will be noticeably poorer places without those substantial contributions.

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

*Third*, some of our DACA students work in a variety of positions on campus, and many are already trained for these positions and performing well.<sup>56</sup> With the loss of the ability of DACA students to apply for work authorization, *amici* will lose these valuable contributions. The cost of refilling and retraining for these roles, if we can even find adequate replacements,

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<sup>55</sup> TheDream.US Survey, *supra* note 13.

<sup>56</sup> *Id.* (TheDream.US survey indicates that 89 percent of scholars worked at least 10 hours a week, with 57 percent working at least 21 hours.).

represents measurable harm to the institutions. More broadly, the loss of the ability to apply for work authorization will also mean that our DACA students will be unable to secure stable jobs upon graduation.<sup>57</sup> While of course this is primarily a harm to them, given that our DACA students are among the most committed of our alumni, we too will lose an important source of support (both financial and otherwise).

*Fourth*, DACA's rescission has already required *amici* to dedicate valuable resources to counsel students who are negatively impacted by rescission. Many of these students have required mental health counseling to deal with the stress and anxiety induced by the government's sudden shift in position, as well as legal assistance to determine their range of possibilities.<sup>58</sup> As institutions of higher education, we believe we should be spending our resources on educating our students for the bright futures they will have, not defending and counseling them against unfair and adverse actions by their government for a situation in which they have no blame whatsoever.

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<sup>57</sup> *Id.* (TheDream.US scholars indicated that their greatest concern is an inability to work.).

<sup>58</sup> See, e.g., Eleanor J. Bader, *As End of DACA Looms, Colleges and Organizers Ramp Up Efforts to Protect Undocumented Students*, NACLA (Jan. 27, 2017), <https://nacla.org/news/2017/01/27/end-daca-looms-colleges-and-organizers-ramp-efforts-protect-undocumented-students>; see also TheDream.US Survey, *supra* note 45 and accompanying text.

*Fifth*, the investments *amici* have made in DACA students and the investments DACA students have made in their own education allow these students to use college as a pathway out of poverty and into careers. DACA alumni enter a variety of careers where they give back to *amici* and the country as a whole; these career opportunities would be inaccessible to these talented hardworking individuals without DACA. As detailed *supra*,<sup>59</sup> DACA alumni work in a variety of fields giving back to the country.

In the 2019 CAP survey, 89 percent of all respondents noted that they were currently employed, and 91 percent of respondents age 25 and older were employed.<sup>60</sup> That same study reports that DACA recipients work in a variety of fields—28,000 DACA recipients are employed in management and business occupations, over 6,000 DACA recipients are self-employed in an incorporated business,<sup>61</sup> 25,000 work in nonprofit organizations, and 22,000 in the public sector.<sup>62</sup> Furthermore, approximately 27,000 DACA recipients work as health care practitioners and

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<sup>59</sup> See discussion *supra* Part II.A.

<sup>60</sup> Wong et al., *supra* note 6.

<sup>61</sup> Nicole Prchal Svajlenka, *What We Know about DACA Recipients in the United States*, CTR. FOR AMERICAN PROGRESS (Sept. 5, 2019), <https://www.americanprogress.org/issues/immigration/news/2019/09/05/474177/know-daca-recipients-united-states/>.

<sup>62</sup> *Id.*

supporting occupations.<sup>63</sup> If DACA is rescinded, *amici* stand to lose the return on their investments in these students, and the country as a whole stands to lose these students' long-term contributions to the American economy.<sup>64</sup>

*Finally*, even for those schools without many or even any DACA students, supporting DACA is central to our mission as educators. *Amici* are devoted to the education of people to help them realize their ambitions and potential, and to contribute to their communities, to this country, and to the world. We pursue that mission on behalf of our students, regardless of national origin. Indeed, core to that mission is our commitment to equal opportunity. The rescission of

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<sup>63</sup> *Id.*; see also 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 Sept. 27, 2019); *American Dreamers: Isabelle Muhlbauer*, N.Y. Times, <https://www.nytimes.com/interactive/projects/storywall/american-dreamers/stories/isabelle-muhlbauer> (last visited Sept. 27, 2019).

<sup>64</sup> DACA participants have a large impact on the economy given their work in a variety of fields, their purchasing power, and the fact that they increase state and federal tax bases. According to the Center for American Progress's analysis of ACS microdata, "DACA recipients and their households pay \$5.7 billion in federal taxes and \$3.1 billion in state and local taxes annually. In addition to this, DACA recipients boost Social Security and Medicare through payroll taxes. DACA recipients and their households hold a combined \$24.1 billion in spending power—or income remaining after paying taxes—each year." Svajlenka, *supra* note 61.



DACA devalues that mission without any rational basis. In that respect, it harms all *amici*.

### CONCLUSION

DACA is enlightened and humane; it represents the very best of America. It provides legal certainty for a generation of hard-working, high-achieving, and determined young people who love this country and were raised here. Once at college or university, DACA recipients are among the most engaged students both academically and otherwise. They work hard in the classroom and become deeply engaged in co-curricular activities, supporting communities on and off campus. Moreover, our DACA students are deeply committed to giving back to their communities and, more broadly, the country they love. We should not be pushing them out of the country or returning them to a life in the shadows. As institutions of higher education, we see every day the achievement and potential of these young people, and we think it imperative for both us and them that they be allowed to remain here and live out their dreams. Indeed, it defies rationality to prevent the government from utilizing its discretion to protect this set of young people from removal. For these reasons, we urge the Court to affirm the decisions enjoining the rescission of DACA.

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