

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

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

DEPARTMENT OF HOMELAND SECURITY, ET AL., PETITIONERS,  
v.  
REGENTS OF THE UNIVERSITY OF CALIFORNIA, ET AL., RESPONDENTS.

*ON WRIT OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE NINTH CIRCUIT*

DONALD J. TRUMP, PRESIDENT OF THE  
UNITED STATES, ET AL., PETITIONERS,  
v.  
NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF  
COLORED PEOPLE, ET AL., RESPONDENTS.

*ON WRIT OF CERTIORARI BEFORE JUDGMENT  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT*

KEVIN K. MCALEENAN, ACTING SECRETARY OF  
HOMELAND SECURITY, ET AL., PETITIONERS,  
v.  
MARTIN JONATHAN BATALLA VIDAL, ET AL., RESPONDENTS.

*ON WRIT OF CERTIORARI BEFORE JUDGMENT  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT*

**BRIEF FOR LAWYERS' COMMITTEE FOR CIVIL  
RIGHTS UNDER LAW, THE ANTI-DEFAMATION  
LEAGUE, THE LEADERSHIP CONFERENCE ON  
CIVIL AND HUMAN RIGHTS, AND 42 OTHER SOCIAL  
JUSTICE ORGANIZATIONS AS *AMICI CURIAE*  
IN SUPPORT OF RESPONDENTS**

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## **QUESTIONS PRESENTED**

1. Whether DHS's decision to wind down the DACA policy is judicially reviewable.
2. Whether DHS's decision to wind down the DACA policy is lawful.

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<i>Regents of Univ. of Cal. v. DHS</i> , 908 F.3d 476 (9th Cir. 2018).....	5
<i>Smiley v. Citibank (South Dakota), NA</i> , 517 U.S. 735 (U.S. 1996).....	7
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<i>U.S. v. Penn. Indus. Chem. Corp.</i> , 411 U.S. 655 (1973).....	11-12
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## TABLE OF AUTHORITIES—Continued

OTHER AUTHORITIES	Page(s)
A.W. Geiger, <i>America’s Public School Teachers Are Far Less Racially And Ethnically Diverse Than Their Students</i> , Pew Research Center. (Aug. 27, 2018), <a href="https://www.pewresearch.org/fact-tank/2018/08/27/americas-public-school-teachers-are-far-less-racially-and-ethnically-diverse-than-their-students/">https://www.pewresearch.org/fact-tank/2018/08/27/americas-public-school-teachers-are-far-less-racially-and-ethnically-diverse-than-their-students/</a> .....	15
Alex Horton, <i>The Military Looked to ‘Dreamers’ to Use Their Vital Skills. Now the U.S. Might DePort Them</i> . Wash. Post (Sept. 7, 2017), available at <a href="https://www.washingtonpost.com/news/checkpoint/wp/2017/09/07/the-military-looked-to-dreamers-to-use-their-vital-skills-now-the-u-s-might-deport-them/">https://www.washingtonpost.com/news/checkpoint/wp/2017/09/07/the-military-looked-to-dreamers-to-use-their-vital-skills-now-the-u-s-might-deport-them/</a> .....	20, 21
Alexander Casey, <i>An Estimated 123,000 ‘Dreamers’ Own Homes and Pay \$380M in Property Taxes</i> , Zillow (Sept. 20, 2017), <a href="https://www.zillow.com/research/daca-homeowners-380m-taxes-16629/">https://www.zillow.com/research/daca-homeowners-380m-taxes-16629/</a> .....	18
Alice Yin, <i>Education by the Numbers</i> , N.Y. Times (Sept. 8, 2017), available at <a href="https://www.nytimes.com/2017/09/08/magazine/education-by-the-numbers.html">https://www.nytimes.com/2017/09/08/magazine/education-by-the-numbers.html</a> .....	15
Annie Karni and Sheryl Gay Stolberg, <i>Trump Offers Temporary Protections for ‘Dreamers’ in Exchange for Wall Funding</i> , N.Y. Times (Jan. 9, 2019), available at <a href="https://www.nytimes.com/2019/01/19/us/politics/trump-proposal-daca-wall.html">https://www.nytimes.com/2019/01/19/us/politics/trump-proposal-daca-wall.html</a> ...	11

## TABLE OF AUTHORITIES—Continued

	Page(s)
Anti-Defamation League (ADL), <i>Creating an Anti-Bias Learning Environment</i> , <a href="https://www.adl.org/education/resources/tools-and-strategies/creating-an-anti-bias-learning-environment">https://www.adl.org/education/resources/tools-and-strategies/creating-an-anti-bias-learning-environment</a> (last visited Oct. 2, 2019) .....	16
Dep't of Justice Office of Legal Counsel, <i>The Department of Homeland Security's Authority to Prioritize Removal of Certain Aliens Unlawfully Present in the United States and to Defer Removal of Others</i> , 38 Op. O.L.C. (2014). .....	8
Elise Gould, <i>Local Public Education Employment May Have Weathered Recent Storms, But Schools Are Still Short 327,000 Public Educators</i> , Econ. Pol'y. Inst. (Oct. 6, 2017), available at <a href="http://www.epi.org/publication/teacher-employment-may-have-weathered-storms-but-schools-are-still-short-327000-public-educators/">http://www.epi.org/publication/teacher-employment-may-have-weathered-storms-but-schools-are-still-short-327000-public-educators/</a> .....	14
Greg Toppo, <i>20,000 DACA Teachers At Risk — and Your Kids Could Feel the Fallout, too</i> , USA Today (Oct. 11, 2017), available at <a href="https://www.usatoday.com/story/news/2017/10/11/thousands-daca-teachers-risk/7520820 01/">https://www.usatoday.com/story/news/2017/10/11/thousands-daca-teachers-risk/7520820 01/</a> .....	14, 16

## TABLE OF AUTHORITIES—Continued

	Page(s)
Lisette Partelow, <i>America Needs More Teachers of Color</i> , Ctr. for Amer. Progress (Sept. 14, 2017,), <a href="https://www.americanprogress.org/issues/education-k-12/reports/2017/09/14/437667/america-needs-teachers-color-selective-teaching-profession/">https://www.americanprogress.org/issues/education-k-12/reports/2017/09/14/437667/america-needs-teachers-color-selective-teaching-profession/...</a>	15
Liz Robbins, <i>For Teachers Working Through DACA, a Bittersweet Start to the School Year</i> , N.Y. Times (Sept. 7, 2017), available at <a href="https://www.nytimes.com/2017/09/07/nyregion/daca-teachers.html">https://www.nytimes.com/2017/09/07/nyregion/daca-teachers.html</a> .....	16
Memorandum from Janet Napolitano, Sec’y of Homeland Sec., Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children (June 15, 2012), available at <a href="https://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf">https://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf</a> .....	12
Moriah Balingit, <i>As DACA Winds Down, 20,000 Educators Are in Limbo</i> , Wash. Post (Oct. 25, 2017), available at <a href="https://www.washingtonpost.com/local/education/as-daca-winds-down-20000-educators-are-in-limbo/2017/10/25/4cd36de4-b9b3-11e7-a908-a3470754bbb9_story.html">https://www.washingtonpost.com/local/education/as-daca-winds-down-20000-educators-are-in-limbo/2017/10/25/4cd36de4-b9b3-11e7-a908-a3470754bbb9_story.html</a> .....	14

## TABLE OF AUTHORITIES—Continued

	Page(s)
New American Economy, <i>Overcoming the Odds: The Contributions of DACA-Eligible Immigrants and TPS Holders to the U.S. Economy</i> (May 2019), <i>available at</i> <a href="https://www.newamericaneconomy.org/wp-content/uploads/2019/05/DACA-TPS_Brief.pdf...">https://www.newamericaneconomy.org/wp-content/uploads/2019/05/DACA-TPS_Brief.pdf...</a>	12
Nicole Svjlenka, <i>What We Know About DACA Recipients in the United States</i> , Ctr. for Amer. Progress (Sept. 5, 2019), <a href="https://www.americanprogress.org/issues/immigration/news/2019/09/05/474177/know-daca-recipients-united-states/.....">https://www.americanprogress.org/issues/immigration/news/2019/09/05/474177/know-daca-recipients-united-states/.....</a>	13
Statement of Nancy E. Weaver, Department of Defense Senior Language Authority, Before the House Armed Services Committee Subcommittee on Oversight and Investigations, (June 29, 2010) <i>available at</i> <a href="http://prhome.defense.gov/Portals/52/Documents/RFM/Readiness/DLNSEO/docs/Weaver%20Testimony%20062910.pdf.....">http://prhome.defense.gov/Portals/52/Documents/RFM/Readiness/DLNSEO/docs/Weaver%20Testimony%20062910.pdf.....</a>	20
Tom K. Wong et al., <i>DACA Recipients' Livelihoods, Families, and Sense of Security Are at Stake This November</i> , Ctr. For Am. Progress (Sept. 19, 2019), <a href="https://www.americanprogress.org/issues/immigration/news/2019/09/19/474636/daca-recipients-livelihoods-families-sense-security-stake-november/.....">https://www.americanprogress.org/issues/immigration/news/2019/09/19/474636/daca-recipients-livelihoods-families-sense-security-stake-november/.....</a>	18



## TABLE OF AUTHORITIES—Continued

	Page(s)
U.S. Census Bureau, Quarterly Residential Vacancies And Homeownership, Fourth Quarter 2017 (Jan. 30, 2018 10:00 AM), <a href="https://www.census.gov/housing/hvs/files/currenthvspress.pdf">https://www.census.gov/housing/hvs/files/currenthvspress.pdf</a> .....	19
U.S. Dep't of Def., Military Accessions Vital to National Interest (MAVNI) Recruitment Pilot Program, <i>available at</i> <a href="https://www.defense.gov/news/MAVNI-Fact-Sheet.pdf">https://www.defense.gov/news/MAVNI-Fact-Sheet.pdf</a> ...	20
U.S. Dep't of Housing and Urb. Dev., <i>The National Homeownership Strategy: Partners in the American Dream</i> (1995) ..	17
Yukiko Furuya et al., <i>A Portrait of Foreign-Born Teachers In The United States</i> , George Mason University, Institute for Immigration Research, January 2019, <i>available at</i> <a href="https://www.immigrationresearch.org/system/files/Teacher_Paper.pdf">https://www.immigrationresearch.org/system/files/Teacher_Paper.pdf</a> ...	15

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

*Amici*, the Lawyers' Committee for Civil Rights Under Law, the Anti-Defamation League, the Leadership Conference on Civil and Human Rights, and 42 other social justice organizations,<sup>2</sup> are national and regional civil rights groups and equal justice organizations, each committed to the promotion of civil liberties throughout the country and the elimination of discrimination in any form.

The Lawyers' Committee for Civil Rights Under Law ("Lawyers' Committee") is a nonpartisan, non-profit civil rights organization formed in 1963, at the request of President John F. Kennedy, to enlist the American bar's leadership and resources in defending the civil rights of racial and ethnic minorities. Through the Lawyers' Committee, attorneys have represented thousands of clients in civil rights cases across the country challenging discrimination in virtually all aspects of American life. In furtherance of its commitment to challenge policies that discriminate against immigrants and refugees, the Lawyers'

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<sup>1</sup> Pursuant to Supreme Court Rule 37.6, counsel for *amici* represent that they authored this brief in its entirety and that none of the parties or their counsel, nor any other person or entity other than *amici* or their counsel, made a monetary contribution intended to fund the preparation or submission of this brief.

Pursuant to Rule 37.3(a), counsel for *amici* also represent that all parties have consented to the filing of this brief; letters reflecting their blanket consent to the filing of *amicus* briefs are on file with the Clerk.

<sup>2</sup> A list of the 42 other social justice organizations as *amici curiae*, along with a statement of interest from each organization, is set forth below in the Appendix at 1a.

Committee has filed numerous lawsuits and submitted six *amicus* briefs in support of challenges to DACA's rescission, including in all three cases currently before the Court.

Anti-Defamation League ("ADL"), founded in 1913, is an anti-hate organization that seeks to stop the defamation of the Jewish people, and secure justice and fair treatment to all. Its 25 regional offices further this mission with programmatic support to promote civil rights and combat all forms of bigotry. ADL is rooted in a community that has experienced the plight of living as refugees throughout its history. ADL has advocated for fair and humane immigration policy since its founding and has been a leader in exposing anti-immigrant and anti-refugee fervor that has poisoned our nation's debate. Consistent with its principles and values, ADL joins this brief.

The Leadership Conference on Civil and Human Rights ("The Leadership Conference") is a diverse coalition of more than 200 national organizations charged with promoting and protecting the civil and human rights of all persons in the United States, including immigrants. It is the nation's largest and most diverse civil and human rights coalition. For more than half a century, The Leadership Conference, based in Washington, D.C., has led the fight for civil and human rights by advocating for federal legislation and policy, securing passage of every major civil rights statute since the Civil Rights Act of 1957. The Leadership Conference works to build an America that is inclusive and as good as its ideals.

*Amici* are particularly well suited to offer assistance to the Court based on their experience working with and in immigrant communities of color including those affected by the rescission of DACA. *Amici* have

observed firsthand the ways in which DACA has improved the lives of undocumented young people and enabled them to make significant social and economic contributions that have made our country greater.

### INTRODUCTION

The Department of Homeland Security (“DHS” or the “Department”) failed to consider serious reliance interests engendered by the Deferred Action for Childhood Arrivals (“DACA”) program prior to termination, in violation of the Administrative Procedures Act (“APA”). In this brief, *amici* seek to highlight some of the significant commitments in education, investments in home ownership, and service to our military program that participants have made in reliance on DACA.

The DACA program, announced on June 15, 2012, provided eligible undocumented immigrants protection from deportation and made them eligible for work authorization subject to approval of an initial application and renewal every two years thereafter. The policy’s coverage was limited in scope to individuals under the age of thirty-one present in the country on or after June 12, 2012 who arrived in the United States before the age of sixteen. Thus, while the DACA program was available to only eligible individuals in the United States prior to June 2012, foreign-born persons who entered after this time are ineligible.

Imbued with the spirit of the American dream, and in reliance on the DACA program, enrollees have made substantial investments in themselves, their families, and their communities. Contrary to the government’s assertion in its brief to this Court (*e.g.*, Pet. Br. 46), the DACA enrollees are *not* engaged in

“ongoing illegal activity” or “ongoing violation of federal law.” To the contrary, under DACA and with the government’s permission, enrollees are *legally* engaged in educational, tax-paying, teaching, and military activities. *See, e.g.*, Case No. 18-589 Pet. App. 115a (“[H]undreds of thousands of DACA recipients and those close to them planned their lives around the program.”).

Without any consideration for these substantial reliance interests engendered by DACA over the last several years, the Department abruptly terminated the program. In doing so, the government upended the lives of nearly 700,000 productive young adults, their families, and their communities. These DACA recipients, in an effort to play by the rules, came out of the shadows to enroll in the program.

The APA’s requirements are designed to protect against arbitrary and capricious reversals or terminations of policies and programs that induce serious reliance interests of the type found here. With the government’s encouragement, DACA enrollees invested in job-specific training programs, enrolled in universities, obtained jobs as educators, purchased homes, and enlisted in the military in service of our country. In turn, educational institutions, local communities, and employers invested in and have come to rely on the substantial benefits provided by DACA enrollees. Yet the administrative record is void of any mention, let alone consideration of these interests.

The government’s complete failure to consider such serious reliance interests before abruptly rescinding DACA is the hallmark of arbitrary and capricious conduct.

**ARGUMENT****I. THE GOVERNMENT WAS REQUIRED TO CONSIDER RELIANCE INTERESTS PRIOR TO TERMINATING DACA**

In its opening brief, the government argues that the decision to rescind DACA is an unreviewable discretionary act, even though the justification offered was that the program lacked proper statutory authority and was therefore illegal. This argument is unavailing. “[A]n official cannot claim that the law ties her hands while at the same time denying the courts’ power to unbind her.” *NAACP v. Trump*, 298 F. Supp. 3d 209, 249 (D.D.C. 2018). Indeed, Acting Secretary of Homeland Security Duke’s proffered rationale for the rescission of DACA – that DHS did not have the authority to institute DACA in the first place – placed its decision squarely within the bounds of an “agency action” reviewable under the APA. *Regents of Univ. of Cal. v. DHS*, 908 F.3d 476, 494-498 (9th Cir. 2018) (citing *City of Arlington v. FCC*, 569 U.S. 290 (2013)).

Under Section 706(2)(A) of the APA, federal courts may review and set aside agency action found to be “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

Here, DHS violated core principles governing its actions under the APA. The Department abused its discretion because it “entirely failed to consider an important aspect of the problem,” namely the impact of its policy change on the hundreds of thousands of DACA enrollees who would be directly affected by the decision. *See Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

Although agencies are free to change their existing policies, they must provide a reasoned explanation for a policy change, where that change implicates serious reliance interests:

*In explaining its changed position, an agency must also be cognizant that longstanding policies may have engendered serious reliance interests that must be taken in account. In such cases it is not that further justification is demanded by the mere fact of policy change; but that a reasoned explanation is needed for disregarding facts and circumstances that underlay or were engendered by the prior policy.* It follows that an unexplained inconsistency in agency policy is a reason for holding an interpretation to be an arbitrary and capricious change from agency practice.

*Encino Motor Cars, LLC v. Navarro*, 136 S. Ct. 2117, 2125-2126 (2016) (emphasis added).

This Court's opinion in *Perez v. Mortgage Bankers Association* is also instructive on the importance of reliance in APA cases:

The APA contains a variety of constraints on agency decision making—the arbitrary and capricious standard being among the most notable. . . . *[T]he APA requires an agency to provide more substantial justification when 'its new policy rests upon factual findings that contradict those which underlay its prior policy; or when prior policy has engendered serious reliance interests that must be taken into account. It would be arbitrary and*

*capricious to ignore such matters* (citations omitted).

135 S. Ct. 1199, 1209 (2015) (emphasis added). *See also Smiley v. Citibank (South Dakota), NA*, 517 U.S. 735, 742 (U.S. 1996) (citations and quotations omitted) (“Sudden and unexplained change or change that does not take account of legitimate reliance on prior interpretation may be arbitrary, capricious or an abuse of discretion.”).

Here, as the lower courts repeatedly found, DHS failed entirely to consider the reliance interests of the DACA enrollees, their employers, and their communities. *See* Case No. 18-587, Pet. App. 60a (“As [in *Encinol*], the administrative record here includes no analysis of the ‘significant reliance issues involved.’ . . . The administrative record includes no consideration to the disruption a rescission would have on the lives of DACA recipients, let alone their families, employers and employees, schools and communities.”) (Alsup, J.); Case No. 18-588, Pet. App. 54a (“The Rescission Memo made no mention of the fact that DACA had been in place for five years and had engendered the reliance of hundreds of thousands of beneficiaries, many of whom had structured their education, employment, and other life activities on the assumption that they would be able to renew their DACA benefits.”) (Bates, J.); Case No. 18-589, Pet. App. 114a (“The record does not indicate that Defendants acknowledged, let alone considered, these or any other reliance interests engendered by the DACA program. That alone is sufficient to render their supposedly discretionary



decision to end the DACA program arbitrary and capricious.”) (Garaufis, J.).<sup>3</sup>

The reliance by DACA enrollees was certainly reasonable. DACA did not guarantee a “substantive right, immigration status or pathway to citizenship” as the government emphasizes. Pet. Br. 5. But deferred action enabled and incentivized individuals to pursue schooling, jobs, investments, tax-payment, military service, and home ownership. These are not “ongoing illegal activit[ies],” Pet. Br. 46, but rather the activities that DACA enrollees have earned under the program. No court has determined that the reliance under DACA to do these things was unreasonable. Indeed, as Judge Nicholas Garaufis of the U.S. District Court for the Eastern District of New York found, “it is obvious that hundreds of thousands of DACA recipients and those close to them planned their lives around the program.” Case No. 18-589, Pet. App. 115a.

The original DACA policy: (i) was not challenged in the DAPA litigation before this divided Court; (ii) was supported by an opinion of the Office of Legal Counsel<sup>4</sup>; and (iii) has not been found to violate the Constitution.

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<sup>3</sup> The Texas court, which previously ruled that DAPA was illegal, concluded that reliance interests were so significant that a preliminary injunction should not issue against DACA. *Texas v. United States*, 328 F. Supp. 3d 662, 742 (S.D. Tex. 2018) (“[T]he reality of the situation is that [DACA] conferred lawful presence and numerous other benefits, and many DACA recipients and others nationwide have relied upon it for the last six years.”). The court specifically noted (a) DACA recipients’ loss of benefits that flow from lawful presence, and (b) loss of employees to various schools, states, municipalities, employers and industries. *Id.*

<sup>4</sup> See Dep’t of Justice Office of Legal Counsel, *The Department of Homeland Security’s Authority to Prioritize Removal of Certain Aliens Unlawfully Present in the United States and to Defer Removal of Others*, 38 Op. O.L.C. (2014).

These observations further support the recipients' reasonable reliance on the program to build successful lives in this country.

In its opening brief, the government argues that DHS "sufficiently considered the reliance interests of DACA recipients" in rescinding the program. Pet. Br. 42. Specifically, it points to the wind-down period set out in the Duke Memorandum, which permitted existing DACA grants "to expire according to their stated two-year terms" and purportedly "allow[ed] a limited window for additional renewals." *Id.* But neither those provisions of the Duke Memorandum nor any others reference the serious reliance interests engendered by DACA. *See* Case No. 18-587, Pet. App. 117a-118a. Indeed, *nowhere in the administrative record* are the reliance interests of the nearly 700,000 DACA enrollees mentioned. There are no studies, calculations, or analyses. And in fact, the "wind-down" period appears to have been designed to benefit the Department, not DACA enrollees, whose interests are not mentioned *anywhere* in the Duke Memorandum. *See* Joint App. 878 (Sessions Memorandum recommending a wind-down to address the "costs and burdens *that will be imposed on DHS* associated with rescinding this [DACA] policy.") (Emphasis added); *see also* Case No. 18-589, Pet. App. 117a ("While the Acting Secretary stated that she '[r]ecogniz[ed] the complexities associated with winding down the program,' the Sessions Letter makes clear that these complexities referred to the burdens on DHS of winding down the DACA program.").

The government also points to Secretary Nielsen's subsequent memorandum in which she stated that she did not take the DACA rescission "lightly" and referenced "sympathetic circumstances" of DACA

recipients. Pet. Br. 42. But lip service in a *post-hoc* rationalization does not provide the reasoned analysis of the serious reliance interests engendered by the DACA program, as required by the APA. See Case No. 18-587, Pet. App. 125a; see also, e.g., *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515-16 (2009) (“[A] reasoned explanation is needed for disregarding facts and circumstances that underlay . . . the prior policy.”).

As Judge Bates explained astutely:

[T]he Nielsen Memo—like the Duke Memo before it—fails to engage meaningfully with the reliance interests and other countervailing factors that weigh against ending the program . . . .

Although this time around the Nielsen Memo at least “acknowledge[s] how heavily DACA beneficiaries had come to rely on” the program, *id.*, it does little more than that. Instead of considering DACA’s benefits to DACA recipients and to society at large, Secretary Nielsen simply states that “the asserted reliance interests” are outweighed by DACA’s “questionable legality . . . and the other reasons for ending the policy,” and then goes on to suggest that she should not even have to consider those interests . . . .

Like the Duke Memo, the Nielsen Memo demonstrates no true cognizance of the serious reliance interests at issue here—indeed, it does not even identify what those interests are.

Case No. 18-588, Pet. App. 106a-107a. Such “[a]n ‘unexplained inconsistency’ in agency policy indicates that the agency’s action is arbitrary and

capricious, and therefore unlawful.” *Jimenez–Cedillo v. Sessions*, 885 F.3d 292, 298 (4th Cir. 2018) (quoting *Encino Motor Cars*, 136 S. Ct. at 2125).

The following section sets forth several serious reliance interests engendered by DACA enrollees that the government was required to consider prior to rescinding the DACA policy, but instead ignored.

## **II. DACA ENGENDERED SERIOUS RELIANCE INTERESTS THAT THE GOVERNMENT FAILED TO CONSIDER**

Since its inception, nearly 800,000 DACA enrollees invested in their education and job training, purchased homes, and enlisted in the military in reliance on the understanding that their right to remain in the United States would not be rescinded without proper consideration of the consequences of rescission – or used solely as a political bargaining chip.<sup>5</sup> *See* Pet. App. 12a–13a (793,026 enrollees, with 689,800 active as of September 2017).

The Department is the responsible agency for adjudicating the rights of persons to remain on American soil, and “the rulings, interpretations and opinions of the responsible agency, while not controlling upon the courts by reason of their authority, do constitute a body of experience and informed judgment to which litigants may properly resort for guidance.” *U.S. v.*

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<sup>5</sup> Annie Karni and Sheryl Gay Stolberg, *Trump Offers Temporary Protections for ‘Dreamers’ in Exchange for Wall Funding*, N.Y. Times (Jan. 9, 2019), <https://www.nytimes.com/2019/01/19/us/politics/trump-proposal-daca-wall.html>. The government’s brief to this Court acknowledges that DACA is a possible tradeoff in a deal with Congress (*see* Pet. Br. 32 and 39), although the Administration has hardly exercised “executive restraint” on many matters pertaining to immigration.

*Penn. Indus. Chem. Corp.*, 411 U.S. 655 (1973) (quotations omitted). It was around this guidance that the DACA recipients planned their lives moving forward in the United States.

By explicitly targeting “productive young people,”<sup>6</sup> the federal government plainly contemplated that DACA enrollees would be contributing members of our society and that the nation would benefit from their social and economic efforts. With the opportunity to advance their lives through education, employment, and homeownership, DACA enrollees have been induced by the promise of being able to achieve financial security for themselves and their families – and to be part of the fabric of America. And it is on the basis of this promise that childhood arrivals revealed themselves to the government and submitted to a rigorous application and background check process, the cost of which was borne by the applicant. Indeed, there were individuals who opted not to apply to the DACA program on the basis that they could not afford the significant application fee or because of the program requirement to provide personal and private information to the federal government.<sup>7</sup>

The states and the federal government, in turn, would benefit from an increased population of productive, legally employable workers, who pay taxes and

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<sup>6</sup> See Memorandum from Janet Napolitano, Sec’y of Homeland Sec., Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children (June 15, 2012), <https://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf>.

<sup>7</sup> See New American Economy, Overcoming the Odds: The Contributions of DACA-Eligible Immigrants and TPS Holders to the U.S. Economy (May 2019), [https://www.newamericaneconomy.org/wp-content/uploads/2019/05/DACA-TPS\\_Brief.pdf](https://www.newamericaneconomy.org/wp-content/uploads/2019/05/DACA-TPS_Brief.pdf).

make significant contributions to the economy. And, indeed, they have. “DACA enrollees and their households pay \$5.7 billion in federal taxes and \$3.1 billion in state and local taxes annually.”<sup>8</sup> The termination of DACA will only place further strain on states and local communities that were already under economic pressure.

The Department’s failure to consider such reliance interests, let alone provide an “analysis” of its action “is arbitrary and capricious and so cannot carry the force of law.” *Encino Motor Cars*, 136 S. Ct. at 2125.

#### **A. Reliance Interests of DACA Students, Educators and Educational Institutions**

It is indisputable that access to education is vitally important to all persons in the United States—whether citizens, lawful resident aliens, or undocumented persons. *See Plyler v. Doe*, 457 U.S. 202, 226 (1982). In *Plyler*, this Court ruled that undocumented school age children had a constitutional right to a free public education. *Id.* (“Education provides the basic tools by which individuals might lead economically productive lives to the benefit of us all . . . “[e]ducation has a fundamental role in maintaining the fabric of our society.” Because of *Plyler*, generations of undocumented persons have succeeded in school and integrated into the American culture.

The DACA program has had the practical effect of extending the rationale of *Plyler* to post-secondary education. By relying on the rights granted by DACA, tens of thousands of undocumented persons have

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<sup>8</sup> Nicole Svjlenka, *What We Know About DACA Recipients in the United States*, Ctr. for Amer. Progress, (Sept. 5, 2019), <https://www.americanprogress.org/issues/immigration/news/2019/09/05/474177/know-daca-recipients-united-states/>.

gained access to and invested substantial time and money in a college education. And many of those persons, once educated, have entered the workforce as teachers, giving back to their communities.

DACA teachers, in particular, are a significant asset to our nation's public schools, especially in cities with large, immigrant student populations. An estimated 20,000 DACA recipients are employed as educators throughout the U.S., and many of them possess in-demand bilingual language skills.<sup>9</sup> There is currently a severe shortage nationally of teachers in the public education sector, estimated to be as high as 327,000.<sup>10</sup> The consequences of a shortage in public educators are well known: larger class sizes, fewer teacher aides, fewer guidance counselors, and fewer extra-curricular activities.

Further, in the past few decades, the racial makeup of the country's student population has drastically shifted, but the overwhelming majority of public school teachers continue to be white.<sup>11</sup> Public schools have

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<sup>9</sup> Moriah Balingit, *As DACA Winds Down, 20,000 Educators Are in Limbo*, Wash. Post (Oct. 25, 2017), [https://www.washingtonpost.com/local/education/as-daca-winds-down-20000-educators-are-in-limbo/2017/10/25/4cd36de4-b9b3-11e7-a908-a3470754bbb9\\_story.html](https://www.washingtonpost.com/local/education/as-daca-winds-down-20000-educators-are-in-limbo/2017/10/25/4cd36de4-b9b3-11e7-a908-a3470754bbb9_story.html) (citing data provided by the Migration Policy Institute); see also Greg Toppo, *20,000 DACA Teachers At Risk — and Your Kids Could Feel the Fallout, Too*, USA Today (Oct. 11, 2017), <https://www.usatoday.com/story/news/2017/10/11/thousands-daca-teachers-risk/752082001/>.

<sup>10</sup> Elise Gould, *Local Public Education Employment May Have Weathered Recent Storms, But Schools Are Still Short 327,000 Public Educators*, Econ. Pol'y. Inst. (Oct. 6, 2017), <http://www.epi.org/publication/teacher-employment-may-have-weathered-storms-but-schools-are-still-short-327000-public-educators/>.

<sup>11</sup> "Racial and ethnic minorities accounted for 20% of all public elementary and secondary school teachers in the United States

seen increased enrollment by students of color, especially by Latinos.<sup>12</sup> By 2025, it is expected that a majority of high school graduates will be students of color.<sup>13</sup> DACA has allowed schools to recruit qualified teachers serving students of diverse backgrounds.

DACA teachers do much more than just fill available positions; they also serve as mentors and role models. For many communities, DACA teachers mirror the experiences of their immigrant students, which informs their teaching with cultural competence, helps develop positive relationships with students, and creates more welcoming school environments.<sup>14</sup> “Foreign-born teachers not only educate Americans, but also serve as cultural ambassadors for immigrant students who may not be as familiar with American traditions, customs, and social norms.”<sup>15</sup>

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during the 2015-16 school year.” A.W. Geiger, *America’s Public School Teachers Are Far Less Racially And Ethnically Diverse Than Their Students*, Pew Research Center (Aug. 27, 2018), <https://www.pewresearch.org/fact-tank/2018/08/27/americas-public-school-teachers-are-far-less-racially-and-ethnically-diverse-than-their-students/>.

<sup>12</sup> Alice Yin, *Education by the Numbers*, N.Y. Times (Sept. 8, 2017), <https://www.nytimes.com/2017/09/08/magazine/education-by-the-numbers.html>.

<sup>13</sup> *Id.*

<sup>14</sup> Lisette Partelow, *America Needs More Teachers of Color*, Ctr. for Amer. Progress (Sept. 14, 2017), <https://www.americanprogress.org/issues/education-k-12/reports/2017/09/14/437667/america-needs-teachers-color-selective-teaching-profession/>.

<sup>15</sup> Yukiko Furuya et al., *A Portrait of Foreign-Born Teachers In The United States*, George Mason University, Institute for Immigration Research (Jan. 2019), [https://www.immigrationresearch.org/system/files/Teacher\\_Paper.pdf](https://www.immigrationresearch.org/system/files/Teacher_Paper.pdf).



Viridiana Carrizales, who led the DACA Initiative at Teach or America, aptly noted that “[w]e cannot afford to lose so many teachers and impact so many students . . . [e]very time a student loses a teacher, that is a disruption in the student’s learning.”<sup>16</sup> As Vanessa Luna, a DACA recipient who taught as a Teach for America teacher and now serves as the Co-Founder and Chief Programming Officer at ImmSchools, explains: “We’re going to lose leaders and lose teachers – it’s not only their presence, but having a teacher that can share the same experiences that you possibly had growing up. . . . Their advocacy, their leadership, their resilience is extraordinary because of their own personal journey.”<sup>17</sup>

School environments with DACA educators help reflect the diversity of communities, the country, and the world, which, in turn, helps open students’ minds to new perspectives and actively engage them in learning. Prejudice and bias are countered in schools and communities when respect for diversity is taught, modeled, and experienced firsthand by children.<sup>18</sup> The loss of 20,000 DACA teachers will cause severe and lasting harm to students and their educational trajectories, and more broadly our country, which depends on the great talent of future generations.

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<sup>16</sup> See Toppo, *supra* n.9.

<sup>17</sup> Liz Robbins, *For Teachers Working Through DACA, a Bittersweet Start to the School Year*, N.Y. Times (Sept. 7, 2017), <https://www.nytimes.com/2017/09/07/nyregion/daca-teachers.html>.

<sup>18</sup> Anti-Defamation League (ADL), *Creating an Anti-Bias Learning Environment*, <https://www.adl.org/education/resources/tools-and-strategies/creating-an-anti-bias-learning-environment>.

In *Plyler*, the Court made an observation that is apt for the present DACA revocation:

In determining the rationality of § 21.031 [denying access to school to undocumented persons], we may appropriately take into account its costs to the Nation and to the innocent children who are its victims. In light of these countervailing costs, the discrimination contained in §21.031 can hardly be considered rational unless it furthers some substantive goal of the State.

Here, as in *Plyler*, the federal government failed to consider the profound reliance interests and costs to DACA recipients and their educational communities around the nation resulting from the rescission of DACA.

### **B. DACA Enrollees Purchased Homes and Lending Institutions Extended Loans in Reliance on DACA**

Homeownership has long been recognized as an integral part of the American dream. Indeed, the federal government and its agencies have developed programs and marketing around that well-accepted precept.<sup>19</sup> DACA put that dream within reach for enrollees and provided them an opportunity to achieve financial security for themselves and their families and contribute to the economic stability of their communities through homeownership. They made these significant and life changing investments in reliance on DACA.

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<sup>19</sup> See, e.g., U.S. Dep't of Housing and Urb. Dev., *The National Homeownership Strategy: Partners in the American Dream* (1995).

The online real estate database company Zillow estimates that 123,000 DACA enrollees are homeowners and, indeed, purchased their homes *after* their DACA applications had been approved.<sup>20</sup> Similarly, a survey of DACA recipients conducted by the Center for American Progress found that 19 percent of respondents age 25 and older purchased their first home after being granted DACA.<sup>21</sup>

DACA made it possible for these individuals to establish roots and purchase homes thanks to access to credit, which was previously unavailable to them. Lending institutions extended this credit and offered mortgages to enrollees in complete reliance on DACA. In relying on the same, DACA participants make \$613.8 million in annual mortgage payments. These transactions and their underlying commitments were based on the fundamental understanding that the government would not, without due consideration, terminate the program and upend the lives of tens of thousands of individuals.

Further, through homeownership, DACA recipients “pay an estimated \$380 million a year in property taxes to their communities.”<sup>22</sup> As tenants, DACA

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<sup>20</sup> Alexander Casey, *An Estimated 123,000 ‘Dreamers’ Own Homes and Pay \$380M in Property Taxes*, Zillow (Sept. 20, 2017), <https://www.zillow.com/research/daca-homeowners-380m-taxes-16629/>.

<sup>21</sup> Tom K. Wong et al., *DACA Recipients’ Livelihoods, Families, and Sense of Security Are at Stake This November*, Ctr. For Am. Progress (Sept. 19, 2019), <https://www.americanprogress.org/issues/immigration/news/2019/09/19/474636/daca-recipients-livelihoods-families-sense-security-stake-november/>.

<sup>22</sup> See Casey, *supra* n.20.

enrollees contribute \$2.3 billion in rental payments annually. Communities that benefit, even depend, on the property tax revenues from these DACA recipient homeowners will, in turn, be financially upended.

Creating a pathway to homeownership is particularly important for communities of color that continue to suffer as a result of the widening racial and ethnic wealth gap in this country. Owning a home is often the largest investment families make. Yet, only 47 percent of Hispanics own a home compared to 73 percent of whites.<sup>23</sup> DACA allowed undocumented immigrants who had previously faced barriers to homeownership because of their status to accumulate long-term wealth and security in reliance on the government's representations and DACA's promulgation. The government's decision to rescind DACA threatens to strip these individuals of their most valuable investments without any consideration of their reliance interests.

### **C. Promises of “Expedited Citizenship” for DACA Enrollees Serving Vital Military Interests**

DACA enrollees have also relied on a military program established in 2008 that provides the promise of “expedited citizenship” opportunities in exchange for service vital to the national interest. The Military Accessions Vital to the National Interest (“MAVNI”) program offers fast-tracked citizenship review for enrollees, “whose skills are considered to be vital to the national interest,” such as “physicians, nurses, and

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<sup>23</sup> U.S. Census Bureau, Quarterly Residential Vacancies And Homeownership, Fourth Quarter 2017 (Jan. 30, 2018), <https://www.census.gov/housing/hvs/files/currenthvspress.pdf>.

certain experts in language with associated cultural backgrounds.”<sup>24</sup>

The Defense Department’s MAVNI materials entice recruits with the “opportunity of early citizenship” to “recognize their contribution and sacrifice.” *Id.* at 2. According to a Defense Department MAVNI fact sheet, “[t]he Law ensures” that such contribution and sacrifice be recognized. *Id.* In testimony to Congress, the Defense Department made clear the benefit from service in the MAVNI program: “This program recruits legal non-citizens with critical foreign language and cultural skills, as well as licensed healthcare professionals, *and as an additional incentive*, they receive expedited U.S. citizenship processing in return for their service.”<sup>25</sup>

Beginning in 2014, the Defense Department granted DACA enrollees eligibility to apply for the MAVNI program.<sup>26</sup> At the time of rescission, the Defense Department estimated that up to 900 DACA recipients were either serving or had signed contracts to serve through MAVNI.<sup>27</sup>

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<sup>24</sup> See Dep’t of Def., Military Accessions Vital to National Interest (MAVNI) Recruitment Pilot Program, <https://www.defense.gov/news/MAVNI-Fact-Sheet.pdf>.

<sup>25</sup> Statement of Nancy E. Weaver, Department of Defense Senior Language Authority, Before the House Armed Services Committee Subcommittee on Oversight and Investigations, June 29, 2010, <http://prhome.defense.gov/Portals/52/Documents/RFM/Readiness/DLNSEO/docs/Weaver%20Testimony%20062910.pdf> (emphasis added).

<sup>26</sup> See MAVNI Fact Sheet, *supra* n. 24.

<sup>27</sup> Alex Horton, *The Military Looked to ‘Dreamers’ to Use Their Vital Skills. Now the U.S. Might Deport Them*. Wash. Post (Sept. 7, 2017), <https://www.washingtonpost.com/news/checkpoint/wp/>

DACA enlistees in the MAVNI program have been left in limbo by the government's decision to rescind DACA, not knowing whether they will be permitted to carry out their service or be deported, let alone receive early citizenship review as promised. Moreover, DACA enlistees in MAVNI have provided extensive information to the federal government through the enrollment process and are in constant contact with the military (or are already in service), making them particularly vulnerable to deportation proceedings. Worse still, deportation could result in enrollees facing the most serious of consequences, including "harsh treatment or interrogation" by foreign adversaries.<sup>28</sup>

The administrative record is devoid of any consideration whatsoever of the military's promises and the reliance thereon by DACA enrollees in the MAVNI program. Termination of the DACA program without consideration of these serious reliance interests and those described above is arbitrary and capricious under the APA.

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2017/09/07/the-military-looked-to-dreamers-to-use-their-vital-skills-now-the-u-s-might-deport-them/.

<sup>28</sup> *See id.*

**CONCLUSION**

For the foregoing reasons, *amici* urge this Court to affirm the decisions of the lower courts to enjoin the rescission of DACA.

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## **APPENDIX**



**APPENDIX****List of 42 Other Social Justice Organizations  
with Individual Statements of Interest****1. Advocates for Youth**

Advocates for Youth is a national reproductive and sexual health/rights organization that centers the needs and voices of young people. The President's decision to end DACA is an attack on immigrant youth and families living in our communities, as well as on our values of fairness, equality, and opportunity. At Advocates for Youth, we center young people, people of color, LGBTQ communities, and children of immigrants—all of who would be disproportionately impacted if DACA was rescinded. We are committed to the health and safety of all young people, and the President should be as well. This shameful decision will not deter us from working to ensure the reproductive and sexual health and rights of all young people are realized regardless of citizenship status. As a nation, we must find the moral clarity to end attacks on immigrants.

**2. Andrew Goodman Foundation**

The Andrew Goodman Foundation (“AGF”) was created in 1966 to carry on the spirit and purpose of Andrew Goodman who took action against injustice during the height of the Civil Rights Movement. Today, our work harnesses the legacy of courageous civic action to grow new leaders of change through our programs. Promoting the right and responsibility to vote, our Ambassadors and Fellows spread a culture of participatory democracy while incubating a new generation of social justice leaders. In our Andrew Goodman Vote Everywhere Program in particular, we

have had DACA students. AGF joins this *amicus* brief to seek justice on their behalf.

### **3. Arab American Institute**

The Arab American Institute (“AAI”) is a non-profit, nonpartisan national leadership organization which represents the policy and community interests of Arab Americans across the United States, and was created to nurture and encourage the direct participation of Arab Americans in political and civic life. In particular, AAI serves as a central resource for government officials, the media, political leaders, and community groups on a variety of public policy issues. In that capacity, AAI also represents the interests of the roughly 1,240 DACA recipients who were born in Arab countries.

### **4. Asian & Pacific Islander American Health Forum**

The Asian & Pacific Islander American Health Forum (“APIAHF”) is the oldest and largest health advocacy organization working with Asian American, Native Hawaiian, and Pacific Islander communities across the nation, in the US Territories, and with the US-affiliated Pacific jurisdictions. APIAHF is committed to supporting the health and well-being of immigrant youth and their families. The question presented by this case is of great interest to APIAHF because it implicates the availability of health care coverage and protections for immigrant communities of color.

### **5. The Asian American Legal Defense and Education Fund**

The Asian American Legal Defense and Education Fund (“AALDEF”), founded in 1974, is a national organization that protects and promotes the civil rights of

Asian Americans. By combining litigation, advocacy, education, and organizing, AALDEF works with Asian American communities across the country to secure human rights for all.

AALDEF advocates for fair immigration policies that recognize the human rights of undocumented immigrants in the United States, promote family reunification, enforce worker protections for all, eliminate racial and ethnic profiling, and end other discriminatory practices that violate due process. AALDEF also provides legal assistance to undocumented immigrants who are eligible for the DACA program and works closely with members of RAISE (Revolutionizing Asian American Immigrant Stories on the East Coast), an Asian undocumented youth-led group affiliated with AALDEF, as well as other community groups.

## **6. Bend the Arc: A Jewish Partnership for Justice**

Bend the Arc: A Jewish Partnership for Justice is the nation's leading progressive Jewish voice empowering Jewish Americans to advocate for the nation's most vulnerable. Bend the Arc mobilizes Jewish Americans beyond religious and institutional boundaries to create justice and opportunity for all, through bold leadership development, innovative civic engagement, and robust progressive advocacy.

## **7. Center for Responsible Lending**

Center for Responsible Lending ("CRL") is a nonprofit policy, advocacy, and research organization dedicated to exposing and eliminating abusive practices in the market for consumer financial services. Through its research and policy work, CRL seeks to ensure a fair, inclusive financial marketplace that creates opportunities for all responsible borrowers, regardless of their income. CRL is a supporting organization of the

Center for Community Self-Help, a non-profit community development financial institution.

### **8. Center for the Study of Hate & Extremism**

The Center for the Study of Hate and Extremism (“CSHE”) fully supports California State University, San Bernadino’s goal of providing an open and inclusive educational environment to all our faculty, students, staff and visitors. To that end the university opened the Undocumented Student Success Center in 2015, while CSHE has for two decades been a vigorous supporter of protections and opportunities for our young Dreamers, whose myriad successes have uplifted our shared community.

### **9. Coalition for Disability Health Equity**

The Coalition for Disability Health Equity was created to address the healthcare needs of people with disabilities, and promote the concept of disability-based health disparities. The organization’s work also incorporates intersectionality by addressing persistent racial, ethnic, and geographic disparities related to disability health equity. DACA is critical for addressing disability health equity because among DACA enrollees are people with disabilities and professionals who improve the lives of people with disabilities, such as occupational and physical therapists.

### **10. Disability Rights Education & Defense Fund**

The Disability Rights Education & Defense Fund (“DREDF”), based in Berkeley, California, is a national nonprofit law and policy center dedicated to protecting and advancing the civil rights of people with disabilities. DREDF was founded in 1979 by people with disabilities and parents of children with disabilities,

and remains board- and staff-led by members of the communities for whom we advocate.

Recognized for its expertise in the interpretation of federal disability civil rights laws, DREDF pursues its mission through education, advocacy and law reform efforts. Consistent with its civil rights mission, DREDF supports legal protections for all diversity and minority communities, including the intersectional interests of people within those communities who also have disabilities. DREDF is a member of the Leadership Conference on Civil and Human Rights, recognizing that social justice for specific communities can only be fully realized when there is social justice for all.

### **11. Equal Justice Society**

The Equal Justice Society (“EJS”) is transforming the nation’s consciousness on race through law, social science, and the arts. Through litigation and legislative advocacy, EJS challenges racially discriminatory and unlawful school discipline practices to disrupt the school-to-prison pipeline, enhance teacher diversity, and ensure equity in education. Ending DACA would remove thousands of DACA educators of color from the work force and undermine educational equity. EJS has a strong interest in preventing the unlawful termination of DACA.

### **12. Equality California**

Founded in 1999, Equality California (“EQCA”) is the nation’s largest statewide lesbian, gay, bisexual, transgender and queer (“LGBTQ”) civil rights organization. Equality California brings the voices of LGBTQ people and allies to institutions of power in California and across the United States, striving to create a world that is healthy, just, and fully equal for all LGBTQ people. We advance civil rights and social justice by

inspiring, advocating, and mobilizing through an inclusive movement that works tirelessly on behalf of those we serve. EQCA frequently participates in litigation in support of the rights of LGBTQ persons.

### **13. Farmworker Justice**

Farmworker Justice is a non-profit organization that empowers farmworkers—people who labor on farms and ranches in the United States—to improve their immigration status, wages and working conditions, health, occupational safety, and access to justice.

Farmworker Justice accomplishes these aims through policy advocacy, litigation, training, public education and support for organizing. There are an estimated 2.4 million farmworkers in the United States, not including their family members. Approximately 76% of farmworkers are immigrants and 50% or more of farmworkers are undocumented immigrants. More than one-half of farmworkers are married and have children.

Immigration policy and access to immigration status are critically important issues in Farmworker Justice’s efforts to fulfill its mission.

### **14. Hispanic National Bar Association**

The Hispanic National Bar Association (“HNBA”) has a membership comprised of thousands of Latino lawyers, law professors, law students, legal professionals, state and federal judges, legislators, and bar affiliates across the country. HNBA regularly participates as *amicus curiae* in this Court. HNBA supports Hispanic legal professionals and is committed to advocacy on issues of importance to the millions of people of Hispanic heritage living in the United States.

## **15. Human Rights Campaign**

The Human Rights Campaign (“HRC”), the largest national lesbian, gay, bisexual, transgender, and queer (“LGBTQ”) advocacy organization, envisions an America where LGBTQ people are ensured of their basic equal rights, and can be open, honest and safe at home, at work and in the community. HRC is committed to ensuring that everyone in our community has equal access to these basic rights. The LGBTQ community reflects the rich diversity of this nation and includes thousands of immigrants—36,000 of whom have benefited from DACA.

## **16. In Our Own Voice: National Black Women’s Reproductive Justice Agenda**

In Our Own Voice: National Black Women’s Reproductive Justice Agenda is a national-state partnership with eight Black women’s Reproductive Justice organizations: The Afiya Center, Black Women for Wellness, Black Women’s Health Imperative, New Voices for Reproductive Justice, SisterLove, Inc., SisterReach, SPARK Reproductive Justice NOW, and Women with a Vision. In Our Own Voice is a national Reproductive Justice organization focused on lifting up the voices of Black women leaders on national, regional, and state policies that impact the lives of Black women and girls.

Reproductive Justice is a framework rooted in the human right to control our bodies, our sexuality, our gender, and our reproduction. Reproductive Justice will be achieved when all people, of all immigration statuses, have the economic, social, and political power and resources to define and make decisions about our bodies, health, sexuality, families, and communities in all areas of our lives with dignity and self-determination.

## **17. Jewish Council for Public Affairs**

The Jewish Council for Public Affairs (“JCPA”) is an umbrella body that represents 125 local Jewish community relations councils and 17 national Jewish agencies, including civil and human rights organizations and the four main denominations of American Judaism (Orthodox, Conservative, Reform and Reconstructionist). JCPA builds consensus amongst its members in responding to current events and adoption of public policy positions. Together our network advocates for a just and pluralistic American society, human rights around the world, and Israel’s quest for peace and security.

Since its founding in 1944, JCPA has advocated for generous and humane immigration policies that uphold civil and human rights, rooted in our religious teachings and obligations. JCPA has a long-standing position endorsing legislation that would provide a pathway to legal status for undocumented immigrants and citizenship for eligible Dreamers. Consistent with this policy, JCPA has strongly supported the DACA program. JCPA believes that these positions, for which it has consistently advocated in Congress and elsewhere, advance civil and human rights and benefit the U.S. economy.

## **18. Juvenile Law Center**

Juvenile Law Center advocates for right, dignity, equity and opportunity for youth in the justice and child welfare systems. Founded in 1975, Juvenile Law Center is the first non-profit, public interest law firm for children in the country. Through litigation, appellate advocacy and submission of *amicus* briefs, policy reform, public education, training, consulting, and strategic communications, we fight for children who



come into contact with the child welfare and justice systems. This includes children with cross system involvement in the immigration system.

### **19. League of Women Voters of the United States**

The League of Women Voters, a nonpartisan political organization, has fought for nearly 100 years to improve American systems of government and impact public policies through education, advocacy, and litigation. The enduring vitality and resonance of the League as a trusted force for change and good government comes from its unique decentralized structure: a national organization with strong partnerships at the grass-roots level with more than 750 state and local Leagues across the country including the District of Columbia. At the national level, League activities are coordinated and staffed by two distinct but complementary organizations: The League of Women Voters of the United States (LWVUS) and the League of Women Voters Education Fund (LWVEF) collectively known as “The League.” The League has worked tirelessly for common sense and compassionate measures for immigrants who were brought to this country as children, have grown up here, and cannot rationally be blamed for their lack of legal immigration status. The League believes that as a country of immigrants, we are made stronger by our diversity.

### **20. Legal Aid at Work**

Legal Aid at Work (“LAAW”) is a nonprofit legal organization based in California whose mission is to protect and expand the employment and civil rights of low-wage workers and community members. LAAW does this by engaging in impact litigation, direct legal services, legislative initiatives and community education. Through its National Origin and Immigrants’

Rights Program, LAAW advocates on behalf of immigrant workers, including undocumented workers, who face discrimination and exploitation because of their national origin. LAAW has appeared regularly in federal and state appellate courts on issues of immigration-related retaliation, remedies available to undocumented workers under state and federal employment laws, and employment discrimination more generally.

## **21. Matthew Shepard Foundation**

The Matthew Shepard Foundation amplifies the story of Matt to inspire individuals, organizations and communities to embrace the dignity and equality of all people.

## **22. The Mississippi Center for Justice**

The Mississippi Center for Justice, the Deep South Affiliate of the Lawyers Committee for Civil Rights Under Law (“MCJ”), is a 501(c)(3) nonprofit public interest law organization founded in 2003 in Jackson, Mississippi and committed to advancing racial and economic justice. Supported and staffed by attorneys and other professionals, the Center develops and pursues strategies to combat discrimination and poverty state-wide. One of amicus’ original areas of interest involved predatory loan practices directed at migrant poultry workers, and MCJ has coordinated the legal response to recent ICE raids in central Mississippi. MCJ has remained concerned about the plight of Mississippi’s growing immigrant population for the last decade, particularly in the areas of access to healthcare, education, housing and fair lending. MCJ has signed on as *amicus* for several cases challenging President Trump’s travel ban, and it has the same concerns regarding the termination of DACA.

**23. National Association of Human Rights Workers**

Our organization is 72 years old and provides training and certification for people who work in the human rights field. We believe education is a human right.

**24. National Center for Lesbian Rights**

The National Center for Lesbian Rights (“NCLR”) is a national legal non-profit organization committed to advancing the civil and human rights of lesbians, gay, bisexual, and transgender (“LGBT”) individuals and their families. Since 1994, NCLR’s Immigration Project has provided free legal assistance to thousands of LGBT immigrants nationwide through, among other services, direct representation of LGBT immigrants in impact cases and individual asylum cases and advocacy for immigration and asylum policy reform.

**25. National Coalition for Asian Pacific American Community Development**

The National Coalition for Asian Pacific American Community Development (“National CAPACD”) is a progressive coalition of nearly 100 community-based organizations spanning 21 states and the Pacific Islands. Our members advocate for and organize in low-income Asian American and Pacific Islander (“AAPI”) communities to improve housing security and preserve our neighborhoods. We disseminate national resources locally, share best practices and advocate for community needs at the national level. Our work improves the lives of the over two million AAPIs living in poverty nationwide. We strengthen and mobilize our members to build power nationally and further our vision of economic and social justice for all.

There are some 1.6 million undocumented Asian immigrants in the US and 120,000 were DACA eligible. National CAPACD opposes strongly the administration's decision to rescind DACA because of the negative outcomes it has for our community and other communities of color.

## **26. National Council on Independent Living**

The National Council on Independent Living ("NCIL") is the oldest cross-disability, national grassroots organization run by and for people with disabilities. NCIL's membership is comprised of centers for independent living, state independent living councils, people with disabilities and other disability rights organizations. NCIL advances independent living and the rights of people with disabilities. NCIL envisions a world in which people with disabilities are valued equally and participate fully.

## **27. National Employment Law Project**

The National Employment Law Project ("NELP") is a non-profit legal organization with 50 years of experience advocating for the employment and labor rights of low-wage and immigrant workers. In partnership with community groups, unions, and proactive public agencies, NELP seeks to ensure that all employees, and especially the most vulnerable ones, receive the full protection of employment laws, regardless of an individual's immigration status as an immigrant. NELP has litigated and participated as amicus in numerous cases addressing the rights of immigrant workers. NELP also provides legal assistance to labor unions and immigrant worker organizations regarding the rights of immigrant workers.

**28. National Employment Lawyers Association**

The National Employment Lawyers Association (“NELA”) is the largest professional membership organization in the country comprising lawyers who represent workers in labor, employment, and civil rights disputes. NELA advances employee rights and serves lawyers who advocate for equality and justice in the American workplace. NELA and its local affiliates have a membership of over 4,000 attorneys who are committed to working on behalf of those who have been illegally treated in the workplace. NELA strives to protect the rights of its members’ clients, and regularly supports precedent-setting litigation affecting the rights of individuals in the workplace. NELA has an interest in the whether DHS’s decision to wind down the DACA policy is lawful, as DACA recipients are a vital part of America’s workforce. Many workers rely on DACA to maintain legal employment, free from harassment, discrimination, and unsafe work practices.

**29. National Health Law Program**

The National Health Law Program is a 50-year-old public interest law organization that engages in education, litigation, and policy analysis to advance access to quality health care and protect the legal rights of low-income and under-served people.

**30. National Hispanic Media Coalition**

The National Hispanic Media Coalition (“NHMC”) is a civil rights, advocacy organization. DACA is of the upmost importance to our Latino community and other people of color communities and we advocate for their concerns and defense.

### **31. National Partnership for Women & Families**

The National Partnership for Women & Families (“National Partnership”), formerly the Women’s Legal Defense Fund, is a national advocacy organization that develops and promotes policies to help women achieve equal opportunity, quality health care and economic security for themselves and their families. Since its founding in 1971, the National Partnership has worked to advance civil rights and liberties through multiple means, including by challenging discriminatory policies in the courts.

### **32. National Women’s Law Center**

The National Women’s Law Center is a nonprofit legal advocacy organization dedicated to the advancement and protection of women’s legal rights and the rights of all people to be free from sex discrimination. Since its founding in 1972, the Center has focused on issues of key importance to women and their families, including economic security, employment, education, and health, with special attention to the needs of low-income women and those who face multiple and intersecting forms of discrimination. The Center has participated as counsel or *amicus curiae* in a range of cases before the Supreme Court and the federal courts of appeals to secure equal treatment and opportunity in all aspects of society.

### **33. OCA - Asian Pacific American Advocates**

OCA - Asian Pacific American Advocates (“OCA”) is a national non-profit, membership-driven civil rights organization dedicated to advancing the social, political, and economic well-being of Asian Americans and Pacific Islanders (“AAPI”). Founded in 1973, OCA is based in Washington, D.C. with over 50 chapters and affiliates around the country. For decades, OCA has

backed the comprehensive immigration reform, including the DACA program, which has served approximately 800,000 undocumented AAPI, Latinx, and other immigrants since 2012. That is why OCA strongly supports this amicus curiae and the plaintiffs.

### **34. People For the American Way Foundation**

People For the American Way Foundation (“PFAWF”) is a nonpartisan civic organization established to promote and protect civil and constitutional rights and liberties, including equality, fairness, and freedom from discrimination. Founded in 1981 by a group of civic, educational, and religious leaders, PFAWF now has hundreds of thousands of members nationwide. Over its history, PFAWF and its advocacy affiliate PFAW have conducted extensive education, outreach, litigation, and other activities to promote these values. PFAWF and PFAW have worked directly with young DACA immigrants; have seen first-hand their strong positive role in our schools, congregations, workplaces, and communities; and are familiar with their strong reliance interests in the continuation of DACA that were not considered by the Department of Homeland Security when it terminated the program.

### **35. Self-Help Federal Credit Union**

Self-Help Federal Credit Union (“SHFCU”) is a nonprofit, federally chartered community development credit union, with 27 branches in three states, that aims to provide high-impact to working-class communities, including immigrant communities. A nonprofit community development financial institution, SHFCU focuses on creating asset-building opportunities for low-income, rural, women-headed, and minority families, primarily through safe, affordable home loans and small business loans.

**36. Silver State Equality-Nevada**

As Nevada's statewide LGBTQ civil rights organization, Silver State Equality brings the voices of LGBTQ people and allies to institutions of power in Nevada and across the United States, striving to create a world that is healthy, just and fully equal for all LGBTQ people. Silver State Equality is a Nevada-based program affiliated with and supported and managed by Equality California and Equality California Institute, the nation's largest statewide LGBTQ civil rights organization.

**37. The Southern Poverty Law Center**

The Southern Poverty Law Center ("SPLC") has provided pro bono civil-rights representation to low-income persons in the Southeast since 1971. SPLC has litigated numerous cases to enforce the civil rights of immigrants and refugees to ensure that they are treated with dignity and fairness. SPLC also monitors and exposes extremists who attack or malign groups of people based on their immutable characteristics. SPLC is dedicated to reducing prejudice and improving intergroup relations. SPLC has a strong interest in opposing discriminatory governmental action that undermines the promise of civil rights for all.

**38. The Employee Rights Advocacy Institute for Law & Policy**

The Employee Rights Advocacy Institute for Law & Policy ("The Institute") advances workers' rights through research and advocacy to achieve equality and justice in the American workplace. The Institute works hand-in-hand with the National Employment Lawyers Association to create workplaces in which there is mutual respect between employers and workers, and workplaces are free of discrimination, harassment,



and retaliation. The Institute has an interest in the whether DHS's decision to wind down the DACA policy is lawful, as DACA recipients are a vital part of America's workforce. Many workers rely on DACA to maintain legal employment, free from harassment, discrimination, and unsafe work practices.

### **39. The Sikh Coalition**

The Sikh Coalition is the largest community-based Sikh civil rights organization in the United States. Since its inception on September 11, 2001, the Sikh Coalition has worked to defend civil rights and liberties for all people, empower the Sikh community, create an environment where Sikhs can lead a dignified life unhindered by bias or discrimination, and educate the broader community about Sikhism. The Sikh Coalition joins this brief in an effort to promote civil liberties throughout the country.

### **40. UnidosUS**

UnidosUS, formerly the National Council of La Raza ("NCLR"), is the nation's largest Latino civil rights and advocacy organization. Through our unique combination of research, advocacy, programs, and a national network of nearly 300 community-based Affiliate organizations across the country, we simultaneously challenge the social, economic, and political barriers that affect Latinos in the United States. Since our founding in 1968, we have contributed to a stronger America by elevating the voice of Latinos and defending and advancing our community's concerns. Today, we remain steadfast in our mission to realize a day where all Latinos thrive, and their contributions are fully recognized.

Every day across the nation, the UnidosUS affiliate network engages with individuals granted deferred

action under the DACA policy. Like some of the named plaintiffs in this matter, the family of UnidosUS affiliates provide a range of services and resources to DACA recipients, including in states like California, Texas, and New York, where significant numbers of DACA holders reside. DACA recipients are a core constituency for many of our affiliates.

As advocates for the Latino community, UnidosUS has a key interest in this matter. DACA is of particular importance to hundreds of thousands of Latinos across the nation. Many of these individuals have resided lawfully in the United States for at least two decades, have established deep family and community ties, and contribute to key sectors of the American economy.

Similarly, UnidosUS also has a vested interest in the welfare and advancement of the children of DACA recipients. According to a September 2019 report, nearly 256,000 U.S. citizen children have at least one parent who is a DACA recipient. We submit that this litigation has possible implications for the long-term education, healthcare, and economic advancement of these American youth, who are at risk of being separated from a parent, should they lose DACA status.

#### **41. Voto Latino**

Immigration reform is a personal issue for many Latinos, and an issue that Voto Latino is committed to addressing. We've advocated for solutions like the Dream and Promise Act, which passed the House in 2019 and provides some undocumented residents a path to citizenship. We've provided support for DACA by offering our help and resources to those applying and renewing their applications. At the same time, Voto Latino has been vigilant about pushing back against harmful and cruel immigration policies.

**42. Young Women's Christian Association USA**

YWCA USA is a national non-profit organization dedicated to eliminating racism, empowering women, and promoting peace, justice, freedom and dignity for all. YWCA is one of the oldest and largest women's organizations in the nation, serving over 2 million women, girls, and their families through a network of more than 200 local associations. YWCA USA has been at the forefront of the most pressing social movements for more than 160 years. Today, it combines programming and advocacy to generate institutional change in the key areas of racial justice and civil rights, empowerment and economic advancement of women and girls, and health and safety of women and girls.