
United States Court of Appeals
for the
Fifth Circuit

Case No. 23-40653

STATE OF TEXAS; STATE OF ALABAMA; STATE OF ARKANSAS;
STATE OF LOUISIANA; STATE OF NEBRASKA; STATE OF SOUTH
CAROLINA; STATE OF WEST VIRGINIA; STATE OF KANSAS;
STATE OF MISSISSIPPI,

Plaintiffs-Appellees,

v.

UNITED STATES OF AMERICA; ALEJANDRO MAYORKAS, Secretary,
U.S. Department of Homeland Security; TROY MILLER, Senior Official
Performing the Duties of the Commissioner, U.S. CUSTOMS AND BORDER
PROTECTION; PATRICK J. LECHLEITNER, Acting Director of U.S.
Immigration and Customs Enforcement; UR M. JADDOU, Director of U.S.
Citizenship and Immigration Services; JASON D. OWENS,
Chief of the U.S. Border Patrol,

Defendants-Appellants,

MARIA ROCHA; JOSE MAGANA-SALGADO; Nanci J. PALACIOS
GODINEZ; ELLY MARISOL ESTRADA; KARINA RUIZ DE DIAZ; CARLOS
AGUILAR GONZALEZ; LUIS A. RAFAEL; DARWIN VELASQUEZ; JIN
PARK; OSCAR ALVAREZ; DENISE ROMERO; JUNG WOO KIM; ANGEL
SILVA; HYU-WON JEON; ELIZABETH DIAZ; BLANCA GONZALEZ;
MOSES KAMAU CHEGE; MARIA DIAZ,

Intervenor Defendants-Appellants,

STATE OF NEW JERSEY,

Intervenor-Appellant,

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS, BROWNSVILLE, IN CASE NO. 1:18-CV-68,
ANDREW S. HANEN, U.S. DISTRICT JUDGE

BRIEF FOR *AMICI CURIAE*
NINETEEN COLLEGES AND UNIVERSITIES

ANTON METLITSKY
DAVID Z. COHEN
CARI MANNING
JACQUELINE MONNAT
O'MELVENY & MYERS LLP
Times Square Tower
Seven Times Square
New York, New York 10036
(212) 326-2000
ametlitsky@omm.com

*Attorneys for Amici Curiae Nineteen
Colleges and Universities*

CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that—in addition to the persons and entities in the Appellants’ Certificate of Interested Persons—the following listed persons and entities as described in the fourth sentence of 5th Cir. R. 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal:

1. O’Melveny & Myers LLP, Counsel for *Amici Curiae* (Anton Metlitsky, David Z. Cohen, Cari Manning, and Jacqueline Monnat);
2. Brown University
3. California Institute of Technology (“Caltech”)
4. Columbia University
5. Cornell University
6. Dartmouth College
7. Duke University
8. Emory University
9. Georgetown University
10. George Washington University
11. Harvard University
12. Johns Hopkins University
13. Massachusetts Institute of Technology (“MIT”)

14. New York University
15. Northwestern University
16. Princeton University
17. Stanford University
18. University of Pennsylvania
19. Washington University in St. Louis
20. Yale University

/s/ Anton Metlitsky
Counsel for Amici Curiae
Nineteen Colleges and Universities

TABLE OF CONTENTS

	Page
INTEREST OF <i>AMICI CURIAE</i>	1
INTRODUCTION AND SUMMARY OF ARGUMENT	2
ARGUMENT	5
I. DACA RECIPIENTS ENROLLED AT <i>AMICI</i> INSTITUTIONS ARE REPRESENTATIVE OF <i>AMICI</i> ’S GIFTED AND MOTIVATED STUDENT BODIES	5
II. ENDING DACA WOULD HARM <i>AMICI</i> ’S STUDENTS AND ALUMNI, AND DEPRIVE BOTH <i>AMICI</i> INSTITUTIONS AND THE COUNTRY OF THEIR PROMISE	12
A. Ending DACA Would Have a Devastating Impact on DACA Students	12
B. Ending DACA Would Prevent Undocumented Students From Fully Benefitting From and Contributing To <i>Amici</i> ’s Institutions.....	16
C. Ending DACA Would Deprive the Nation of Invaluable Resources	18
CONCLUSION	23

TABLE OF AUTHORITIES**Page(s)****Cases**

<i>Batalla Vidal v. Nielsen</i> , 279 F. Supp. 3d 401 (E.D.N.Y. 2018)	15
<i>Dep't of Homeland Sec. v. Regents of the Univ. of Cal.</i> , 140 S. Ct. 1891 (2020)	14
<i>NAACP v. Trump</i> , 298 F. Supp. 3d 209 (D.D.C. 2018)	14
<i>Plyler v. Doe</i> , 457 U.S. 202 (1982)	16
<i>Regents of Univ. of Cal. v. U.S. Dep't of Homeland Sec.</i> , 279 F. Supp. 3d 1011 (N.D. Cal. 2018)	15
<i>Regents of Univ. of Cal. v. U.S. Dep't of Homeland Sec.</i> , 908 F.3d 476 (9th Cir. 2018)	14
<i>Sweezy v. New Hampshire</i> , 354 U.S. 234 (1957)	6

Other Authorities

Amanda Mott, <i>Inaugural President's Innovation Prize Winners Announced at Penn</i> , PENNNEWS (Apr. 20, 2016), https://tinyurl.com/y5juheqm	20
Brown President Urges Trump to Continue DACA, BROWN UNIV. NEWS (Aug. 30, 2017), https://tinyurl.com/yxcceope	22
Brown University, <i>Undergraduate Admission</i> , https://tinyurl.com/y7syjs2m (last visited Jan. 29, 2024)	6
Columbia Undergraduate Admissions, <i>Undocumented Students and DACA</i> , https://tinyurl.com/yyp2p7e5 (last visited Jan. 29, 2024)	7
Cornell University, <i>University Mission</i> , https://tinyurl.com/yymdtgkx (last visited Jan. 29, 2024)	5
Dartmouth College, <i>Liberal Arts at the Core</i> , https://tinyurl.com/y5mku5ul (last visited Jan. 29, 2024)	5
Duke University, <i>Indenture of James B. Duke Establishing the Duke Endowment</i> , at 24 (1924), https://tinyurl.com/y4dzoeq2	5

TABLE OF AUTHORITIES

	Page(s)
<i>Durbin: Let's Show The American Dream Is Still Alive By Passing The Dream Act</i> (Sept. 12, 2017), https://tinyurl.com/y69m6nmd (last visited Jan. 24, 2024).....	19
Harvard College Admissions, <i>Admissions</i> , http://tinyurl.com/y3yabcxu (last visited Jan. 29, 2024).....	6
Harvard College Financial Aid Office, <i>How Aid Works</i> , https://tinyurl.com/y3zylrq5 (last visited Jan. 29, 2024).....	7
Harvard University, <i>The Charter of the President and Fellows of Harvard College, Under the Seal of the Colony of Massachusetts Bay, and Bearing the Date May 31st A.D. 1650</i> , https://tinyurl.com/yxdudz56t	5
Institute for Immigration, Globalization, & Education, <i>In the Shadows of the Ivory Tower: Undocumented Undergraduates and the Liminal State of Immigration Reform</i> 7 (2015), https://tinyurl.com/y6kvtafm	10
Jake Miller, <i>White Coats for DACA</i> , HARVARD MED. SCH. NEWS (Sept. 14, 2017), https://tinyurl.com/y6rudqvx	21
Jin Park, <i>I'm a Dreamer and a Rhodes Scholar. Where Do I Belong?</i> , THE N.Y. TIMES (Jan. 11, 2019), https://tinyurl.com/y76482pd	12
Johns Hopkins University, <i>Study Abroad</i> , http://tinyurl.com/56ejpfsh (last visited Jan. 29, 2024).....	16
L. Rafael Reif, Former President of MIT, Trump Should Not Repeal DACA, BOSTON GLOBE (Aug. 31, 2017), https://tinyurl.com/y6wyq239	4, 19
Letter from Caltech President Thomas F. Rosenbaum to The Caltech Community (Sept. 5, 2017), https://tinyurl.com/y3u5meyq	3
Letter from Cornell University President Martha E. Pollack to President Donald J. Trump (Aug. 31, 2017), https://tinyurl.com/y4ufuhod	3
Letter from Former Harvard University President Drew Gilpin Faust to President Donald J. Trump Regarding DACA (Aug. 28, 2017), https://www.harvard.edu/president/news/2017/letter-to-president-trump-regarding-daca	2-3, 23
Letter from Former Washington University in St. Louis Chancellor Mark S. Wrighton to President Donald J. Trump (Sept. 1, 2017), https://tinyurl.com/y48e7tof	3
Liz Mineo, <i>Ask the Undocumented</i> , HARVARD GAZETTE (May 4, 2017), https://tinyurl.com/y5ufmbms	11

TABLE OF AUTHORITIES

	Page(s)
MIT Student Financial Services, <i>Making MIT Affordable</i> , https://tinyurl.com/y523kn2e (last visited Jan. 29, 2024)	7
MIT, <i>MIT Mission Statement</i> , http://tinyurl.com/yc49trah (last visited Jan. 29, 2024)	5
New York University Admissions, <i>Undocumented Students</i> , https://tinyurl.com/y3v8zmg3 (last visited Jan. 29, 2024)	7
Northwestern University, <i>About the Global Learning Office</i> , https://tinyurl.com/y335nlrj (last visited Jan. 29, 2024).....	16
Press Release, City of Gaithersburg, Resolution of the Mayor and City Council Reaffirming the City's Commitment to Diversity, Inclusion, Freedom and Justice and Denouncing Anti-Immigrant Speech, Hate Crimes and Harassment (Aug. 22, 2018), http://tinyurl.com/36wesmsx	13
Roberto Torres, <i>These 3 Companies Are Coming to the Pennovation Center</i> , TECHNICAL.LY (June 30, 2016), https://tinyurl.com/y2sa6sl6	20
Santiago Tobar Potes, <i>DACA Student: Deporting Me and 800,000 Dreamers Is a Man-Made Disaster That Will Be Terrible for US</i> , FOX NEWS (Sept. 5, 2017), https://tinyurl.com/y6sdxvsr	8
Stanford University, <i>The Founding Grant with Amendments, Legislation, and Court Decrees</i> , at 24 (1885), https://tinyurl.com/y69s9ph7	5
Stephanie Leutert, <i>Undocumented in the Ivy League</i> , AM. Q. (May 5, 2015), https://tinyurl.com/y36yanvr	10
<i>Teach for America, Immigrants and Refugees</i> , https://tinyurl.com/yxkxbq75 (last visited Jan. 24, 2024)	19-20
Troy Parks, <i>Med Student 'Dreamers' Speak Out on Maintaining DACA Protections</i> , AMA WIRE (Feb. 13, 2017), https://tinyurl.com/zg8p8vd	21
Yale Admissions, <i>What Yale Looks For</i> , https://tinyurl.com/y2cxrqht (last visited Jan. 29, 2024).....	6
Rules	
Fed. R. App. P. 29(a)	1

INTEREST OF *AMICI CURIAE*¹

Amici are nineteen distinguished American institutions of higher education. Though important differences exist among them, *amici* share a common mission to educate the next generation of leaders with the talent, creativity, and drive to solve society's most pressing problems. In furtherance of that objective, *amici* have admitted undocumented students who benefitted from the protections and opportunities provided by the Deferred Action for Childhood Arrival ("DACA") program. Like their classmates, the DACA students on *amici*'s campuses make enormous contributions to our educational institutions and our country.

The colleges and universities that are signatories to this brief have an interest in each of their undocumented students' welfare and ability to obtain a full and complete higher education. *Amici* also have an interest in ensuring that when these students graduate, they are able to put their education to its highest use. Since DACA was established more than a decade ago, it has allowed *amici*'s students to do just that. The district court's decision permanently enjoining DACA jeopardizes *amici*'s interests by harming their students.

¹ This brief is submitted under Federal Rule of Appellate Procedure 29(a), and all parties to this appeal have either consented to or do not oppose the filing of this brief. Undersigned counsel for amici curiae certify that this brief was not authored in whole or part by counsel for any of the parties; no party or party's counsel contributed money for the brief; and no one other than amici and their counsel have contributed money for this brief.

INTRODUCTION AND SUMMARY OF ARGUMENT

Amici institutions have educated and helped launch the careers of many celebrated leaders and innovators in all fields, including more than 200 Nobel Prize recipients, half of the astronauts who have walked on the moon, dozens of Fortune 500 CEOs, and numerous Academy Award and Pulitzer Prize-winning artists and authors. Every day, *amici*'s alumni can be found teaching in our schools, performing cutting-edge research, discovering ground-breaking technology, healing patients in our hospitals, starting businesses, leading our armed forces, and reporting on current events for local and global news outlets. This is no coincidence, but rather a reflection of *amici*'s principal objective: to improve the human condition by educating the next generation of people with the talent, drive, and heart needed to identify and solve society's most pressing problems.

To further this mission, all *amici* institutions have admitted students who have applied for and been granted relief from removal under the DACA program. “[L]ike their peers,” the DACA students on *amici*'s campuses “are extraordinarily talented young people who . . . aspire to be leaders in public service, science, business, medicine, and the arts. They embody the drive and determination that has made the United States the most prosperous and innovative country in the world.”²

² Letter from Former Harvard University President Drew Gilpin Faust to President Donald J. Trump Regarding DACA (Aug. 28, 2017), <https://www.harvard.edu/president/news/2017/letter-to-president-trump-regarding->

And by virtue of DACA—which protects certain undocumented immigrants from near-term deportation, allows them to work lawfully, and enables them to travel abroad—these students have been able for the first time to access educational and life opportunities on nearly equal terms with their peers.

If affirmed, the district court’s permanent injunction of the DACA program will preclude the remarkable students who enroll at *amici* institutions from obtaining the full benefit of their time on our campuses. It would also undermine *amici*’s educational missions by hindering their ability to attract and educate the most talented young people.³ Indeed, ending DACA would force future scholars, innovators, and leaders to choose between withdrawing to the margins of our society and national economy or returning to countries that they have never called

daca. *See also*, e.g., Letter from Cornell University President Martha E. Pollack to President Donald J. Trump (Aug. 31, 2017), <https://tinyurl.com/y4ufuhod> (“I believe that our DACA students are ‘incredible kids.’ . . . It would be more than a shame if you . . . extinguish so many bright and productive futures just as they are getting started.”); Letter from Former Washington University in St. Louis Chancellor Mark S. Wrighton to President Donald J. Trump (Sept. 1, 2017), <https://tinyurl.com/y48e7tof> (“I believe that abandoning DACA would not be in our national interest.”).

³ Letter from Caltech President Thomas F. Rosenbaum to The Caltech Community (Sept. 5, 2017), <https://tinyurl.com/y3u5meyq> (ending DACA “cuts to the core of what we stand for as an educational institution: to identify, attract, and support talented individuals, and to create a community where students, staff, and faculty alike can learn from each other and thrive”).

home. Whatever they choose, their gifts and education will be lost to this nation.

Amici therefore urge this Court to reverse the decision below.

Amici submit this brief to inform the Court about their experiences with the DACA students on their campuses and to warn of the consequences—to the students, *amici*, and the country—of ending DACA. At this time of profound challenges—from violent conflicts to climate change and income inequality—the importance of *amici*’s shared mission of advancing and improving the human condition through teaching and research comes into sharper focus. To achieve their ambitious goals of advancing knowledge and improving our society, schools must be able to identify and educate the very best students, and those students must be able to work after graduation. Ending DACA would unjustly sideline a discrete group of students. As one of *amici*’s past Presidents put it when DACA’s future was first in jeopardy, no student—*amici*’s or otherwise—should be forced to live in constant fear of “losing the opportunities they earned, the communities they think of as home, and the nation they love.”⁴ Nor should the nation lose the benefits of any student’s full participation in our society.

⁴ L. Rafael Reif, Former President of MIT, Trump Should Not Repeal DACA, BOSTON GLOBE (Aug. 31, 2017), <https://tinyurl.com/y6wyq239>.

ARGUMENT

I. DACA RECIPIENTS ENROLLED AT *AMICI* INSTITUTIONS ARE REPRESENTATIVE OF *AMICI*'S GIFTED AND MOTIVATED STUDENT BODIES

Amici are united in a core mission: to educate extraordinary students from diverse backgrounds and prepare them for leadership, active citizenship, and achievement in every field of human endeavor. Each of *amici*'s schools, to borrow from one, “educates the most promising students and prepares them for a lifetime of learning and of responsible leadership.”⁵ Whether pulled from *amici*'s founding charters⁶ or their current websites,⁷ these clearly stated educational objectives

⁵ Dartmouth College, *Liberal Arts at the Core*, <https://tinyurl.com/y5mku5ul> (last visited Jan. 29, 2024).

⁶ See, e.g., Duke University, *Indenture of James B. Duke Establishing the Duke Endowment*, at 24 (1924), <https://tinyurl.com/y4dzoeq2> (calling for courses of instruction in areas that “can do most to uplift mankind” and “help to develop our resources, increase our wisdom and promote human happiness”); Stanford University, *The Founding Grant with Amendments, Legislation, and Court Decrees*, at 24 (1885), <https://tinyurl.com/y69s9ph7> (Stanford University’s “chief object is the instruction of students with a view to producing leaders and educators in every field of science and industry”); Harvard University, *The Charter of the President and Fellows of Harvard College, Under the Seal of the Colony of Massachusetts Bay, and Bearing the Date May 31st A.D. 1650*, <https://tinyurl.com/yxdudz56t> (Harvard’s mission includes “the advancement of all good literature arts and sciences”).

⁷ See, e.g., Cornell University, *University Mission*, <https://tinyurl.com/yymdtgxx> (last visited Jan. 29, 2024) (Cornell University’s “mission is to discover, preserve and disseminate knowledge, to educate the next generation of global citizens, and to promote a culture of broad inquiry throughout and beyond the Cornell community”); MIT, *MIT Mission Statement*, <http://tinyurl.com/yc49trah> (last visited Jan. 29, 2024) (MIT’s goal “is to advance

govern how *amici* “determine for [themselves] on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study.” *Sweezy v. New Hampshire*, 354 U.S. 234, 263 (1957) (Frankfurter, J., concurring) (quotation omitted).

To fulfill their missions, *amici* devote substantial resources to identifying, recruiting, and retaining exceptional young people from around the globe. Of course, *amici* seek students with the scholarship record to excel in their classrooms, but given the great number of applications that *amici* receive—well in excess of the number of students they can admit—academic merit alone is insufficient for admission. *Amici* therefore undertake an intensive application review process to identify those students “who w[ill] make the most of the extraordinary resources” they have to offer, “those with a zest to stretch the limits of their talents, and those with an outstanding public motivation—in other words, applicants with a concern for something larger than themselves.”⁸ Additionally,

knowledge and educate students in science, technology, and other areas of scholarship that will best serve the nation and the world in the 21st century”).

⁸ Yale Admissions, *What Yale Looks For*, <https://tinyurl.com/y2cxrqht> (last visited Jan. 29, 2024); see also Harvard College Admissions, *Admissions*, <http://tinyurl.com/y3yabcxu> (last visited Jan. 29, 2024) (The Admissions Committee considers a student’s “community involvement, leadership and distinction in extracurricular activities, and personal qualities and character.”); Brown University, *Undergraduate Admission*, <https://tinyurl.com/y7syjs2m> (last visited Jan. 29, 2024) (“We will consider how your unique talents,

amici have worked to ensure that the most qualified students can enroll in their institutions, irrespective of their socioeconomic and immigration status.⁹

The DACA students who attend and have graduated from *amici* institutions were selected because they are outstanding students. Like their classmates, these young people were valedictorians, student government leaders, varsity athletes, inventors, academic award winners, accomplished artists, and role models for younger children in their communities. And like many of their classmates, they are the pride of the neighborhoods in which they grew up—“local kids who made good.” To take just a few examples:

accomplishments, energy, curiosity, perspective and identity might weave into the ever-changing tapestry that is Brown University.”).

⁹ Indeed, many of *amici* provide at least their undergraduate students complete, need-based financial aid. *See, e.g.*, Harvard College Financial Aid Office, *How Aid Works*, <https://tinyurl.com/y3zylrq5> (last visited Jan. 29, 2024) (Harvard “meet[s] 100 percent of [the] students’ demonstrated financial need” for undergraduate education irrespective of citizenship status); MIT Student Financial Services, *Making MIT Affordable*, <https://tinyurl.com/y523kn2e> (last visited Jan. 29, 2024) (MIT promises its undergraduate applicants that once they are admitted, the university is “committed to meeting 100% of demonstrated financial need with our aid.”); Columbia Undergraduate Admissions, *Undocumented Students and DACA*, <https://tinyurl.com/yyf2p7e5> (last visited Jan. 29, 2024) (Columbia is committed to “meet[ing] 100% of the demonstrated financial need of all students admitted as first-years, or transfer students pursuing their first degree, regardless of citizenship status”); New York University Admissions, *Undocumented Students*, <https://tinyurl.com/y3v8zmg3> (last visited Jan. 29, 2024) (“As an undocumented student at New York University you are eligible for the same scholarships and financial aid as fellow documented students.”).

- Santiago Tobar Potes, a 2020 cum laude graduate of Columbia University, was a straight-A student in high school, scored at the highest levels on state and national academic tests, speaks nine languages, and is an accomplished violinist who gave free lessons to impoverished youth in his hometown of Miami, Florida.¹⁰ Because of DACA, Santiago was able to attend the University of Oxford as a Rhodes Scholar and has been able to work as a patent acquisition intern in London, an athlete in São Paulo, and a researcher for a journalist in New York.¹¹
- Johan Villanueva graduated from MIT in 2020 with a major in chemical engineering after graduating second in his class from the largest public high school in Chicago. Johan now works in an operation management role for a quantitative hedge fund, managing complicated math systems. His fund has plans to expand internationally, and Johan's DACA status will allow him to travel abroad and represent his workplace on the global stage.

¹⁰ Santiago Tobar Potes, *DACA Student: Deporting Me and 800,000 Dreamers Is a Man-Made Disaster That Will Be Terrible for US*, FOX NEWS(Sept. 5, 2017), <https://tinyurl.com/y6sdxvsr>.

¹¹ This anecdote—along with those discussed *infra* about, Johan Villanueva, Maria De La Cruz Perales Sanchez, Sergio Jara Reynoso, Dr. Dalia Larios, Luz Chavez Gonzales, Barbara Olachea Lopez Portillo, Jose Gomez, Paul Gastello, Cristina Velasquez, Blanca Morales, and Jaida Forbes—were provided for this brief by *amici* or the individuals themselves.

- Maria De La Cruz Perales Sanchez, a 2018 graduate from Princeton University, is now a second-year law student at Yale Law School, focusing on the intersection of international law and domestic immigration policy. Previously, she served as Senior Policy Manager at Centro de los Derechos del Migrante, where she led gender-focused advocacy and policy efforts to ensure migrant workers' perspectives are represented in policies that impact them directly. Maria hopes that her law school experience will help her develop the skills she needs to continue to make a difference in her community.
- Sergio Jara Reynoso graduated from Harvard University in 2023 with a degree in computer science. As a junior at Harvard, Sergio started his own tech contracting business and provided his services to a technology startup in California. He is now a software developer for a financial services company and continues to run his contracting business.

DACA students' presence on *amici's* campuses is all the more notable given the enormous challenges that undocumented youth face in order to obtain a higher education. To start, the vast majority of these students have grown up in households that survive on incomes far below the federal poverty line, and most

are the first persons in their families to attend college.¹² Additionally, these students often cope with family instability and anxiety relating to their undocumented status.¹³ As one DACA alumna of Yale explained:

[The] challenges . . . start in high school—when many undocumented students, seeing no way out of their limbo status, lose motivation. Others pick up jobs on the side to financially help their families, slowly drifting away from their classwork. Even for those who remain dedicated to their classes, studies show a lack of information regarding university options and an inability to obtain financial aid obstructs the path to higher education.¹⁴

Given the significant adversity that DACA students have surmounted prior to even applying to *amici* institutions, it is no surprise that they have also excelled on *amici*'s campuses and beyond. Dr. Dalia Larios was the first DACA recipient accepted to Harvard Medical School, where she pursued her passion: curing cancer. Indeed, she remained in medical school for an extra year to study novel therapies for mesothelioma and lung cancer and has presented her research at numerous conferences and published several manuscripts. During the peak of the

¹² See Institute for Immigration, Globalization, & Education, *In the Shadows of the Ivory Tower: Undocumented Undergraduates and the Liminal State of Immigration Reform* 7 (2015), <https://tinyurl.com/y6kvtafm> (reporting on a survey of undocumented students that found “61.3% . . . had an annual household income below \$30,000” and 67.6% were first-generation college students).

¹³ *Id.* at 2 (“[Undocumented youth] are disproportionately more likely to grow up in poverty, crowded housing, lacking health care, and residing in households where families have trouble paying rent and affording food.”).

¹⁴ Stephanie Leutert, *Undocumented in the Ivy League*, AM. Q. (May 5, 2015), <https://tinyurl.com/y36yanvr>.

COVID-19 pandemic, Dr. Larios worked the intensive care (ICU) and oncology units at Brigham and Women's Hospital where she cared for critically ill COVID-19 patients. During this time, she also worked with hospital leadership to help develop guidelines focused on improving health equity in populations disproportionately affected by COVID-19.

Jin Park was born in South Korea and came to New York City at age 7.¹⁵ Growing up, Park understood that his family was different: "I knew that my family couldn't get a car, that we didn't have health care, and that we should avoid busy streets, where immigration raids often take place[,] . . . but I didn't quite understand it."¹⁶ In high school, a Manhattan hospital rejected him from an internship program on that basis. Jin credits DACA with giving him the confidence to apply to college to pursue his dream of becoming a "doctor to work on policies to help the most vulnerable."¹⁷ Indeed, his professional goals are an outgrowth of his experience growing up undocumented: "When I was 11, I had to search online how to treat a burn at home because my father had been burned at work and couldn't go to the hospital."¹⁸ A 2018 Harvard graduate and Class Day speaker, Jin

¹⁵ Jin Park is an Intervenor Defendant in this case.

¹⁶ Liz Mineo, *Ask the Undocumented*, HARVARD GAZETTE (May 4, 2017), <https://tinyurl.com/y5ufmbms>.

¹⁷ *Id.*

¹⁸ *Id.*

is the first DACA recipient of a Rhodes Scholarship.¹⁹ Without DACA, Jin would not have been able to travel to the United Kingdom to participate in this prestigious program.

II. ENDING DACA WOULD HARM *AMICI*'S STUDENTS AND ALUMNI, AND DEPRIVE BOTH *AMICI* INSTITUTIONS AND THE COUNTRY OF THEIR PROMISE

A. Ending DACA Would Have a Devastating Impact on DACA Students

DACA students are American in everything except immigration status. They came of age in this country, excelling in our elementary, middle, and high schools. Still more, an amazing number of these young people have demonstrated their dedication to this country's ideals by actively engaging in its civic life to the full extent permitted by law. Even before their arrival on our campuses, many of *amici*'s students and alumni led voter registration drives, testified before state and federal legislative bodies, wrote letters to the editor, and participated in documentary film projects. And they continue to do so today—despite the potential consequences for themselves, their friends, and their loved ones. In short, many of these young people have engaged in precisely the kind of courageous civic activities that are crucial to the continued vitality of our democracy.

¹⁹ Jin Park, *I'm a Dreamer and a Rhodes Scholar. Where Do I Belong?*, THE N.Y. TIMES (Jan. 11, 2019), <https://tinyurl.com/y76482pd>.

While DACA does not provide our students and alumni a path to citizenship, it does offer them a measure of security and access to opportunities for educational and professional development. As Luz Chavez Gonzales, a recent Georgetown graduate, put it:

DACA allowed me a sense of support through higher education and open[ed] career opportunities for myself. I was able to work without fear, drive without fear, and allow myself to be open about my status to inspire others to do the same.

DACA gave Luz the confidence to speak out on behalf of other vulnerable members of her community. In 2018, Luz led a successful campaign to pass an ordinance in her hometown of Gaithersburg, Maryland to protect individuals against discrimination on the basis of factors such as immigration status, sexual orientation, race, and national origin.²⁰

The same goes for Barbara Olachea Lopez Portillo, who graduated in the spring of 2019 from Dartmouth, where she double-majored in film and media studies and sociology. Barbara was the valedictorian of her high school class in Phoenix, Arizona, the secretary of her school's student government, and an active participant in various other extracurricular activities, including Inspire Arizona, an organization that promotes civic engagement. Relying on her DACA status,

²⁰ See Press Release, City of Gaithersburg, Resolution of the Mayor and City Council Reaffirming the City's Commitment to Diversity, Inclusion, Freedom and Justice and Denouncing Anti-Immigrant Speech, Hate Crimes and Harassment (Aug. 22, 2018), <http://tinyurl.com/36wesmsx>.

Barbara has been able to pursue a career in post-production in Los Angeles. She has served as an assistant editor for LATV Network, processed major television shows and features at leading post facilities such as Picture Shop and Company 3 and currently works as a Media Engineer at Fox Entertainment, where she helps develop promotional videos for scripted and unscripted programming.

Ending DACA would take from Luz, Barbara, and hundreds of thousands of strivers like them the sense of safety and possibility that they deserve and have come to rely on. Indeed, as the Supreme Court has recognized, since DACA was enacted in 2012, “DACA recipients have ‘enrolled in degree programs, embarked on careers, started businesses, purchased homes, and even married and had children, all in reliance’ on the DACA program.” *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 140 S. Ct. 1891, 1914 (2020) (quoting respondents’ brief). Many other courts have similarly recognized the significant interests DACA recipients have in its continuation. See *Regents of Univ. of Cal. v. U.S. Dep’t of Homeland Sec.*, 908 F.3d 476, 486 (9th Cir. 2018) (“DACA also allows recipients to apply for authorization to work in this country legally, paying taxes and operating in the above-ground economy. . . . [H]undreds of thousands of . . . young people, trusting the government to honor its promises, leapt at the opportunity.”); *NAACP v. Trump*, 298 F. Supp. 3d 209, 240 (D.D.C. 2018) (“Because DHS failed to even acknowledge how heavily DACA beneficiaries had come to rely on the

expectation that they would be able to renew their DACA benefits, its barebones legal interpretation was doubly insufficient and cannot support DACA's rescission."); *Batalla Vidal v. Nielsen*, 279 F. Supp. 3d 401, 431 (E.D.N.Y. 2018) ("[E]ducational institutions have enrolled DACA recipients who, if they lose their DACA benefits, may be forced to leave the United States or may see little need to continue pursuing educational opportunities."); *Regents of Univ. of Cal. v. U.S. Dep't of Homeland Sec.*, 279 F. Supp. 3d 1011, 1046 (N.D. Cal. 2018) ("DACA recipients, their employers, their colleges, and their communities all developed expectations based on the possibility that DACA recipients could renew their deferred action and work authorizations for additional two-year periods.").

Through no fault of their own, these young people would face the prospect of having to return to a life in which they have little chance of making the best use of their hard-earned skills and knowledge, or, worse still, being removed altogether and forced to make their way in a "home" country that is wholly foreign to them.

Ending the DACA program also would send a clear message to the more than one million undocumented children in the United States that the trails *amici's* students and alumni have blazed lead nowhere and are not worth following. That message is antithetical to the commitment to equal opportunity on which this country was founded, raising "the specter of a permanent caste of undocumented [immigrants] . . . denied the benefits that our society makes available to citizens

and lawful residents.” *Plyler v. Doe*, 457 U.S. 202, 218–19 (1982). Rather than serving our country’s interests, ending DACA will deprive our society of the many contributions these young people are prepared and eager to make.

B. Ending DACA Would Prevent Undocumented Students From Fully Benefitting From and Contributing To *Amici*’s Institutions

Consistent with their missions, *amici* are committed to providing a full and complete education to all of their enrolled students—anything less is insufficient to prepare them to identify and solve the consequential problems that *amici* expect their alumni to address over the course of their careers. DACA helps *amici* achieve this objective by making it possible for undocumented students to participate in educational work opportunities, such as off-campus internships and on-campus research with university faculty. It also allows them to conduct field work outside of the United States and participate in *amici*’s varied study abroad programs.²¹ By participating in these experiences, students generate questions for further exploration during their time on campus and begin to chart their course for after graduation.

²¹ Indeed, *amici* have emphasized the importance of study abroad programs to better prepare students to build “global competence” and navigate careers in an interconnected world. *See, e.g.*, Northwestern University, *About the Global Learning Office*, <https://tinyurl.com/y335nlrj> (last visited Jan. 29, 2024); Johns Hopkins University, *Study Abroad*, <http://tinyurl.com/56ejpfsh> (last visited Jan. 29, 2024) (“As a university with a global perspective, we encourage our students to think beyond Baltimore, to see themselves as citizens of the world.”).

For instance, during his time at MIT, Jose Gomez, who came to the United States from northern Mexico when he was five years old, participated in MIT's Undergraduate Research Opportunity Program at the MIT Space Systems Laboratory, where, among other things, he participated as a flyer in a NASA reduced gravity flight. This work in turn resulted in Jose co-authoring a paper that was presented at an international conference in Vienna, Austria. Separately, due to DACA, Jose was eligible to participate in an externship at a startup company that develops robots to improve the efficiency of e-commerce order fulfillment. During this externship, Jose led the development of a tactile sensor kit for a robotic hand and designed and prototyped robotic finger mechanical components using 3D printed parts and rubber casting. Given this achievement, it is no surprise that the startup asked Jose to return as an applications engineer after he graduated with a Bachelor's of Aerospace Engineering in June 2017. He has now worked at the company for seven years and oversees his own team of engineers. Jose's work is also integrated into products used by customers in North America, Europe, and Japan. Jose explained: "If DACA didn't exist today, I would still be in my hometown in Texas. I'm not sure I would have even graduated college." Without DACA, Jose's story would not have been possible.

Paul Gastello has a similar story. Paul grew up in New York and was the first person in his family to go to college. He studied government at Dartmouth,

but was unable to find a job through the on-campus recruiting process his senior year because of his immigration status. For Paul, DACA changed everything.

When DACA was announced, Paul decided to take a year off from college to gain the work experience that he needed to pursue a career in finance. During that year, Paul interned with a private investment management company and subsequently accepted an offer to return as a full-time employee after he graduated in 2014. Paul stayed with that company for four years before taking a job analyzing strategic financing opportunities for a startup company that operates an online marketplace for the sale of new and used clothing. He is now pursuing a career as an entrepreneur. Due to the opportunities afforded by DACA, Paul has been able to support his aging parents, who endured many hardships to give him access to freedom and economic security.

C. Ending DACA Would Deprive the Nation of Invaluable Resources

The DACA students at *amici* institutions—and the many thousands more enrolled at other colleges and universities—are by definition the product of this nation’s education system and the communities that support it. Through the opportunities provided by American institutions of higher education all over this country, including *amici*’s, these young people now have the skills to give back—in ways big and small—to the country that raised them. And they want nothing

more than the opportunity to do so. “[D]riving them out” now “would be throwing away a tremendous national investment” for no discernible benefit.²²

Take Cristina Velasquez, whose mother brought her to Madison, Wisconsin, when she was six years old. In a letter to Senator Richard Durbin of Illinois, Cristina wrote that her values and attitude were shaped by the people surrounding her during her childhood, especially their “compassion, patience and hard work.” During middle school, Cristina’s family relocated to Florida, where she went on to graduate from high school with impeccable grades and a track record of community engagement, but she could not afford to attend college. After taking a gap year to focus on saving money, Cristina enrolled at Miami-Dade Community College before transferring to the Georgetown School of Foreign Service, from which she graduated in 2017. While at Georgetown, Cristina spent both of her summers working with high-achieving, low-income middle school students, and she received several awards for her academic achievement and commitment to public service. After graduation, Cristina returned to the classroom as one of more than 300 DACA recipients who have taught some of our nation’s most marginalized and vulnerable youth through Teach for America.²³ Cristina taught

²² Reif, *supra*, note 4.

²³ Durbin: *Let’s Show The American Dream Is Still Alive By Passing The Dream Act* (Sept. 12, 2017), <https://tinyurl.com/y69m6nmd>; *Teach for America*,

for four years in D.C. public schools before transitioning to her current role as a Senior Associate at a global policy think tank. She will begin law school in the fall of 2024 and plans to use her education to continue to advocate for others.

Consider, too, Alfredo Muniz, who arrived with his parents in Houston, Texas when he was only a year old and went on to earn a full scholarship to attend the University of Pennsylvania, from which he graduated in 2016 with undergraduate and graduate degrees in mechanical engineering and robotics.²⁴ While at Penn, Alfredo and a classmate developed XEED, a sensor-based system that collects and transmits data about limb movement in individuals with Parkinson's disease.²⁵ Healthcare professionals and patients can use this information to better assess the disease's progress and the effectiveness of treatment. The project, which has the potential to help hundreds of thousands of patients around the world, was awarded the 2016 University of Pennsylvania President's Innovation Prize, which was accompanied by \$100,000 to support its further development.²⁶

Immigrants and Refugees, <https://tinyurl.com/yxkxbq75> (last visited Jan. 24, 2024).

²⁴ Amanda Mott, *Inaugural President's Innovation Prize Winners Announced at Penn*, PENNNEWS (Apr. 20, 2016), <https://tinyurl.com/y5juheqm>.

²⁵ *Id.*

²⁶ Roberto Torres, *These 3 Companies Are Coming to the Pennovation Center*, TECHNICALLY (June 30, 2016), <https://tinyurl.com/y2sa6sl6>.

Blanca Morales arrived in the United States when she was five years old. She “believed [her] teachers when they said that if [she] just worked hard enough, [she] could achieve great things.”²⁷ Heeding their advice, Blanca graduated as the valedictorian of her community college class and with Latin honors from the University of California, Irvine, where she earned a bachelor’s in neurodevelopmental biology. DACA enabled her to apply to medical school, and she went on to receive a scholarship to attend Harvard Medical School.²⁸ Blanca is currently a resident physician at the University of California, San Francisco, in the field of Obstetrics, Genecology, and Reproductive Sciences. Without DACA, Blanca would be “left to wonder if [she] will be deported” before she has the opportunity to help her community in a direct way.²⁹ “When I received this white coat, I took an oath to act whenever there are injustices and to embrace my duty to advocate for patients,” Blanca said. “The end of DACA would put an end to my direct ability to treat pelvic cancers, reduce morbidity and mortalities from high-risk pregnancies, and provide preventive gynecological care to women. I have

²⁷ Troy Parks, *Med Student ‘Dreamers’ Speak Out on Maintaining DACA Protections*, AMA WIRE (Feb. 13, 2017), <https://tinyurl.com/zg8p8vd>.

²⁸ *Id.*

²⁹ Jake Miller, *White Coats for DACA*, HARVARD MED. SCH. NEWS (Sept. 14, 2017), <https://tinyurl.com/y6rudqyv>.

spent my entire academic career preparing to be a doctor. DACA has enabled me to pursue medicine, but without [it], I cannot fulfill my duty to serve my patients.”

The district court’s injunction has jeopardized the future of some of *amici*’s students. At the time of the decision, Jaida Forbes was a sophomore at Georgetown University majoring in government, with plans to go to law school after graduation. In December of 2020, when Jaida was first eligible, she immediately submitted her DACA application. She was looking forward to travelling to England to see her family and feeling safer in a country she had grown up in almost her entire life. Since the district court’s ruling, Jaida’s life has been “in limbo.” Jaida’s current status has prevented her from taking advantage of numerous internships and job opportunities in D.C. And her dreams of going to law school after graduation are on hold due to the extreme costs of graduate school and her inability to work and save up money.

Cristina, Alfredo, Blanca, Jaida, and countless others like them have “bound” themselves to this nation through their “hard work, perseverance, grit and determination to succeed.”³⁰ And this nation, in turn, has bound itself to them. The United States now stands to benefit greatly by permitting the young people that it

³⁰ *Brown President Urges Trump to Continue DACA*, BROWN UNIV. NEWS (Aug. 30, 2017), <https://tinyurl.com/yxcceope>.

has raised “to put their skills to their highest use.”³¹ “[F]orcing them to return to the shadows of our society”—or out of the country entirely—by ending the DACA program would be a tragic mistake.³²

CONCLUSION

For the foregoing reasons, ending the DACA program would impede *amici*’s ability to advance their missions, impose a direct harm on their current students and alumni, and deprive the United States of the benefit of DACA students’ considerable talents. Accordingly, the Court should reverse the decisions below.

³¹ Faust, *supra*, note 2.

³² *Id.*

Respectfully submitted,

/s/ Anton Metlitsky

Anton Metlitsky

David Z. Cohen

Cari Manning

Jacqueline Monnat

O'MELVENY & MYERS LLP

Times Square Tower

7 Times Square

New York, NY 10036

(212) 326-2000

ametlitsky@omm.com

Attorneys for Amici Curiae

Nineteen Colleges and Universities

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of February, 2024 I electronically filed the foregoing with the Clerk of the Court for the U.S. Court of Appeals for the Fifth Circuit by using the appellate CM/ECF system. All participants are registered CM/ECF users, and will be served by the appellate CM/ECF system.

Dated: February 1, 2024

Respectfully submitted,

/s/ Anton Metlitsky
Anton Metlitsky
O'MELVENY & MYERS LLP
Times Square Tower
7 Times Square
New York, NY 10036
(212) 326-2000

CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitations of Fed. R. App. P. 32(a)(7)(B)(i) because this brief contains 5,417 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f).

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word in Times New Roman 14-point font.

Dated: February 1, 2024

Respectfully submitted,

/s/ Anton Metlitsky
Anton Metlitsky
O'MELVENY & MYERS LLP
Times Square Tower
7 Times Square
New York, NY 10036
(212) 326-2000