

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK**

MARTÍN JONATHAN BATALLA VIDAL,
ANTONIO ALARCON, ELIANA FERNANDEZ,
CARLOS VARGAS, MARIANO MONDRAGON,
and CAROLINA FUNG FENG, on behalf of
themselves and all other similarly situated
individuals, and MAKE THE ROAD NEW YORK,
on behalf of itself, its members, its clients, and all
similarly situated individuals.

Plaintiffs,

v.

KIRSTJEN M. NIELSEN, Secretary of the
Department of Homeland Security, JEFFERSON
BEAUREGARD SESSIONS III, Attorney General
of the United States, and DONALD J. TRUMP,
President of the United States,

Defendants.

**PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

Case No. 1:16-cv-04756 (NGG) (JO)

Pursuant to Federal Rules of Civil Procedure 65, Plaintiffs—Martín Jonathan Batalla Vidal, Antonio Alarcon, Eliana Fernandez, Carlos Vargas, Mariano Mondragon and Carolina Fung Feng, on behalf of themselves and a proposed nationwide class of similarly situated individuals, and Plaintiff Make The Road New York, on behalf of itself and its members and clients—hereby move for a preliminary injunction of Defendants' termination of the Deferred Action for Childhood Arrivals ("DACA") program. Plaintiffs' motion is supported by the accompanying memorandum of law, declarations and exhibits.

As explained in the accompanying memorandum, Plaintiffs are likely to succeed on their claims that Defendants' termination of DACA was arbitrary and capricious and violated the procedural requirements of both the Administrative Procedure Act ("APA") and the Regulatory Flexibility Act ("RFA"). Defendants' termination of the DACA irreparably harms Plaintiffs and

members of the proposed class, and the balance of the equities and the public interest heavily favor provisional relief and a return to the status quo prior to the September 5, 2017 termination.

Dated: December 15, 2017

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CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2017, a true and correct copy of the foregoing Motion for Preliminary Injunction, the accompanying memorandum of law, and all supporting declarations and exhibits were filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF system.

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**MEMORANDUM OF LAW IN
SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY
INJUNCTION**

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TABLE OF CONTENTS

INTRODUCTION 1

BACKGROUND 2

 I. The Benefits of DACA..... 2

 II. The Termination of DACA 6

LEGAL STANDARD..... 9

ARGUMENT..... 9

 I. The DACA Termination Is Arbitrary and Capricious 10

 A. Defendants failed to adequately explain the reasons for the DACA Termination..... 11

 B. Defendants failed to provide a reasoned explanation for their policy reversal,
 particularly in light of the serious reliance interests at stake 15

 C. Defendants failed to consider all factors relevant to the DACA Termination 19

 D. Defendants’ proffered reasoning is inadequate to justify the DACA Termination..... 20

 1. "Litigation Risk" cannot justify the DACA Termination20

 2. Any reliance on a determination that DACA is unlawful is legally erroneous 23

 E. Defendants’ proffered reasons for the DACA Termination were pretextual and given in
 bad faith..... 26

 II. DHS Did Not Comply with the APA’s Notice and Comment Requirements 28

 III. Plaintiffs Are Likely to Prevail on Their Regulatory Flexibility Act Claim 33

 IV. Plaintiffs Satisfy Other Requirements to Obtain Preliminary Relief..... 35

 A. Plaintiffs are suffering, and will continue to suffer, irreparable harm unless the Court
 grants preliminary injunctive relief..... 35

 B. The balance of equities & public interest weigh heavily in favor of provisional relief. 38

CONCLUSION..... 39

TABLE OF AUTHORITIES

Cases

Abdi v. Duke,
 No. 1:17–CV–0721 EAW, 2017 WL 5599521 (W.D.N.Y. Nov. 17, 2017)..... 39

Aeronautical Radio, Inc. v. FCC,
 928 F.2d 428 (D.C. Cir. 1991)..... 11

Am. Fed’n of Labor v. Chertoff,
 552 F. Supp. 2d 999 (N.D. Cal. 2007) 35

Am. Forest Res. Council v. Ashe,
 946 F. Supp. 2d 1 (D.D.C. 2013)..... 32

Amerijet Intern’l, Inc. v. Pistole,
 753 F.3d 1343 (D.C. Cir. 2014)..... 13, 14, 15

Ariz. Dream Act Coal. v. Brewer,
 855 F.3d 957 (9th Cir. 2017) 18, 37

Arizona v. United States,
 567 U.S. 387 (2012)..... 24

Arpaio v. Obama,
 797 F.3d 11 (DC Cir. 2015) 7

Batterton v. Marshall,
 648 F.2d 694 (D.C. Cir. 1980)..... 30

Bowen v. Am. Hosp. Ass’n,
 476 U.S. 610 (1986)..... 11, 13

Bowman Transp., Inc. v. Arkansas-Best Freight Sys., Inc.,
 419 U.S. 281 (1974)..... 21

Burlington Truck Lines, Inc. v. United States,
 371 U.S. 156 (1962)..... 21

Citizens to Pres. Overton Park, Inc. v. Volpe,
 401 U.S. 402 (1971)..... 10, 26

Cnty. Nutrition Inst. v. Young,
 818 F.2d 943 (D.C. Cir. 1987)..... 30, 31

Consumer Energy Council of Am. v. Fed. Energy Regulatory Comm'n.,
673 F.2d 425 (D.C. Cir. 1982)..... 25, 32

Crane v. Johnson,
783 F.3d 244 (5th Cir. 2015) 7

Delgadillo v. Carmichael,
332 U.S. 388 (1947)..... 14

Dickson v. Sec’y of Def.,
68 F.3d 1396 (D.C. Cir. 1995)..... 13

E.E.O.C. v. Ethan Allen, Inc.,
44 F.3d 116 (2d. Cir. 1994)..... 27

Encino Motorcars, LLC v. Navarro,
136 S. Ct. 2117 (2016)..... *passim*

Enyart v. Nat’l Conf. of Bar Exam’rs, Inc.,
630 F.3d 1153 (9th Cir. 2011) 38

Fair Hous. of Marin v. Combs,
285 F.3d 899 (9th Cir. 2002) 38

FCC v. Fox Television Stations, Inc.,
556 U.S. 502 (2009)..... *passim*

Florida Power & Light Co. v. Lorion,
470 U.S. 729 (1985)..... 26

FTC v. Sperry & Hutchinson Co.,
405 U.S. 233 (1972)..... 13

Gen. Elec. Co. v. EPA,
290 F.3d 377 (D.C. Cir. 2002)..... 30

Grand River Enter. Six Nations, Ltd. v. Pryor,
481 F.3d 60 (2d Cir. 2007)..... 36

In re Long-Distance Tel. Serv. Fed. Excise Tax Refund Litig.,
853 F. Supp. 2d 138 (D.D.C. 2012)..... 32

Int’l Refugee Assistance Project v. Trump, CV TDC-17-0361,
2017 WL 4674314 (D. Md. Oct. 17, 2017) 27

Islander E. Pipeline Co. v. Conn. Dep’t of Env’tl Protection,
482 F.3d 79 (2d Cir. 2006)..... 21

Jean v. Nelson,
711 F.2d 1455 (11th Cir. 1983) 29

Jicarilla Apache Nation v. U.S. Dep’t of Interior,
613 F.3d 1112 (D.C. Cir. 2010)..... 16

Jones v. Nat’l Conf. of Bar Exam’rs,
801 F. Supp. 2d 270 (D. Vt. 2011)..... 35, 38

Judulang v. Holder,
565 U.S. 42 (2011)..... 10, 11, 14

Lewis-Mota v. Sec’y of Labor,
469 F.2d 478 (2d Cir. 1972)..... 30

Long Island Head Start Child Dev. Servs. v. NLRB,
460 F.3d 254 (2d Cir. 2006)..... 19

Massachusetts v. EPA,
549 U.S. 497 (2007)..... 23

Mendoza v. Perez,
754 F.3d 1002 (D.C. Cir. 2014) 29

Mexichem Specialty Resins, Inc. v. EPA,
787 F.3d 544 (D.C. Cir. 2015) 21

Michigan v. EPA,
135 S. Ct. 2699 (2015)..... 19

Mo. Pub. Serv. Comm’n v. Fed. Energy Regulatory Comm’n.,
337 F.3d 1066 (D.C. Cir. 2003) 25

Motor Vehicle Mfrs. Ass’n of U.S. v. State Farm Mut. Auto. Ins. Co.,
463 U.S. 29 (1983)..... *passim*

Nat. Res. Def. Council v. EPA,
676 F. Supp. 2d 307 (S.D.N.Y. 2009)..... 32

NLRB v. Columbia Univ.,
541 F.2d 922 (2d Cir. 1976)..... 21

Nw. Mining Ass’n v. Babbitt,
5 F. Supp. 2d 9 (D.D.C. 1998)..... 34

Nat’l Audubon Soc’y v. Hoffman,
132 F.3d 7 (2d Cir. 1997)..... 26

Nat’l Ass’n of Home Builders v. U.S. Army Corps of Eng’rs,
417 F.3d 1272 (D.C. Cir. 2005)..... 33

Neil v. Biggers,
409 U.S. 188 (1972)..... 24

New England Coal. on Nuclear Pollution v. Nuclear Regulatory Comm’n,
727 F.2d 1127 (D.C. Cir. 1984)..... 11

N.Y. Pathological & X-Ray Labs., Inc. v. Immigration & Naturalization Serv.,
523 F.2d 79 (2d Cir. 1975)..... 36

N.Y. Progress & Prot. PAC v. Walsh,
733 F.3d 483 (2d Cir. 2013)..... 9, 38

Organized Vill. of Kake v. U.S. Dep’t of Agric.,
795 F.3d 956 (9th Cir. 2015) 22

Perez v. Mortg. Bankers Ass’n,
135 S. Ct. 1199 (2015)..... *passim*

Pollis v. New Sch. for Soc. Research,
829 F. Supp. 584 (S.D.N.Y. 1993) 36

Process Gas Consumers Grp. v. Consumer Energy Council of Am.,
463 U.S. 1216 (1983)..... 26, 32

Pub. Citizen v. Heckler,
653 F. Supp. 1229 (D.D.C. 1986)..... 26

Pub. Citizen v. Steed,
733 F.2d 93 (D.C. Cir. 1984)..... 20

Pub. Citizen, Inc. v. U.S. Nuclear Regulatory Comm’n,
940 F.2d 679 (D.C. Cir. 1991)..... 30

Reno v. Am.-Arab Anti-Discrimination Comm.,
525 U.S. 471 (1999)..... 23

Rodriguez ex rel. Rodriguez v. DeBuono,
175 F.3d 227 (2d Cir. 1999)..... 36

SEC v. Chenery Corp.,
(*Chenery I*), 318 U.S. 80 (1943) 13, 23

SEC v. Chenery Corp.,
(*Chenery II*), 332 U.S. 194 (1947)..... 12

Shapiro v. Cadman Towers, Inc.,
844 F. Supp. 116 (E.D.N.Y. 1994) 36

Sierra Club v. Jackson,
833 F. Supp. 2d 11 (D.D.C. 2012)..... 22

Squaw Transit Co. v. United States,
574 F.2d 492 (10th Cir. 1978) 26

Texas v. United States,
86 F. Supp. 3d 591 (S.D. Tex. 2015) 22, 25, 32

Texas v. United States,
809 F.3d 134 (5th Cir. 2015) 25

Time Warner Cable Inc. v. FCC,
729 F.3d 137 (2d Cir. 2013)..... 29

Time, Inc. v. U.S. Postal Serv.,
685 F.2d 760 (2d Cir. 1982)..... 13

Tummino v. Hamburg,
936 F. Supp. 2d 162 (E.D.N.Y. 2013) 11, 28

Tummino v. Torti,
603 F. Supp. 2d 519 (E.D.N.Y. 2009) 28

U.S. Telecom Ass’n v. FCC,
400 F.3d 29 (D.C. Cir. 2005)..... 34

United Mine Works of Am. v. U.S. Dep’t of Labor,
358 F.3d 40 (D.C. Cir. 2004)..... 22

United States v. Lott,
750 F.3d 214 (2d Cir. 2014)..... 29

United States v. Picciotto,
875 F.2d 345 (D.C. Cir. 1989)..... 29

United States v. Texas,
136 S. Ct. 2271 (2016)..... 24, 25

Winter v. Nat. Res. Def. Council, Inc.,
555 U.S. 7 (2008)..... 9, 35

Yale-New Haven Hosp. v. Leavitt,
470 F.3d 71 (2d. Cir. 2006)..... 10, 20

Zann Kwan v. Andalex Grp. LLC,
737 F.3d 834 (2d. Cir. 2013)..... 27

Federal Statutes and Regulations

5 U.S.C. § 551(4)-(5) 28, 31

5 U.S.C. § 553, (b)(3)(A)..... 28, 29, 33

5 U.S.C. § 604(a)(3)..... 34

5 U.S.C. § 611(a)(1)..... 33

5 U.S.C. § 706(2)(A), (2)(D) *passim*

5 U.S.C. §§ 601-612 33

6 U.S.C. § 202(5) 23, 27

8 U.S.C. §§ 1324(a)-(c)..... 38

8 U.S.C. § 1324a(a)(1)-(2)..... 34

8 C.F.R. § 274a.12(c)(2014) 3, 23

Retention of EB-1, EB-2, & EB-3 Immigrant Workers and Program Improvements Affecting
High-Skilled Nonimmigrant Workers, 81 Fed. Reg. 82,893 (Nov. 18, 2016).....35

Chinese Student Protection Act of 1992, Pub. L. 102-404, 106 Stat. 1969..... 3

Immigration Act of 1990, Pub. L. No. 101-649, 104 Stat. 4978 3

Section 568(c) of the Department of Homeland Security Appropriations Act, Pub. L. No. 111-83,
123 Stat. 2142, 2186 (2009)..... 3

INTRODUCTION

The Deferred Action for Childhood Arrivals (“DACA”) program provided a channel for nearly 800,000 young people—Americans in all but formal status—to request deferred action, a form of prosecutorial discretion that removed the otherwise ever-present threat of deportation. Access to deferred action transformed the lives of these young people, enabling them to attain work authorization, secure better paying jobs, pursue higher education, support their families, and plan for their future. DACA’s impact goes far beyond the individuals who received deferred action: their families, schools, employers, and communities across the country have benefitted from and relied on the opportunities DACA made possible. On September 5, 2017, Defendants abruptly terminated the program, upending the lives of millions across the country.

Defendants claim that this sweeping decision, taken without public consultation, has been sufficiently justified by a five-page memorandum (the “Duke Memo”) containing one sentence of conclusory reasoning. Defendants are wrong. Regardless of one’s views on the wisdom of DACA, the Administrative Procedure Act’s demand for accountability and transparency are violated when agencies make such a momentous decision, and upend the lives of so many, with such a scant and ambiguous explanation. So unclear is the reason for ending DACA, in fact, that the government attorneys defend the action by invoking a phrase (“litigation risk”), itself opaque, that nowhere appears in the Duke Memo or the administrative record, and then present that phrase as a talismanic incantation that dispenses entirely with the APA’s most basic requirement that agencies demonstrate that their decisions are the product of reason. Not so. Nor, for that matter, does that alleged risk obviate the need for agencies to go through notice and comment when imposing binding rules, as the Duke Memo unquestionably did.

Defendants’ decision to terminate DACA is already having widespread and catastrophic impact. Since September 5, 2017, over 11,000 DACA recipients have lost deferred action and the

ability to work lawfully in this country—a number that grows by an estimated 122 individuals daily. By March 5, 2018, approximately 22,000 young people who were unable to renew by October 5 will permanently lose their deferred action and employment authorization. Countless other individuals, businesses, and organizations have also already been affected. Without relief from this Court, nearly one million young people will lose their ability to legally work and will be at immediate risk of deportation. The impact of Defendants’ decision to terminate DACA will fall disproportionately on communities of color—93% of individuals with deferred action under DACA are Latino. *See* Wong Decl., Ex. KKK ¶ 5.

Unless this Court grants preliminary relief, DACA recipients, their families, and communities will suffer irreparable harm *each* day that Defendants’ unlawful actions are permitted to remain in place. The imminent harms facing Plaintiffs and the Plaintiff class warrant relief, and both the balance of equities and the public interest weigh in favor of granting it.

BACKGROUND

I. The Benefits of DACA

The individual Plaintiffs (“DACA Plaintiffs”), like nearly 800,000 other young people granted deferred action through the DACA program, have lived in the United States since they were children and know this country as their only home. *See* Ex. A; Galicia Decl., Ex. CCC ¶ 2; Vargas Decl., Ex. EEE ¶ 1. As they grew up, professional and life opportunities available to their classmates were unattainable for them by virtue of their lack of immigration status. *See* Yoshikawa Decl., Ex. FFF ¶¶ 14-16; R. Gonzales Decl., Ex. B ¶¶ 6-8. Plaintiff Mariano Mondragon, for example, could not obtain a driver’s license because he lacked a Social Security number. Mondragon Decl., Ex. GGG ¶ 10. Similarly, Plaintiff Martín Batalla Vidal was advised not to attend college because his lack of status would make it virtually impossible for him to obtain a job after graduation. Batalla Vidal Decl., Ex. HHH ¶ 11.

In 2012, the Department of Homeland Security (“DHS”) created DACA, which provided a streamlined way for people who arrived in the United States as children and who met other eligibility criteria to request deferred action. Deferred action long has been recognized as a lawful exercise of the executive branch’s prosecutorial discretion that allows DHS to “temporarily defer[] the removal of an alien unlawfully present in the United States.” Administrative Record (“AR”) 12-15. Pursuant to longstanding regulation, and upon a showing of economic necessity, deferred action recipients can apply for work authorization. *See* 8 C.F.R. § 274a.12(c)(14).

DACA program built on more than a half century of discretionary programs exercising deferred action for immigrants whose removal represented little value to the executive branch, including: certain refugees; family members of U.S. residents who had lawful status; and certain trafficking and crime victims and their families, among others. *See* AR 15-18. Most of the prior deferred action programs that benefitted individuals from a group of similarly situated people remained in place until Congress passed legislation regularizing the status of immigrants in the respective class.¹ DACA is legally no different from these other uses of deferred action.

DACA allowed young people to request a two-year period of deferred action if they met certain criteria.² DHS determined that utilizing its limited enforcement resources on these individuals was nonsensical because DACA-eligible individuals posed no national security or

¹ *See, e.g.*, Chinese Student Protection Act of 1992, Pub. L. 102-404, 106 Stat. 1969 (superseding Executive Order 12711 by allowing adjustment of status of certain Chinese nationals who received a form of deferred action after the Tiananmen Square massacre); Immigration Act of 1990, Pub. L. No. 101-649, 104 Stat. 4978 (superseding the Family Fairness program by allowing relatives of individuals eligible to adjust status under the Immigration Reform and Control Act of 1986); Section 568(c) of the Department of Homeland Security Appropriations Act, Pub. L. No. 111-83, 123 Stat. 2142, 2186 (2009) (allowing certain surviving spouses to adjust status based on their deceased U.S. citizen spouses).

² Applicants were required to demonstrate that they: (1) came to the U.S. before turning sixteen years old; (2) resided in the United States continuously since June 15, 2007 and were present in the United States on the day of the announcement of the program in June 2012; (3) were currently in school, had graduated high school or obtained a General Equivalency Diploma, or were an honorably discharged military veteran; (4) had not been convicted of any felony or significant misdemeanor, three misdemeanors, or otherwise posed a security threat to the United States; and (5) were not above the age of thirty on the day the program was announced. *See* AR 1.

safety risk, “know only this country as home,” and “have already contributed to our country in significant ways.” AR 1-2.

Under the 2012 guidance creating DACA (hereinafter, the “2012 DACA Memo”), DACA-eligible youth submitted requests for deferred action, with supporting documentation and requisite fees, to U.S. Citizenship and Immigration Services (“USCIS”). Ex. C, 23:22-31:22; Ex. D, 40:13-22, 48:2-17, 182:11-24; Ex. E. USCIS adjudicators then verified the applicant’s eligibility and performed a background check. *Id.* If the applicant met the criteria and passed the background check, the adjudicator exercised her discretion to determine on a case-by-case basis whether to grant deferred action.³ *Id.* As the first set of DACA recipients’ deferred action grants neared expiration, USCIS developed guidelines for a streamlined renewal process, under which applicants needed only to submit an updated background check and offer renewed proof of necessity for work authorization. *Id.*

DACA transformed the lives of those granted deferred action and opened doors to countless professional, economic, and personal opportunities for the DACA Plaintiffs and hundreds of thousands of other young people. After receiving deferred action, Plaintiff Carolina Fung Feng obtained her teaching certificate and began her teaching career. Fung Feng Decl., Ex. III ¶ 21. DACA enabled Plaintiff Antonio Alarcon to pursue his political aspirations and he has become a leading advocate for youth in his community. Alarcon Decl., Ex. JJJ ¶¶ 27-31. With deferred action, Plaintiff Carlos Vargas was able to finish his undergraduate degree and enroll in CUNY Law School, while working as a Department of Justice Accredited Representative. Ex. EEE ¶¶ 17-18. Plaintiff Batalla Vidal, after working two jobs to afford college, is now a physical therapist

³ Because the criteria for DACA eligibility included factors that would merit a favorable exercise of discretion, most DACA applicants were approved. DHS nonetheless denied deferred action to some individuals who met the DACA eligibility criteria as a matter of discretion. Ex. F, p. 34, Resp. to Request for Admission No. 73.

aide, caring for patients with serious health needs at a rehabilitation and nursing center in Queens, New York. Ex. HHH ¶ 34. Thanks to DACA, Plaintiff Eliana Fernandez could afford her dream of home ownership. Fernandez Decl., Ex. LLL ¶¶ 3, 8; *see also* Wong Decl., Ex. KKK ¶ 14(e) (noting that 16% of DACA recipients could purchase a home due to increased earnings). Overall, DACA enabled 54% of recipients to obtain a job that better fit their education, and 69% of recipients to obtain better paying employment. *Id.* ¶ 10(b)-(c).

For hundreds of thousands of young people, DACA also removed the constant threat of deportation that induced stress and limited mobility and access to services that others often take for granted. For example, Ms. Fernandez's driver's license, which she obtained because of DACA, allowed her to drive her children to school, activities, and necessary medical appointments without fear. Ex. LLL ¶¶ 13-14; *see also* Ex. KKK ¶ 25(a), (c) (90% of DACA recipients obtained their first driver's licenses due to DACA, and many were able to open their first bank account); Ex. FFF ¶¶ 9-10, 24-34 (describing DACA's mental health benefits).

Deferred action also allowed the DACA Plaintiffs, and the nearly 800,000 DACA recipients, to support their families and their communities in and around New York City and the country. *See, e.g.*, Wong Decl. ¶¶ 1, 27; Legomsky Decl., Ex. OOO ¶ 25. Several DACA Plaintiffs support family members—some of whom are United States citizens—with their increased earnings DACA facilitated. *See* Ex. HHH ¶¶ 31, 36, 44; Ex. III ¶ 24; Ex. LLL ¶¶ 1, 3, 8; *see also* Ex. KKK ¶¶ 14, 26 (73% of DACA recipients have a U.S. citizen family member and 71% provide their families financial support due to DACA). As noted above, the DACA Plaintiffs include a physical therapist aide, a legal services provider, a community organizer, a case manager, and a teacher. Ex. EEE ¶ 17; Ex. HHH ¶ 34; Ex. III ¶ 21; Ex. JJJ ¶ 27-28; Ex. LLL ¶ 6; *see also* Ex. KKK ¶¶ 8-9 (approximately 30% of DACA holders are in health, education, legal, or social-service

occupations, compared to 16.6% of native-born workers). The DACA program has also enabled Make the Road New York (“MRNY”), and other organizations, to hire culturally competent and well-qualified staff. Valdes Decl., Ex. MMM ¶¶ 6-7, 43; *see also* Carrizales Decl., Ex. I ¶ 11; O’Brien Decl., Ex. J ¶¶ 3-4; Schwartz Decl., Ex. K ¶ 8. Moreover, the DACA Plaintiffs’ and putative class members’ improved career prospects have provided significant tax revenue to federal and state tax rolls. Essig, Wiehe & Hill Decl., Ex. L ¶ 7; Ex. KKK ¶ 15; Brannon Decl., Ex. NNN ¶ 14.

II. The Termination of DACA

On September 5, 2017, Attorney General Sessions announced at a press conference the decision to end DACA (hereinafter, the “DACA Termination”). In his prepared remarks, Sessions asserted, without evidence, that DACA “contributed to a surge of unaccompanied minors on the southern border that yielded terrible humanitarian consequences.” Ex. N. He also stated, again without evidence, that DACA “denied jobs to hundreds of thousands of Americans by allowing those same jobs to go to illegal aliens.” *Id.* The same day, Defendants released a letter Sessions had sent the day before to then-Acting Secretary of Homeland Security Duke, in which he asserts that DACA was an unconstitutional exercise of executive authority. AR 251. Sessions’ letter claims, without any analysis, that the DACA program shares “legal and constitutional defects” with a deferred action program (known as Deferred Action for Parents of Americans and Lawful Permanent Residents, or “DAPA”) preliminary enjoined in a case led by the State of Texas, such that “potentially imminent litigation would yield similar results.” *Id.* The Sessions Letter recommended terminating the DACA program and rescinding the 2012 DACA Memo. *Id.*

Also on September 5, then-Acting Secretary Duke issued a memorandum terminating DACA. AR 252-56 (“Duke Memo”). The five-page Duke Memo included two pages of

background, recounting the *Texas* litigation concerning DAPA. AR 253-54. The Duke Memo stated that, in consideration of decisions in the *Texas* litigation regarding DAPA and the Sessions' letter sent the day before, it was "clear" that DACA "should" be terminated. AR 254. The Duke Memo proceeded to issue a series of directives instructing USCIS to "reject" any initial DACA applications received after September 5, 2017, and any newly filed renewal applications from individuals whose deferred action would expire after March 5, 2018, or whose deferred action had already expired as of September 5. AR 255. USCIS was instructed to accept and adjudicate renewal applications from individuals whose DACA expired on or before March 5, 2018, only if they were received on or before October 5, 2017—a one-month window from the September 5 announcement. *Id.* As implemented, DACA renewals that did not meet these criteria were categorically "rejected" without any exercise of discretion. Ex C, 25:8-11.

The Duke Memo contains numerous glaring omissions. It does not explain why DHS reversed then-Secretary of Homeland Security John Kelly's explicit decision to retain the DACA program in February 2017. AR 230. It does not explain whether (or why) it considered the DACA program unlawful. The Duke Memo likewise does not explain how or whether the agency considered the reliance interests that the program has engendered, or the benefits of the DACA program to 800,000 young people and their families, employers, and communities. Nor does it acknowledge that no court has held that the 2012 DACA program unlawful, despite legal challenges to it. *See, e.g., Crane v. Johnson*, 783 F.3d 244 (5th Cir. 2015); *Arpaio v. Obama*, 797 F.3d 11, 24 (DC Cir. 2015), *cert denied*, 136 S.Ct. (2016), *reh'g denied*, 136 S.Ct. 1250 (2016). The Duke Memo does not explain whether the agency considered alternatives to terminating the program entirely. And it does not explain how the agency weighed the threat of litigation from rescission of the program even as it references a threat of litigation if it were to retain the program.

Since September, more than 11,000 people have already lost the deferred action they obtained through DACA, Ex. A; some 11,000 more were unable to renew by October 5, and their periods of deferred action will expire no later than March 5, 2018. Ex. O (approximately 851 people lose DACA each week). USCIS initially rejected more than 900 renewal applications that were received on October 5, and thousands more that arrived after that date due to unreasonable postal delays. Exs. P, Q. USCIS has continued rejecting applicants who attempted to refile renewal applications that USCIS received timely but rejected for real or perceived minor clerical errors. *See, e.g.*, Ex. WW. After March 5, thousands more individuals will lose deferred action each month, having been denied the opportunity to renew. Ex. R.

DACA recipients, their families, employers, and communities have started to and will continue to experience immediate harms as soon as their periods of deferred action expire. If unable to renew, Plaintiff Batalla Vidal will no longer be able to provide medical care to his seriously ill patients and will lose his ability to support his family. Ex. HHH ¶¶ 44-46. He has taken on a second job to save money for when his deferred action lapses, and is consequently working nearly 60 hours a week in preparation for that dreaded day. *Id.* ¶ 45. As their periods of deferred action expire, recipients will experience the psychological toll of feeling unwelcome in the country they call home, and the constant anxiety and worry that they may be deported and separated from their families. Ex. B ¶¶ 33-37; Suarez-Orozco Decl., Ex. T ¶¶ 12-15; Ex. FFF ¶¶ 24-34; Ex. KKK ¶ 22.

MRNY, like many small and large employers, from technology to healthcare, will be forced to fire numerous skilled and culturally competent staff members who cannot be adequately or easily replaced by non-DACA recipients. Ex. MMM ¶¶ 6-7, 43-44, 47-61; *see also* Ex. K ¶¶ 3, 7-9; Nishi Decl., Ex. U ¶ 4; Stobo Decl., Ex. V ¶¶ 6, 10-12; Tellefson Decl., Ex. EE ¶ 11. MRNY's

productivity as a whole would suffer if it is forced to replace its staff members who have deferred action through DACA, as those staff are “fully integrated” into MRNY’s “staff community.” Ex. MMM ¶ 45. In addition, MRNY’s immigration legal team had to put aside much of their active casework to prioritize assistance for DACA recipients eligible to renew, and many of them continue to work evenings and weekends to catch up on the work they had to set aside in September. *Id.* ¶ 38. MRNY staff have also expended significant time to provide mental health support to members, clients, and other staff due to the destructive consequences of the DACA Termination. *Id.* ¶ 39. MRNY’s health team staff have also had to deprioritize active work to prevent current DACA recipients from losing access to health care. *Id.* ¶ 41.

LEGAL STANDARD

Preliminary injunctive relief is warranted where plaintiffs establish that (1) they are “likely to succeed on the merits,” (2) they are “likely to suffer irreparable harm in the absence of preliminary relief,” (3) “the balance of equities tips in [their] favor,” and (4) an injunction is “in the public interest.” *N.Y. Progress & Prot. PAC v. Walsh*, 733 F.3d 483, 486 (2d Cir. 2013) (quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)).

ARGUMENT

The decision to terminate DACA was hugely consequential, profoundly affecting countless individuals, families, employers, and educational and governmental institutions across the country. Through the safeguards of the APA, Congress has mandated that when federal agencies exercise their considerable delegated power to make decisions of this nature, they do so on an informed basis. Agencies are required to consider the multitude of relevant factors and after going through all appropriate procedures; clearly articulate a reasoned basis for their choice, including an explanation for departures from prior findings or conclusions; and ground their justifications on

neutral and rational principles. *See, e.g., FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 514-15 (2009); *Motor Vehicle Mfrs. Ass’n of U.S. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). To ensure that they satisfy these requirements, Congress subjected such decisions to “searching and careful” review by the courts, *Citizens to Pres. Overton Park, Inc. v. Volpe*, 401 U.S. 402, 416 (1971), *abrogated on other grounds by Califano v. Sanders*, 430 U.S. 99 (1977), which are to “set aside” agency action that falls short of the APA’s procedural or substantive requirements, 5 U.S.C. § 706(2)(A), even if the same ultimate action could have been taken had the agency met those requirements.

Defendants have failed to meet these requirements. Instead, the profoundly important decision at issue here was made without process, factfinding, or even explanation. The DACA Termination’s imposition of a binding norm, moreover, made it a substantive (or “legislative”) rule that was required to go through notice-and-comment rulemaking, and its effects on small businesses and other small entities mandated an analysis under the RFA as well. For each of these reasons, the decision to terminate DACA must be set aside.

I. The DACA Termination Is Arbitrary and Capricious

The APA authorizes reviewing courts to enjoin final agency action that is “arbitrary [or] capricious.”⁴ *Judulang v. Holder*, 565 U.S. 42, 52 (2011) (quoting 5 U.S.C. § 706(2)(A) (alteration in original)). This standard of review is relatively “narrow,” in that it does not permit a court “to substitute its judgment for that of the agency.” *Id.* at 52-53 (citation and quotation marks omitted). But courts nonetheless “retain a role, and an important one, in ensuring that agencies have engaged in reasoned decisionmaking,” *id.* at 53, by enforcing the “basic procedural requirement[.]” that an

⁴ Final agency action is subject to arbitrary and capricious review even if it was taken through informal processes. *See, e.g., Perez v. Mortg. Bankers Ass’n*, 135 S. Ct. 1199, 1209 (2015) (noting arbitrary and capricious review is available to rules issued through informal rulemaking); *Yale-New Haven Hosp. v. Leavitt*, 470 F.3d 71, 79 (2d. Cir. 2006) (applying arbitrary and capricious review to agency manual not promulgated through notice and comment).

agency “give adequate reasons for its decision[.]” *Encino Motorcars, LLC v. Navarro*, 136 S. Ct. 2117, 2125 (2016); *see also Bowen v. Am. Hosp. Ass’n*, 476 U.S. 610, 626-27 (1986) (plurality). When conducting this review, courts must assess whether the agency has considered the relevant factors and “articulate[d] a satisfactory explanation for its action including a rational connection between the facts found and the choice made.” *Encino Motorcars*, 136 S. Ct. at 2125 (quoting *State Farm*, 463 U.S. at 43). “That task involves examining the reasons for agency decisions—or, as the case may be, the absence of such reasons.” *Judulang*, 565 U.S. at 53 (citation omitted). Where the agency fails to provide the requisite “level of analysis,” its action is arbitrary and capricious, *Encino Motorcars*, 136 S. Ct. at 2125; so, too, when the purported rationale for the agency action is pretextual or given in bad faith, *see, e.g., Aeronautical Radio, Inc. v. FCC*, 928 F.2d 428, 448 (D.C. Cir. 1991); *New England Coal. on Nuclear Pollution v. Nuclear Regulatory Comm’n*, 727 F.2d 1127, 1130-31 (D.C. Cir. 1984); *Tummino v. Hamburg*, 936 F. Supp. 2d 162, 185 (E.D.N.Y. 2013).

The DACA Termination is arbitrary and capricious for five independent reasons—each of which is sufficient to find the termination arbitrary and capricious. First, Defendants failed to adequately explain why they decided to terminate DACA. Second, they failed to provide a reasoned explanation for disregarding prior factual findings and legal conclusions, particularly given the serious reliance interests at stake. Third, Defendants failed to consider all relevant factors, including the benefits DACA has provided or alternatives to terminating the program altogether. Fourth, Defendants’ proffered justifications are inadequate to justify the DACA Termination. Finally, Defendants’ reasons are pretextual and given in bad faith.

A. Defendants failed to adequately explain the reasons for the DACA Termination

DHS explained the decision to terminate DACA in one sentence: “Taking into

consideration the Supreme Court’s and the Fifth Circuit’s rulings in the ongoing litigation, and the September 4, 2017 letter from the Attorney General, it is clear that the June 15, 2012 DACA program should be terminated.” AR 255.⁵ Thus, DHS represents that three documents were considered—the Fifth Circuit decision in *Texas v. United States*; the Supreme Court’s one-sentence, non-precedential affirmance in the same case; and the Sessions Letter sent to the agency the day before—but makes no effort to explain *why* “consideration” of those documents made it “clear” that DACA “should be terminated.” The Acting Secretary never stated, for example, whether she agreed with or adopted (in whole or in part) the facts found or conclusions drawn in those documents; whether she agrees with or adopts the Attorney General’s determination that DACA is unlawful (and, if so, on which of the ground(s) referenced by the Attorney General); or whether, as Defendants claim, DACA was terminated due to litigation risk. The Duke Memo, in fact, does not even state that the Acting Secretary herself decided *anything*.⁶

In the absence of any articulated reasoning, it is not this Court’s role “to guess at the theory underlying the agency’s action; nor can a court be expected to chisel that which must be precise from what the agency has left vague and indecisive.” *SEC v. Chenery Corp. (Chenery II)*, 332 U.S. 194, 196-97 (1947); *see also Encino Motorcars*, 136 S. Ct. at 2127 (“It is not the role of the courts to speculate on reasons that might have supported an agency’s decision.”). To the contrary, “the orderly functioning of the process of review requires that the grounds upon which the

⁵ The Duke Memo consists of five pages. Two of those five pages are a “Background” section, which recites a stylized account of the history of the DACA program and the litigation concerning DAPA, as well as a summary of Attorney General Sessions’ one-page letter DHS received the day before. AR 252–56.

⁶ As discussed below in the discussion regarding pretext, Defendants have stated publicly that the decision to end DACA was actually made by President Trump. At the first post-Termination appearance before this Court, meanwhile, Defendants repeatedly and unequivocally represented that Attorney General Sessions—who actually announced Acting Secretary Duke’s rescission of the 2012 DACA Memo—was a joint decisionmaker in ending DACA. *See* Tr. of Sept. 14, 2017 Pre-Mot. Conference at 13-14, 24, 26. Defendants have sought to recant those statements, *see, e.g.*, Ex. M, p. 9, Resp. to Request for Admission No. 5, but have provided no explanation or reconciliation of the conflicting representations.

administrative agency acted be clearly disclosed and adequately sustained.” *FTC v. Sperry & Hutchinson Co.*, 405 U.S. 233, 249 (1972) (quoting *SEC v. Chenery Corp. (Chenery I)*, 318 U.S. 80, 94 (1943) (alteration omitted)). Courts cannot ensure that the agency’s factual findings are sufficiently supported, for example, or that the agency considered the relevant factors, when the agency abdicates its “responsibility . . . to explain the rationale and factual basis for its decision.” *Bowen*, 476 U.S. at 627 (plurality); see also *Amerijet Intern’l, Inc. v. Pistole*, 753 F.3d 1343, 1350 (D.C. Cir. 2014); *Dickson v. Sec’y of Def.*, 68 F.3d 1396, 1404 (D.C. Cir. 1995). Accordingly, where, as here, the court “is left to guess as to the agency’s findings or reasons,” the agency’s action “simply cannot be upheld.” *Time, Inc. v. U.S. Postal Serv.*, 685 F.2d 760, 773 (2d Cir. 1982) (quotation marks omitted); see also *Encino Motorcars*, 136 S. Ct. at 2127 (same); *State Farm*, 463 U.S. at 48 (“There are no findings and no analysis here to justify the choice made, no indication of the basis on which the [agency] exercised its expert discretion. We are not prepared to and the Administrative Procedure Act will not permit us to accept such . . . practice.” (citation and quotation marks omitted, alterations in original)).

This conclusion is not altered even were the Court to accept Defendants’ textually unsupported claim that the Duke Memo identifies perceived legal vulnerability of DACA as the reason for its termination. At a minimum, the Acting Secretary would have needed to identify and explain the basis for that perceived legal risk, as well as a “rational connection” between it and the decision to terminate DACA. *Encino Motorcars*, 136 S. Ct. at 2125 (citation omitted). If, for example, the agency found that DACA was not truly discretionary and therefore constituted a substantive rule, that issue could have been addressed in other, far less disruptive ways, such as engaging in formal rulemaking or altering the way the program was administered. But “[w]hatever potential reasons the Department might have given, the agency in fact gave almost no reasons at

all.” *Id.* at 2127. “This lack of a reasoned explication” renders the DACA Termination arbitrary and capricious. *Id.*; *see also Amerijet*, 753 F.3d at 1350 (“[A] ‘fundamental requirement of administrative law is that an agency set forth its reasons for decision; an agency’s failure to do so constitutes arbitrary and capricious agency action.’” (citation omitted)).

Defendants similarly fail to explain adequately their decision to terminate DACA in the manner chosen, which imposed arbitrary deadlines regarding deferred action, including: the September 5, 2017 deadline for receipt of new deferred action requests from those who fall within the DACA eligibility criteria; the October 5, 2017 deadline for receipt of renewal requests; and the decision not to accept renewal requests at all from individuals whose periods of deferred action expire after March 5, 2018. AR 255. This compressed timeframe had easily foreseeable consequences; it significantly contributed to USCIS improperly rejecting renewal applications and imposed a crushing burden on legal services organizations (like MRNY), which were forced to divert resources from their other activities to respond to the massive, unexpected, and immediate need. *See Ex. MMM* ¶ 23. Yet the Duke Memo’s solitary explanation for these deadlines—including the decision to make the individual with a period of deferred action that expires on March 5, 2018 eligible to renew for two more years, but denying that same opportunity to the individual whose deferred action expires the following day—is to reference to unidentified “complexities associated with winding down the program.”⁷ AR 255.

Nor do Defendants explain the change to their information-sharing policy. Prior to the DACA Termination, DHS assured individuals applying for deferred action through DACA that information they provided to USCIS was “protected from disclosure to ICE and [CBP] for the

⁷ *But cf. Judulang*, 565 U.S. at 487 (“In a foundational deportation case, this Court recognized the high stakes for an alien who has long resided in this country, and reversed an agency decision that would ‘make his right to remain here dependent on circumstances so fortuitous and capricious.’” (quoting *Delgadillo v. Carmichael*, 332 U.S. 388, 391 (1947))).

purpose of immigration enforcement proceedings unless the [deferred action] requestor meets the criteria for the issuance of a Notice to Appear or a referral to ICE under the criteria set forth in USCIS' Notice to Appear guidance." ECF No. 60-1 (Instructions for Form I-821D). Applicants were further assured, in bold type, that this information sharing policy "covers family members and guardians, in addition to the requestor." *Id.* The same day DACA was terminated, however, USCIS announced that it "[g]enerally" would not "proactively provide[]" such information for immigration enforcement purposes unless the requestor meets the aforementioned Notice to Appear guidance *or* "poses a risk to national security or public safety," and with no assurances at all regarding parents or guardians. Tumlin Decl., Ex. W.⁸ DHS has made no effort to explain these changes, much less justify applying the new information sharing policy retroactively, to individuals who had provided their information to the government pursuant to its express assurance that their information would be "protected from disclosure." ECF No. 60-1.

In sum, and at most, Defendants' explanation for deciding to terminate DACA, and to do so in the manner it chose, consists of a bald conclusion. The DACA Termination must therefore be set aside. *Encino Motorcars*, 136 S. Ct. at 2127; *Amerijet*, 753 F.3d at 1350 ("[C]onclusory statements will not do; an agency's statement must be one of reasoning." (quotation marks and internal citations omitted)).

B. Defendants failed to provide a reasoned explanation for their policy reversal, particularly in light of the serious reliance interests at stake

When an agency reverses an existing policy, the APA "requires the agency to acknowledge

⁸ In guidance issued on November 30, 2017, eighty-six days after the Duke Memo was issued, DHS claims that its "information-sharing policy has not changed in any way since it was first announced," Ex. RR, but it has made no attempt to explain inconsistencies between its most recent articulation of the policy (which, unlike the pre-Termination policy, does *not* say that the information is protected from disclosure, and makes no mention of family members or guardians); the description of the policy it released on September 5, 2017 (which remains on USCIS' website as of the date of this filing); and the policy prior to the Duke Memo.

and provide an adequate explanation for its departure from established precedent.” *Jicarilla Apache Nation v. U.S. Dep’t of Interior*, 613 F.3d 1112, 1119 (D.C. Cir. 2010). The Supreme Court recently emphasized:

As we held in *Fox Television Stations*, and underscore again today, the 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 its prior policy has engendered serious reliance interests that must be taken into account. It would be arbitrary and capricious to ignore such matters.”

Perez, 135 S. Ct. at 1209 (quoting *Fox Television Stations*, 556 U.S. at 515); see also *Encino Motorcars*, 136 S. Ct. at 2125-26.

The DACA Termination reverses the government’s policy and legal positions toward deferred action for childhood arrivals, and contradicts its prior factual findings upon which DACA was based, with scarcely an acknowledgment—much less a justification—and notwithstanding the substantial reliance interests that the program has engendered over the past five years. The APA does not categorically preclude DHS from changing its policies, even to end DACA; it *does*, however, require DHS to give “good reasons for the new policy,” to include a “reasoned explanation . . . for disregarding facts and circumstances that underlay or were engendered by the prior policy.” *Fox Television Stations*, 556 U.S. at 515-16. Particularly when “serious reliance interests [are] at stake, [an agency’s] conclusory statements do not suffice to explain its decision.” *Encino Motorcars*, 136 S. Ct. at 2127.

Since its announcement in 2012, DACA has engendered serious reliance interests by individuals, employers, and institutions. Relying on DACA, nearly 800,000 young people have raised families, invested in their education, purchased homes and cars, and started careers. Ex. KKK ¶¶ 6-15; Ex. B ¶¶ 20, 23, 25, 33. The President publicly reassured these individuals that he would “deal with DACA with heart” and that individuals who received deferred action through

DACA should “rest easy.” Exs. Y, Z. Even as the Trump Administration ended other immigration programs, it expressly left DACA in place. AR 236. Individuals who obtained deferred action through DACA have structured their lives “against [the] background understanding,” *Encino Motorcars*, 136 S. Ct. at 2126, that DACA would continue to provide them relief from deportation and maintain avenues to gainful employment and higher education. *See also* Ex. B ¶¶ 20, 23, 25, 33. Educational institutions have admitted students who obtained deferred action through DACA, relying on them to be able to complete their degrees and use their education toward productive careers in the United States. Braddock Decl., Ex. AA ¶¶ 3-10; Brick Decl., Ex. BB ¶¶ 2-3; Holmes-Sullivan Decl., Ex. CC ¶¶ 18-19; Napolitano Decl., Ex. DD ¶ 11. Employers have hired, trained, and invested in deferred action recipients with the expectation they can continue to be valued employees. Ex. I ¶ 11; Ex. J ¶ 3; Ex. K ¶ 3; Ex. EE ¶ 11; Cardenas Decl., Ex. FF ¶¶ 9-10; Eidmann Decl., Ex. GG ¶¶ 9-10.

The Termination abruptly upends the settled expectations of deferred action recipients and their families, and forces “systemic, significant changes,” *Encino Motorcars*, 136 S. Ct. at 2126, on the institutions with which they have become interdependent. Individuals will have to abandon jobs and schooling, disrupting education, health care, and the many other sectors in which deferred action recipients work, based on the DACA Termination. Yet nothing in the Duke Memo or the administrative record evinces any consideration of these reliance interests. As the Supreme Court has squarely held, it is arbitrary and capricious “to ignore such matters.” *Mortg. Bankers Ass’n*, 135 S. Ct. at 1209 (quoting *Fox Television Stations*, 556 U.S. at 515); *see also Encino Motorcars*, 136 S. Ct. at 2126.

Defendants additionally fail to explain their decision to depart from the factual findings that underlay DACA. Indeed, and as with the reliance interests, Defendants fail even to

acknowledge the factual findings in the 2012 DACA Memo, including that young immigrants “lacked the intent to violate the law” and that the program was “necessary to ensure that [DHS] enforcement resources are not expended on these low priority cases.” AR 1. DHS additionally found, just five years ago:

Our Nation’s immigration laws must be enforced in a strong and sensible manner. They are not designed to be blindly enforced without consideration given to the individual circumstances of each case. Nor are they designed to remove productive young people to countries where they may not have lived or even speak the language. Indeed, many of these young people have already contributed to our country in significant ways. Prosecutorial discretion, which is used in so many other areas, is especially justified here.

AR 2. Defendants’ failure to acknowledge and explain the departure from these factual findings makes the DACA Termination arbitrary and capricious. *See Mortg. Bankers Ass’n*, 135 S. Ct. at 1209; *see also Fox Television Stations*, 556 U.S. at 538 (Kennedy, J., concurring) (noting that in *State Farm*, the Court held an agency’s reversal after a change in presidential administration to be arbitrary and capricious “because the agency did not address its prior factual findings”).

Defendants’ reversal also requires a reasoned explanation of the departure from their prior view regarding DACA’s legality. In 2014, the Office of Legal Counsel for the Department of Justice issued a legal memorandum—which has not been rescinded—opining that DACA is a lawful and permissible exercise of executive authority. AR 4-36. As late as June 15, 2017, the Trump Administration affirmatively decided to maintain DACA. AR 236. Moreover, the government has consistently defended the legality of DACA at every level of the federal judiciary, stating that the program was “a valid exercise of the Secretary’s broad authority and discretion to set policies for enforcing the immigration laws . . . in light of real-world resource constraints and weighty humanitarian concerns.” Br. for United States as Amicus Curiae, *Ariz. Dream Act Coal. v. Brewer*, 855 F.3d 957 (9th Cir. 2017), 2015 WL 5120846 at *1; *see also* Ex. TT. Defendants abrupt reversal, without a reasoned explanation for that change, is arbitrary and capricious. *Mortg.*

Bankers Ass’n, 135 S. Ct. at 1209.

C. Defendants failed to consider all factors relevant to the DACA Termination

Agencies must “consider[] all relevant issues and factors” to withstand arbitrary-and-capricious review. *Long Island Head Start Child Dev. Servs. v. NLRB*, 460 F.3d 254, 258 (2d Cir. 2006). In terminating DACA, however, Defendants entirely ignored one of the most important aspects of that decision—the impact on real lives, both of DACA and of its termination. *See State Farm*, 463 U.S. at 43 (agency action is arbitrary and capricious if it “entirely failed to consider an important aspect of the problem”).

DACA has enabled nearly 800,000 young people to support family members (many of whom are U.S. citizens), obtain higher education, serve in the military, enrich their local communities, and contribute to the economy. Ex. HHH ¶¶ 28-41; Ex. JJJ ¶¶ 22-31; Ex. III ¶¶ 21-22; Ex. I ¶¶ 6-13; Ex. AA ¶¶ 3-10; Abrams Decl., Ex. HH ¶¶ 9-13; Beckwith Decl., Ex. II ¶¶ 5-8; Blazar Decl., Ex. JJ ¶¶ 2-5; Feldblum Decl., Ex. KK ¶¶ 11-13. Terminating DACA will upend families by cutting off their primary means of financial support, disrupt businesses that employ DACA recipients, Ex. MMM ¶¶ 42-61; *see also* Ex. J ¶¶ 3, 5-8; Ex. K ¶¶ 3, 7-9; Ex. U ¶ 4; Ex. V ¶¶ 6, 10-12, and cost the country billions of dollars in tax revenue, Brannon Decl., Ex. NNN ¶ 14; *see also* Ex. L ¶¶ 8-10, 12-14; Ex. JJ ¶¶ 3-5; Duenas Decl., Ex. LL ¶¶ 7-13. Defendants utterly fail to acknowledge, let alone consider, these and other factors. To withstand review, an agency decision requires analysis of “the costs as well as the benefits.” *State Farm*, 463 U.S. at 54; *see also Michigan v. EPA*, 135 S. Ct. 2699, 2706-07 (2015) (holding that an agency could not ignore costs as part of its requirement to engage in “reasoned decisionmaking”). Defendants failure to consider the benefits of DACA and the impact of terminating it renders their decision arbitrary and capricious.

Defendants’ similarly failed to consider alternatives to terminating DACA, including but

not limited to changing the way the program is administered and formal rulemaking. Their failure to do so is yet another reason why the termination was arbitrary and capricious. *See State Farm*, 463 U.S. at 46-51 (holding arbitrary and capricious the agency’s failure to consider an alternative method to achieving its objective); *Yale-New Haven Hosp.*, 470 F.3d at 80 (“[T]he agency must consider reasonably obvious alternatives and, if it rejects those alternatives, it must give reasons for the rejection, sufficient to allow for meaningful judicial review” (citation omitted)); *Pub. Citizen v. Steed*, 733 F.2d 93, 99 (D.C. Cir. 1984) (same).

D. Defendants’ proffered reasoning is inadequate to justify the DACA Termination

1. “Litigation Risk” cannot justify the DACA Termination

In defending this litigation, Defendants no longer assert that DACA was unlawful, but instead retreat to the position that the Termination was justified based upon “litigation risk” that the program would be struck down in the future *Texas* litigation. Such rationalization is merely an attempt to feign reasoned decision-making and evade meaningful APA review, and cannot stand.

As an initial matter, Defendants offer post-hoc reasoning not present in the administrative record, which this Court must disregard. Defendants speculate for the first time in this case that the “litigation risk” supporting the termination of DACA would “plung[e] [DACA], and its nearly 800,000 recipients, into uncertainty.” Defs.’ Mot. to Dismiss at 24, ECF No. 95-1. But nowhere does the Duke Memo or the administrative record reference any negative impact that ending the program (be it through litigation or otherwise) would have *on DACA recipients*. To the extent that the administrative record references “litigation risk” at all, it is the Attorney General’s mention of “costs and burdens that will be imposed on *DHS* associated with rescinding this policy,” AR 251 (emphasis added), which the Acting Secretary refers to as “administrative complexities,” AR 254. Under the APA, courts can neither “accept appellate counsel’s *post hoc* rationalizations for agency

action,” *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962); nor “supply a reasoned basis for the agency’s action that the agency itself has not given,” *Bowman Transp., Inc. v. Arkansas-Best Freight Sys., Inc.*, 419 U.S. 281, 285-86 (1974). Any concern for individuals who received deferred action through DACA is a post-hoc rationalization that cannot be considered. *State Farm*, 463 U.S. at 50 (“It is well-established that an agency’s action must be upheld, if at all, on the basis articulated by the agency itself.”); *Islander E. Pipeline Co. v. Conn. Dep’t of Env’tl Protection*, 482 F.3d 79, 95 (2d Cir. 2006); *NLRB v. Columbia Univ.*, 541 F.2d 922, 931 (2d Cir. 1976).⁹

Moreover, citing “litigation risk” cannot suffice as reasoned decisionmaking. Virtually all agency actions are potentially subject to legal challenges. If agencies could simply cite the possibility that a court *might* hold unlawful a policy in order to summarily reverse it, they would be entirely free to circumvent the APA’s requirement that agencies engage in reasoned decisionmaking. Such an end-run around the APA would set a dangerous precedent that would allow agencies to insulate themselves from meaningful judicial review by merely citing the possibility of adverse litigation. Indeed, the D.C. Circuit specifically rejected similar reasoning when it concluded that “[i]f an agency could engage in rescission by concession, the doctrine requiring agencies to give reasons before they rescind rules would be a dead letter.” *Mexichem Specialty Resins, Inc. v. EPA*, 787 F.3d 544, 557 (D.C. Cir. 2015).

Even if litigation risk could be *relevant* to agency decisionmaking, it cannot be the talismanic incantation that Defendants contend, wiping away the APA’s requirement that the agency demonstrate that it has engaged in reasoned decisionmaking. As discussed above,

⁹ Defendants’ only evidence that Acting Secretary Duke based the termination decision at all on concern for DACA recipients is contained in documents that are not in the Administrative Record and that were published after the decision was made. *See* Defs.’ Mot. to Dismiss at 24-25, ECF No. 95-1 (quoting Acting Secretary Duke’s press release).

Defendants have not even identified the legal ground on which they believe DACA is vulnerable, much less explain why that legal vulnerability cannot be addressed except through wholesale termination. Nor have Defendants explained why they believe that the court in the threatened litigation would *enjoin* DACA (as opposed to other possible remedies), which would turn on non-merits factors that would weigh heavily against the kind of immediate and disruptive injunction Defendants badly assert was inevitable.¹⁰ Moreover, and perhaps most obviously, Defendants have never explained why its “wind-down” is any better—for the agency, for the DACA-eligible population, or for the millions of other people this decision affects—than would be the hypothetical injunction.

Finally, rather than avoid “litigation risk,” the Termination has precipitated lawsuits across the country challenging that decision,¹¹ illustrating the arbitrariness of Defendants’ proffered rationale; “At most, the [agency] deliberately traded one lawsuit for another.” *Organized Vill. of Kake v. U.S. Dep’t of Agric.*, 795 F.3d 956, 970 (9th Cir. 2015) (en banc); *see also United Mine Works of Am. v. U.S. Dep’t of Labor*, 358 F.3d 40, 44 (D.C. Cir. 2004) (litigation risk not a legitimate reason for agency action); *Sierra Club v. Jackson*, 833 F. Supp. 2d 11, 34 (D.D.C. 2012) (same). Even government officials realize the extraordinary and unprecedented nature of their rationalization. As Gene Hamilton, a former senior DHS official and principal drafter of the Duke Memo, testified responding to “litigation risk” produces the “craziest policy you could ever have”

¹⁰ For example, in the *Texas v. United States* litigation, the court stopped short of requiring revocation of three-year Employment Authorization Documents issued to DACA recipients pursuant to the Memorandum that created DAPA prior to that memorandum being enjoined. *Texas v. United States*, 86 F. Supp. 3d 591, 677 (S.D. Tex. 2015).

¹¹ Other cases challenging the DACA termination currently before a U.S. district court include *New York v. Trump*, No. 17-cv-5228 (E.D.N.Y. filed Sept. 6, 2017); *Regents of Univ. of California v. DHS*, No. 17-cv-05211 (N.D. Cal. filed Sept. 8, 2017); *State of California v. DHS*, No. 17-cv-05235 (N.D. Cal. filed Sept. 11, 2017); *City of San Jose v. Trump*, No. 17-cv-05329 (N.D. Cal. filed Sept. 14, 2017); *Garcia v. United States*, No. 17-cv-05380 (N.D. Cal. filed Sept. 18, 2017); *County of Santa Clara v. Trump*, No. 17-cv-05813 (N.D. Cal. filed Oct. 10, 2017); *CASA de Maryland v. DHS*, No. 17-cv-02942 (D. Md. filed Oct. 5, 2017); *NAACP v. Trump*, No. 17-cv-01907 (D.D.C. filed Sept. 18, 2017); and *Park v. Sessions*, No. 17-cv-01332 (E.D. Va. filed Nov. 21, 2017).

because the agency “could never do anything.” Ex. MM, 205:2-5, 207:20-208:11; *see also* Ex. NN, 154:23-155:11 (not aware of other policies rescinded due to litigation risk).

2. *Any reliance on a determination that DACA is unlawful is legally erroneous*

The Duke Memo nowhere states that Defendants decided to terminate DACA because it was unlawful. To the extent that the Termination relied on the Attorney General’s determination that DACA is unlawful,¹² it is wrong and cannot stand. *See Massachusetts v. EPA*, 549 U.S. 497, 532, 534 (2007) (holding agency action arbitrary, capricious, and otherwise not in accordance with law because it was based on an incorrect legal conclusion); *Chenery I*, 318 U.S. at 94 (“[A]n order may not stand if the agency has misconceived the law.”). DACA is a lawful use of prosecutorial discretion, which no court has found to be unlawful. Nor was the decision in *Texas*—on a separate program—controlling or persuasive as a basis to evaluate the legality of DACA.

Despite Attorney General Sessions’ unsupported legal conclusion to the contrary, the use of deferred action as part of the government’s exercise of enforcement discretion is both well established and authorized by Congress and through regulation. *See* 6 U.S.C. § 202(5) (“The Secretary shall be responsible for . . . [e]stablishing national immigration enforcement policies and priorities.”); 8 C.F.R. § 274a.12(c)(14) (defining deferred action as “an act of administrative convenience to the government which gives some cases lower priority”). The DACA policy fits squarely within the Secretary’s authority as part of his or her responsibility to establish immigration-enforcement priorities. *See* Ex. OOO ¶ 6.

Prosecutorial discretion writ large is not only an accepted and longstanding practice, its importance is “greatly magnified” in the immigration-enforcement context. *Reno v. Am.-Arab*

¹² Defendant Attorney General Sessions, in his one-page letter to Defendant Acting Secretary Duke, asserted that DACA “was an unconstitutional exercise of authority by the Executive Branch.” AR 251.

Anti-Discrimination Comm., 525 U.S. 471, 490 (1999). Equally integral to deciding which groups of individuals should be targeted for removal is “whether it makes sense to pursue removal at all.” *Arizona v. United States*, 567 U.S. 387, 396 (2012). Indeed, “[a] principal feature of the removal system is the broad discretion exercised by immigration officials.” *Id.* One reason for this discretion is necessity: DHS simply lacks the resources to enforce every immigration law.¹³ Another reason for discretion in immigration law is that it “embraces immediate human concerns,” and may turn on factors such as whether the individual has “long ties to the community.” *Id.* The DACA program was consistent with this type of discretion long sanctioned under immigration law and by the Supreme Court.

The Duke Memo and Sessions Letter fail to explain why DACA, a program rooted in policies whose legality and necessity have been recognized for over sixty years, should now suddenly be deemed unlawful and unconstitutional. This misconception of law cannot form the basis on which a long-standing policy is suddenly terminated.¹⁴

The Attorney General cites a Fifth Circuit decision affirming a preliminary injunction of DAPA, an entirely separate program, to extrapolate without further analysis that “the DACA policy has the same legal and constitutional defects.” AR 251.¹⁵ To the extent that Acting Secretary Duke relied on this conclusion, it constitutes a misconception of law.

¹³ The impossibility of enforcing every immigration law has been recognized, repeatedly, by immigration authorities for decades, and has been the basis for guidance to officials on which cases to prioritize for removal. *See, e.g.*, Ex. OO (“Service officers are not only authorized by law but expected to exercise discretion in a judicious manner at all stages of the enforcement process.”); Ex. PP (“There simply are not enough resources to enforce all of the rules and regulations presently on the books. As a practical matter, therefore, law enforcement officials have to make policy choices as to the most effective and desirable way in which to deploy their limited resources.”).

¹⁴ Whether or not this Court accepts the bald conclusion presented in the Attorney General’s advisory letter, such a drastic change in legal analysis and policy requires greater consideration than a one-page letter cursorily dismissing decades of established practice.

¹⁵ The Fifth Circuit’s decision, which is not binding on the Second Circuit, was left in place by an equally divided Supreme Court, *United States v. Texas*, 136 S. Ct. 2271 (2016), in a non-precedential decision. *See Neil v. Biggers*, 409 U.S. 188, 192 (1972) (“Nor is an affirmance by an equally divided Court entitled to precedential weight.”).

First, it cannot be correct that DACA has the “same legal and constitutional defects that the courts recognized as to DAPA,” *id.*, because no court has “recognized” any constitutional defects with DAPA; neither the district court nor the Fifth Circuit in the *Texas* litigation ever reached the constitutional claims.¹⁶ An agency’s “[r]eliance on facts that [it] knows are false at the time it relies on them is the essence of arbitrary and capricious decisionmaking.” *Mo. Pub. Serv. Comm’n v. Fed. Energy Regulatory Comm’n.*, 337 F.3d 1066, 1075 (D.C. Cir. 2003). The *Texas* case explicitly avoids this question, providing no basis for Defendants to rely on the false premise that the *Texas* litigation has *any* bearing on DACA’s constitutionality.

Likewise, the Fifth Circuit’s holding that DAPA violated substantive portions of the Immigration and Nationality Act (“INA”) was explicitly premised on an element unique to DAPA: DAPA was only available to individuals with U.S. citizen or Lawful Permanent Resident children. *Texas*, 809 F.3d at 178-86. The court reasoned that since there was already “an intricate process for illegal aliens to derive a lawful immigration classification from their children’s immigration status” in the INA, DAPA undermined Congress’s already stated objectives. *Id.* at 179.¹⁷ That reasoning is inapplicable to DACA, as eligibility for DACA is not dependent on the immigration status of family members.¹⁸

¹⁶ See *Texas v. United States*, 809 F.3d 134, 150 (5th Cir. 2015), *as revised* (Nov. 25, 2015), *aff’d by an equally divided court*, 136 S. Ct. 2271 (2016) (“Despite full briefing, the [district] court did not rule on the ‘Plaintiffs’ likelihood of success on their substantive APA claim or their constitutional claims under the Take Care Clause/separation of powers doctrine.”) (quoting *Texas v. United States*, 86 F. Supp. 3d 591, 677 (S.D. Tex.), *aff’d*, 809 F.3d 134 (5th Cir. 2015), *as revised* (Nov. 25, 2015), *aff’d by an equally divided court*, 136 S. Ct. 2271 (2016)); *id.* at 154 (“We decide this appeal, however, without resolving the constitutional claim.”).

¹⁷ In reaching its substantive holding on DAPA, the Fifth Circuit erroneously conflated lawful presence and legal status—terms of art in immigration law with very distinct meanings—to conclude that DAPA granted a legal status that the INA foreclosed. DAPA never purported to grant legal status, which only Congress may do; at most it granted lawful presence through a discretionary grant of deferred action.

¹⁸ The only factual finding made by the Fifth Circuit arguably relevant to DACA actually undermines the government’s position in this case. The Fifth Circuit upheld the district court’s finding that DAPA was subject to the APA’s notice-and-comment requirements—a finding that “was partly informed by analysis of the implementation of DACA.” *Texas*, 809 F.3d at 172. However, the government conveniently ignores this distinction, since it would require DHS to undergo notice-and-comment rulemaking to rescind DACA. See *Consumer Energy Council of Am. v. Fed. Energy*

E. Defendants' proffered reasons for the DACA Termination were pretextual and given in bad faith

Defendants have regularly contradicted their own purported justifications for terminating DACA, essentially saying one thing and doing another. Such pretextual reasoning is impermissible under the APA. *Pub. Citizen v. Heckler*, 653 F. Supp. 1229, 1237 (D.D.C. 1986) (“For an agency to say one thing . . . and do another . . . is the essence of arbitrary action . . . [and] indicates that the Secretary’s stated reason may very well be pretextual.” (citation omitted)); *see also Squaw Transit Co. v. United States*, 574 F.2d 492, 496 (10th Cir. 1978) (“While the Commission would have the power to adopt either of two different approaches to deciding these cases, it cannot adopt one and apply the other.”).

Defendants have, on numerous occasions, given conflicting explanations for the termination of the program.¹⁹

- On September 5, 2017, six hours after the Attorney General announced the decision to terminate DACA because it was “an unconstitutional exercise of authority by the Executive Branch,”²⁰ President Trump tweeted that “Congress now has 6 months to legalize DACA (something the Obama Administration was unable to do). If they can’t, I will revisit this

Regulatory Comm’n., 673 F.2d 425, 447 n.79 (D.C. Cir. 1982) (“The Commission’s argument that notice and comment requirements do not apply to ‘defectively promulgated regulations’ is untenable because it would permit an agency to circumvent the requirements of § 553 merely by confessing that the regulations were defective in some respect”), *aff’d sub nom. Process Gas Consumers Grp. v. Consumer Energy Council of Am.*, 463 U.S. 1216 (1983); *see also infra* 28-32.

¹⁹ It is appropriate to consider deposition evidence in this case. While APA review is generally confined to the administrative record, consideration of extra-record evidence is appropriate “when the agency has not considered all relevant factors, or when the reviewing court simply cannot evaluate the challenged action on the basis of the record before it.” *Nat’l Audubon Soc’y v. Hoffman*, 132 F.3d 7, 14 (2d Cir. 1997) (citing *Florida Power & Light Co. v. Lorion*, 470 U.S. 729, 744 (1985)). Defendants’ failure to consider the policy impact of terminating DACA, *see supra* 21-22, as well as only providing brief conclusory statements for its reasons for doing so, *see supra* 18-21, frustrate meaningful review and warrant consideration of deposition testimony. Moreover, “a strong showing of bad faith or improper behavior” may justify supplementing the record. *Citizens to Preserve Overton Park v. Volpe*, 401 U.S. 402, 420 (1971). Here Defendants’ contradictory reasoning and their decision to continue granting DACA permits despite determining that doing so is unconstitutional serve as strong evidence of pretext warranting consideration of extra-record evidence.

²⁰ Ex. N.

issue!”²¹ If the Administration truly believed DACA was unconstitutional, President Trump would not have the authority to “revisit” it. Rather, the President’s statement suggests the Administration terminated DACA to gain political leverage over Congress.

- Gene Hamilton, the Senior Counselor to Acting Secretary Duke who was a principal drafter of the Termination Memo, testified that acting on “litigation risk” is the “craziest policy you could ever have” because “[y]ou could never do anything if you were always worried about being sued.” Ex. MM, 205:2-5, 207:20-208:11.
- If the DACA program was “an unconstitutional exercise of authority” as Attorney General Sessions claimed, AR 251, then Defendants would also lack the authority to “provide a limited window in which it will adjudicate certain requests for DACA,” as it has done by allowing renewals from DACA recipients whose status expires before March 5, 2018. AR 255.

The termination of DACA cannot stand on pretextual reasons. *See Zann Kwan v. Andalex Grp. LLC*, 737 F.3d 834, 846–47 (2d. Cir. 2013) (conflicting explanations are evidence that the reason provided was pretextual); *E.E.O.C. v. Ethan Allen, Inc.*, 44 F.3d 116, 120 (2d. Cir. 1994) (same).

Relatedly, there is significant evidence that Defendants have acted in bad faith by obscuring the actual decisionmaker for the DACA Termination and his reasons.²² In the Duke Memo and before the judiciary, Defendants have represented the DACA Termination as Acting Secretary Duke’s decision.²³ And understandably so, given that the Termination was premised on *her* statutory authority to “establish[] national immigration policies and priorities,” AR 255; *see* 6 U.S.C. § 202(5). Outside of the courtroom, however, Defendants have made it clear that the decision, in fact, was made by President Trump, who “[d]irect[ed]” the “Ending of DACA.” Ex. QQQ. This was made explicit in a “Talking Points” document distributed to the press at the

²¹ Ex. QQ. The Department of Justice has repeatedly conceded that tweets from the President’s official Twitter handle constitute official statements of the White House. *See, e.g., Int’l Refugee Assistance Project v. Trump*, 2017 WL 4674314, at *36-37 (D. Md. Oct. 17, 2017).

²² The Court need not determine who the actual decisionmaker or joint decisionmakers were to hold that Plaintiffs are likely to succeed on their arbitrary and capricious claim based on a showing of pretext or bad faith, which are independent bases for holding that Defendants’ actions were arbitrary or capricious.

²³ *But see* note 6, *supra* 12.

September 5 press conference at which the DACA Termination was announced by Attorney General Sessions. *Id.* At a press briefing later that same day—which was a Tuesday—the White House Press Secretary similarly stated that President Trump had made the decision to terminate DACA, and explained that he had come to that decision the weekend prior to its announcement. *See Ex. RRR.* That fact and timeline is amply corroborated by, *inter alia*, the President’s tweet promising to “revisit” the issue; the timing and brevity of the Sessions Letter (which was sent on Monday, September 4); the conciseness and phrasing of the operative language in the Duke Memo; the announcement of the Duke Memo by the Attorney General, rather than the Acting Secretary; the complete absence of evidence that DHS engaged in a reasoned decisionmaking process; and Defendants’ representations and conduct in this and related litigation. But neither the Duke Memo nor the administrative record acknowledge that the decision to end DACA was actually made by the President, much less explain how that fact affected the agency’s ostensible decisionmaking process. An agency that obfuscates to obscure the political pressure that operated on its own decisionmaking process from the courts and the public acts in bad faith. *See generally, e.g., Tummino v. Hamburg*, 936 F. Supp. 2d at 169-71, 184-87; *Tummino v. Torti*, 603 F. Supp. 2d 519, 544-49 (E.D.N.Y. 2009), *amended sub nom. Tummino v. Hamburg*, No. 05-CV-366 ERK VVP, 2013 WL 865851 (E.D.N.Y. Mar. 6, 2013).

II. DHS Did Not Comply with the APA’s Notice and Comment Requirements

DHS’s issuance of the Duke Memo failed to follow the notice-and-comment procedures required by the APA. 5 U.S.C. § 553. The APA requires agencies to publish a general notice of proposed rulemaking, *id.* § 553(b), and to publish a substantive rule “not less than 30 days before its effective date.” *Id.* § 553(d). Notice-and-comment requirements are “designed (1) to ensure that agency regulations are tested via exposure to public comment, (2) to ensure fairness to affected parties, and (3) to give affected parties an opportunity to develop evidence in the record to support

their objections to the rule and thereby enhance the quality of judicial review.” *United States v. Lott*, 750 F.3d 214, 219 (2d Cir. 2014); *accord Jean v. Nelson*, 711 F.2d 1455, 1481 (11th Cir. 1983), *on reh’g*, 727 F.2d 957 (11th Cir. 1984), *aff’d*, 472 U.S. 846 (1985) (“This public participation assures that the agency will have before it the facts and information relevant to a particular administrative problem, as well as suggestions for alternative solutions. Public rulemaking procedures increase the likelihood of administrative responsiveness to the needs and concerns of those affected.”).

In keeping with these public participation goals, the APA provides for limited exceptions to notice-and-comment requirements, none of which apply to the DACA Termination; accordingly, it must be set aside. 5 U.S.C. § 706(2)(D).

The APA defines rule-making broadly to include “formulating, amending, *or repealing* a rule.” 5 U.S.C. § 551(5) (emphasis added). A rule includes “the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy.” 5 U.S.C. § 551(4). Notice-and-comment requirements apply to all substantive rules, which include rules that “effect[] a substantive change in existing law or policy,” *Mendoza v. Perez*, 754 F.3d 1002, 1021 (D.C. Cir. 2014) (citation omitted), and provide exceptions only for “interpretative rules, general statements of policy, or rules of agency organization, procedures or practice.” 5 U.S.C. § 553(b)(3)(A). Exceptions are narrowly construed. *See Time Warner Cable Inc. v. FCC*, 729 F.3d 137, 168 (2d Cir. 2013) (citation omitted); *Mendoza*, 754 F.3d at 1023; *United States v. Picciotto*, 875 F.2d 345, 347 (D.C. Cir. 1989).

Defendants argue that the DACA Termination “is a quintessential policy statement.” Mot. to Dismiss, ECF No. 95-1, at 30. They are incorrect; the DACA Termination created a binding rule by barring consideration of deferred action requests (or renewal thereof) from the category of

young people who met the criteria outlined in the 2012 DACA Memo, except in the narrow circumstances outlined in the Duke Memo. *See* AR 1-3. For that reason, it was required to go through notice-and-comment.

In distinguishing between a general statement of policy and a substantive rule, the “ultimate issue is the agency’s intent to be bound.” *Pub. Citizen, Inc. v. U.S. Nuclear Regulatory Comm’n*, 940 F.2d 679, 681-82 (D.C. Cir. 1991) (citation omitted). “Substantive rules are ones treated as binding by the agency, while true policy statements are not.” *Id.* at 682; *Batterton v. Marshall*, 648 F.2d 694, 702 (D.C. Cir. 1980) (“[Substantive rules] narrowly construct the discretion of agency officials by largely determining the issue addressed.”). A true policy statement “genuinely leaves the agency and its decisionmakers free to exercise discretion.” *Cnty. Nutrition Inst. v. Young*, 818 F.2d 943, 946 (D.C. Cir. 1987) (citation omitted).²⁴ To determine if agency action is a general statement of policy or a substantive rule, courts first look to the document itself. Second, “[w]here the language and context of the statement are inconclusive, [courts] have turned to the agency’s actual applications.” *Pub. Citizen*, 940 F.2d at 682; *see also See Gen. Elec. Co. v. EPA*, 290 F.3d 377, 382-83 (D.C. Cir. 2002) (agency action will be considered binding if it appears on its face to be binding or the agency’s application indicates it is binding).

Here, both the text and DHS’s application of the Duke Memo show that it does not fall into the exception for general policy statements. First, the Duke Memo uses mandatory, definitive language to establish blanket, binding rules that leave no room for an agency’s discretion in handling deferred action requests received from childhood arrivals. The Duke Memo directs that DHS “[w]ill reject” all initial requests for deferred action submitted by childhood arrivals after the

²⁴ An agency’s characterization of its own action is not determinative. *See Lewis-Mota v. Sec’y of Labor*, 469 F.2d 478, 481-82 (2d Cir. 1972).

date of the memo; “[w]ill reject” all renewal requests received after October 5, 2017, and those from individuals whose current period of deferred action expires after March 5, 2018; and “[w]ill administratively close” pending requests for advance parole associated with DACA. AR 255 (emphasis added). The language is categorical and permits no case-by-case review. *See, e.g., Young*, 818 F.2d at 946 (“[W]e have, for example, found decisive the choice between the words ‘will’ and ‘may.’ . . . use of ‘will’ indicates statement is in fact a binding norm . . . use of ‘may’ indicates statement is a ‘general statement of policy.’”) (internal citations omitted). These binding directives therefore constitute a substantive rule.

Second, DHS’s treatment of initial DACA requests submitted after September 5, 2017, and DACA renewal requests submitted after to the October 5 deadline confirms the agency’s intention that the Duke Memo act as a substantive rule with binding effect. These applications were, substantively, individual requests for deferred action. Rather than evaluate them on a case-by-case basis, individuals’ requests were, as directed in the Duke Memo, categorically rejected solely on the basis of the Duke Memo. Exs. X, RR, SS. Decisions to adjudicate “on an individual, case by case basis,” or reject outright a request for deferred action from a childhood arrival, were made purely by determining whether an application arrived on or before the arbitrarily selected dates of September 5 or October 5, 2017. *Id.*²⁵ The Duke Memo removed agents’ ability to use prosecutorial discretion for individuals who met the DACA eligibility criteria, regardless of individual circumstance, therefore rendering it a substantive rule. *See Young*, 818 F.2d at 948.

Because the Duke Memo functionally created a binding norm that severely limited the agency’s discretion, DHS was required to comply with notice-and-comment procedures even if it

²⁵ DHS officials, as a result of this litigation, decided to accept requests that arrived at the USCIS Lockbox by October 5, 2017 and those that arrived late due to documented USPS error. *See* Exs. X, RR. These applications fall within the terms of the Duke Memo. Maintaining the categorical approach in the Duke Memo, USCIS continues to refuse to accept entire applications rejected for minor clerical errors. Exs. X, RR, SS.

believed that the original agency action was defective in some way.²⁶ *Consumer Energy Council of Am. v. Fed. Energy Regulatory Comm'n*, 673 F.2d 425, 448 (D.C. Cir. 1982) (“Furthermore, the argument that repeal was required because the regulations were defective does not explain why notice and comment could not be provided.”), *aff’d sub nom. Process Gas Consumers Grp. v. Consumer Energy Council of Am.*, 463 U.S. 1216 (1983); *Am. Forest Res. Council v. Ashe*, 946 F. Supp. 2d 1, 26 (D.D.C. 2013) (same), *judgment entered*, 301 F.R.D. 14 (D.D.C. 2014), *aff’d*, 601 Fed. Appx. 1 (D.C. Cir. 2015) (unpublished). DHS cannot evade APA requirements by recasting its original action as a substantive rule that should have gone through notice and comment, and then rescinding it without going through the notice and comment the APA requires for repealing a substantive rule. *See* 5 U.S.C. § 551(5). To hold otherwise would create perverse incentives, allowing the agency to evade notice-and-comment by simply declaring their belief that a prior rule was unlawfully promulgated. *See, e.g., Consumer Energy Council*, 673 F.2d at 447 n.79.

Because it was issued without the proper procedure, the Duke Memo must be set aside. *See* 5 U.S.C. § 706(2)(D). DHS’s failure to comply with its obligation to go through notice-and-comment “constitutes a serious deficiency” for which vacatur is appropriate. *Nat. Res. Def. Council v. EPA*, 676 F. Supp. 2d 307, 313 (S.D.N.Y. 2009) (“The lack of notice and comment is a fundamental flaw that normally requires vacatur of the rule.”) (internal quotations omitted); *In re Long-Distance Tel. Serv. Fed. Excise Tax Refund Litig.*, 853 F. Supp. 2d 138, 144 (D.D.C. 2012), *aff’d*, 751 F.3d 629 (D.C. Cir. 2014).

²⁶ The government previously argued that the creation of the DACA program was not subject to notice-and-comment. *See Texas v. United States*, 86 F. Supp. 3d 591, 647 (S.D. Tex. 2015); Ex. TT. The Duke Memo appears to rely on an opinion that the DACA program was unlawful. The Duke Memo explains, “[b]oth the district court and the Fifth Circuit concluded that implementation of the program did not comply with the Administrative Procedure Act because the Department did not implement it through notice-and-comment rulemaking.” AR 253-54. *See also id.* 251 (“DACA was effectuated . . . through executive action, without proper statutory authority,” and “has the same legal and constitutional defects that the courts recognized as to DAPA.”). The APA requirements apply to rescission regardless of how the program was initially created.

III. Plaintiffs Are Likely to Prevail on Their Regulatory Flexibility Act Claim

Defendants' failure to undertake the analysis required by the Regulatory Flexibility Act ("RFA") before terminating DACA requires the decision to be set aside. Here, Defendants admit that they did not conduct *any* RFA analysis before ending the program. Ex. F, pp. 25-31, Resps. to Requests for Admissions Nos. 52-56. Defendants' termination of the DACA program is already having a profound impact on small entities, such as Plaintiff MRNY, in violation of the RFA.

The RFA, 5 U.S.C. §§ 601-612, requires federal agencies to analyze the impact of rules they promulgate through notice-and-comment on small entities and publish initial and final versions of those analyses for public comment. *Id.* §§ 603-604. Plaintiff MRNY qualifies as a "small entity" and is therefore entitled to judicial review under the RFA. *See id.* § 601(6) (including 'small organization' in definition of 'small entity'); *id.* § 601(4) (defining a 'small organization' as "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field"); Ex. MMM ¶¶ 2-3, 6, 42-50; 5 U.S.C. § 611(a)(1). The Act allows agencies to bypass the requirement for a final regulatory flexibility analysis only if the agency head certifies that the rule will not have a significant impact on a substantial number of small entities and provides a factual basis for such certification. *Id.* § 605(b). Defendants made no such certification.

Because, as discussed above, the agency's promulgation of the Duke Memo required notice-and-comment rulemaking pursuant to 5 U.S.C. § 553, the RFA's analysis requirements were triggered and none of the statutory exemptions apply. *Id.* § 603. Defendants' own failure to conduct the requisite notice-and-comment rulemaking is no defense. *See Nat'l Ass'n of Home Builders v. U.S. Army Corps of Eng'rs*, 417 F.3d 1272, 1285 (D.C. Cir. 2005).

When faced with cases like this—where an agency utterly fails to conduct any RFA analysis, the appropriate remedy is to set aside the agency action until the statutorily required

analysis is complete. *See U.S. Telecom Ass'n v. FCC*, 400 F.3d 29, 42 (D.C. Cir. 2005) (staying enforcement of the rule as to small entities and remanding to the agency to conduct a regulatory flexibility analysis when no analysis or certification had been made); *see also Nw. Mining Ass'n v. Babbitt*, 5 F. Supp. 2d 9, 15-16 (D.D.C. 1998) (remanding rule to agency due to invalid certification).

The real-world impact of Defendants' flouting of the RFA's requirements is significant. Had Defendants conducted even the most cursory analysis of the impact of the Duke Memo on small entities, the analysis would have revealed serious economic impacts.²⁷ As one example, the termination of DACA will have an enormous direct and indirect impact on small businesses and all other small entities that hire DACA grantees, such as Plaintiff MRNY. Ex. MMM ¶¶ 42-61. Because the termination of DACA means DACA recipients have lost or will lose work authorization, employers have no choice but to terminate them or risk civil and criminal liability for the hiring or continued employment of noncitizens who are not authorized to work. *See* 8 U.S.C. § 1324a(a)(1)-(2). This forced termination deprives these entities of valuable employees and will impose turnover costs associated with replacing DACA beneficiary employees, resulting in loss of productivity and competitiveness, and costs associated with finding, hiring, and training new employees. *See* Ex. MMM ¶¶ 42-46; Ex. EE ¶ 11; Ex. UU at 9 (Amicus Br. of 108 Companies noting that once DACA begins to expire in March 2018, "companies will face an estimated \$6.3 billion in costs to replace Dreamers" and that these costs will be "particularly burdensome for small businesses"). And yet there is no evidence in the administrative record that DHS afforded any consideration to the effect of the termination on small entities.²⁸

²⁷ *See U.S. Telecom Ass'n*, 400 F.3d at 42 (agency's RFA analysis "must include an explanation for the rejection of alternatives designed to minimize significant economic impact on small entities") (citing 5 U.S.C. § 604(a)(3)).

²⁸ Courts regularly apply the RFA to the immigration context, even though DHS substantive rules generally regulate individuals. Regulatory flexibility analyses are still required when the immigration rule has an indirect effect on the

For each of these reasons, Defendants' failure to conduct any RFA analysis for DACA Termination requires a stay of the agency action until the required RFA analysis is complete.

IV. Plaintiffs Satisfy Other Requirements to Obtain Preliminary Relief

Plaintiffs and members of the putative class are suffering and will continue to suffer irreparable harm absent the Court's provision of preliminary relief. Preliminary relief is also warranted because the balance of equities and the public interest weigh in Plaintiffs' favor. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008) (discussing necessary non-merits requirements for preliminary relief).

A. Plaintiffs are suffering, and will continue to suffer, irreparable harm unless the Court grants preliminary injunctive relief

Each day, 122 young people who call this country home lose their deferred action and employment authorization previously obtained pursuant to DACA. Ex. A. Since the DACA Termination, young people with deferred action through DACA, along with their families, reside in a state of uncertainty and fear. Ex. B ¶¶ 33-37; Ex. T ¶¶ 12-15; Ex. CC ¶¶ 3, 13-15; L. Gonzales Decl., Ex. VV ¶ 10. Without this Court's intervention, they stand to lose their employment, houses, the ability to pursue further education, employer-provided health insurance, and their ability to perform various essential life tasks, such as driving their children to school or simply enjoying the comfort of living with their families. *Id.* Each of these harms has been recognized as irreparable by courts in this circuit.

The "single most important prerequisite for issuance of a preliminary injunction" is irreparable harm. *Jones v. Nat'l Conf. of Bar Exam'rs*, 801 F. Supp. 2d 270, 286 (D. Vt. 2011)

operations of small entities. *See Am. Fed'n of Labor v. Chertoff*, 552 F. Supp. 2d 999, 1013, 1015 (N.D. Cal. 2007) (preliminarily enjoining DHS safe harbor rule for employers due to failure to comply with the RFA); *see also* Retention of EB-1, EB-2, & EB-3 Immigrant Workers and Program Improvements Affecting High-Skilled Nonimmigrant Workers, 81 Fed. Reg. 82,398, 82,479 (Nov. 18, 2016).

(quoting *Rodriguez ex rel. Rodriguez v. DeBuono*, 175 F.3d 227, 234 (2d Cir. 1999)). To establish irreparable harm, Plaintiffs must show that they will “suffer an injury that is neither remote nor speculative, but actual and imminent, and one that cannot be remedied if a court waits until the end of trial to resolve the harm.” *Id.* (quoting *Grand River Enter. Six Nations, Ltd. v. Pryor*, 481 F.3d 60, 66 (2d Cir. 2007)). Irreparable harm can also be found “where money damages cannot provide adequate compensation.” *N.Y. Pathological & X-Ray Labs., Inc. v. Immigration & Naturalization Serv.*, 523 F.2d 79, 81 (2d Cir. 1975).

Defendants’ DACA Termination has directly and abruptly removed a critical protection from Plaintiffs by eliminating the two-year deferral from removal that deferred action grants DACA recipients. As a result, Plaintiffs and members of the putative class are suffering mental, emotional, and even physical harm due to a fear that they could be torn from their homes and families by deportation, using the very information they provided Defendants when requesting DACA. *See generally* Ex. B ¶¶ 33-37; Ex. T ¶¶ 12-15; Ex. CC ¶¶ 3, 13-15; Ex. VV ¶ 10; Ex. WW. For example, Plaintiff Fung Feng, who is “scared of being deported,” is working hard to avoid “sink[ing] into depression.” Ex. III ¶ 25; *see also* Ex. HHH ¶ 43; Ex. GGG ¶¶ 16, 23; Ex. EEE ¶ 19, 35-38; Ex. CC ¶¶ 3, 13-15; Ex. FFF ¶ 21, 24-28. Similarly, Plaintiff Fernandez had to start physical therapy due to the stress and anxiety caused by the fear of being separated from her young U.S.-citizen children. *See* Ex. LLL ¶¶ 1, 12, 15-16; *Pollis v. New Sch. for Soc. Research*, 829 F. Supp. 584, 598-99 (S.D.N.Y. 1993) (rejecting notion that “claims such as emotional or psychological damage can never, as a matter of law, demonstrate irreparable harm”); *see also* *Shapiro v. Cadman Towers, Inc.*, 844 F. Supp. 116, 122 (E.D.N.Y. 1994).

Like many DACA recipients, Plaintiff Fernandez has health insurance through her employer, covering her two U.S. citizen children. She fears that her loss of employment will impact

her family, by not only compromising her earnings, but also leading to her children's loss of health insurance. Ex. LLL ¶ 13. DACA recipient and putative class member Gustavo Galicia similarly fears that if he loses his job, he will no longer be able to access the life-preserving medical treatment he needs for his transplanted kidney under his employer-provided health insurance. Ex. CCC ¶ 36; *see generally* Ku Decl., Ex. PPP ¶ 12.

Thousands of putative class members' academic pursuits will be severely interrupted or halted due to Defendants' DACA Termination. Plaintiff Fung Feng's dream of attending graduate school is now threatened by uncertainty about whether she will be able to afford its costs. Ex. III ¶ 26; *see also Ariz. Dream Act Coalition v. Brewer*, 855 F.3d 957, 978 (9th Cir. 2017) (loss of opportunity to pursue one's chosen profession constitutes irreparable harm).

Many DACA recipients were able to secure mortgages on homes through their deferred action, and now those homes and financial commitments are in jeopardy. Plaintiff Fernandez fears that her loss of employment will cause her to lose the home she recently purchased. Ex. LLL ¶¶ 8, 13. Plaintiff Carlos Vargas helps pay the mortgages on two homes and an apartment with his brother who also has benefited from DACA; their ability to keep their assets would be in danger if they lost the employment they have through DACA. Ex. EEE ¶¶ 26-27.

Defendants' continued imposition of these harms, which Plaintiffs and putative class members are already experiencing, is actual and ongoing. Defendants stated that under the DACA Termination, former DACA recipients are subject to "apprehension, removal proceedings, where applicable, and deportation," Ex. F, p. 21, Resp. to Request for Admission No. 41, and that the information DACA recipients provided when requesting deferred action under DACA can be shared with immigration agents affirmatively. Collectively, these harms are causing severe disruptions in the lives of Plaintiffs and the putative class—not only on a day-to-day basis, but also

in their abilities to plan for the future and make commitments, whether familial, career-based, academic, or otherwise. This concrete “loss of the chance to engage in normal life activity,” such as by pursuing educational opportunities or a “chosen profession,” constitutes irreparable harm. *Jones*, 801 F. Supp. 2d at 286-87 (quoting *Enyart v. Nat’l Conf. of Bar Exam’rs, Inc.*, 630 F.3d 1153, 1165 (9th Cir. 2011)). These harms have and will continue to extend to the U.S.-citizen children and relatives of thousands of DACA recipients until relief is granted. *See* Ex. LLL ¶¶ 1, 3, 8; Ex. GGG ¶¶ 23, 26; Hainmueller & Lawrence Decl., Ex. H ¶¶ 11-13; Mendoza Decl., Ex. G ¶ 4.

Moreover, Plaintiff MRNY faces the imminent loss of twelve employees who will soon start to lose their deferred action and work authorization under DACA. The dilemma presently facing MRNY and employers nationwide is that when the grants of deferred action through DACA and work authorization of their valued employees expire, MRNY and other employers will either have to let them go or risk federal criminal and financial liability. *See* 8 U.S.C. §§ 1324(a)-(c). The loss of twelve carefully selected staff members, and its resulting diversion of resources and frustration to its mission, is an irreparable injury to a small organization like MRNY. Ex. MMM ¶¶ 42-62. *See also Fair Hous. of Marin v. Combs*, 285 F.3d 899, 905 (9th Cir. 2002).

B. The balance of equities and public interest weigh heavily in favor of provisional relief

The final requirements for a preliminary relief are that “the balance of equities tips in [the moving party’s] favor, and that an injunction is in the public interest.” *N.Y. Progress & Prot. PAC v. Walsh*, 733 F.3d 483, 486 (2d Cir. 2013) (citation omitted).

Given the size and success of the DACA program, it is no surprise that the costs to the public and nation from its termination would be staggering, swift, and significant. For this reason, the balance of equities and public interest overwhelmingly weigh toward injunctive relief. Without an injunction, DACA’s Termination will have devastating familial, health, and economic impacts

not just on the hundreds of thousands of individuals who rely on the program for protection from deportation and work authorization, but also on their families, employers, communities, and the U.S. economy as a whole. *See* Ex. NNN ¶ 14.

The public bears enormous costs as the harms from the DACA Termination materialize. For instance, the DACA Termination stands to adversely impact important institutions across the nation, including law enforcement. Law enforcement leaders have testified that the DACA Termination will be detrimental to local police forces’ “ability to maintain public safety and enforce the law,” as it will “perpetuate mistrust of law enforcement authorities and further depress cooperation among immigrant communities with police,” leading to increases in unreported crime. Gascón Decl., Ex. YY ¶¶ 5-6, 12; *see also id.*, Garcia Decl., Ex. XX ¶ 9; O’Malley Decl., Ex. ZZ ¶ 14; Rosen Decl., Ex. AAA ¶¶ 5, 8-10; Smith Decl., Ex. BBB ¶¶ 6-8. In addition, the Social Security and Medicare programs would lose an estimated \$39.3 billion in contributions from DACA recipients over a ten-year period. *See* Ex. KKK ¶ 15. The loss of DACA recipients’ income would “cost the federal government \$60 billion in lost revenue, and the economy as a whole \$215 in lost GDP” over a ten-year period. *See* Ex. NNN ¶ 14.

In sharp contrast, Defendants face no articulable harm from continuing the DACA program—a program with documented successes that the Defendants did, in fact, continue for the first eight months of the administration—pending a final judgment. Ex. OOO ¶¶ 25-30. Furthermore, the federal government cannot suffer harm from an injunction that simply requires them to follow their legal obligations. *See Abdi v. Duke*, No. 1:17–CV–0721 EAW, 2017 WL 5599521, at *27 (W.D.N.Y. Nov. 17, 2017). Accordingly, the balance of the equities and the public interest favor provisional relief.

CONCLUSION

Plaintiffs have demonstrated they are likely to succeed on the merits of their claims, and

have established they are suffering—and will continue to suffer—irreparable harm if the DACA Termination proceeds. Similarly, Plaintiffs have established that the balance of equities and the public interest strongly support the conclusion that preliminary relief is necessary.

For the reasons set forth above, this Court should enjoin the termination of the DACA and award provisional relief directing Defendants to restore the DACA program pending final adjudication on the merits.

Dated: December 15, 2017

Respectfully submitted,

/s/ Karen C. Tumlin

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** Application pending in EDNY

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK**

MARTÍN JONATHAN BATALLA VIDAL,
ANTONIO ALARCON, ELIANA FERNANDEZ,
CARLOS VARGAS, MARIANO MONDRAGON,
and CAROLINA FUNG FENG, on behalf of
themselves and all other similarly situated
individuals, and MAKE THE ROAD NEW YORK,
on behalf of itself, its members, its clients, and all
similarly situated individuals,

Plaintiffs,

v.

KIRSTJEN M. NIELSEN, Secretary of the
Department of Homeland Security, JEFFERSON
BEAUREGARD SESSIONS III, Attorney General
of the United States, and DONALD J. TRUMP,
President of the United States,

Defendants.

TABLE OF EXHIBITS

Case No. 1:16-cv-04756 (NGG) (JO)

EXHIBIT	DOCUMENT NAME
A	Tom Jawetz & Nicole Prchal Svajlenka, <i>Thousands of DACA Recipients Are Already Losing Their Protection From Deportation</i> , Center for American Progress (Nov. 9, 2017), http://ampr.gs/2ma0uYQ
B	Decl. of Roberto Gonzales, Ph.D.*
C	Tr. of Dep. of Donald Neufeld (Oct. 18, 2017)
D	Tr. of Dep. of James McCament (Oct. 17, 2017)
E	U.S. Dep't of Homeland Security, <i>National Standard Operation Procedures (SOP), Deferred Action for Childhood Arrivals (DACA) (Form I-821D and Form I-765), Version 2.0</i> (Apr. 4, 2013)
F	Defs.' Objs. & Resps. to Pls.' First Set of Req. for Admission to Elaine Duke, Acting Sec'y of Homeland Security (Oct. 18, 2017)
G	Decl. of Fernando S. Mendoza*
H	Decl. of Jens Hainmueller & Duncan Lawrence*
I	Decl. of Viridiana Carrizales*

J	Decl. of Dierdre O'Brien*
K	Decl. of Jonathan Schwartz*
L	Decl. of Alan Essig, Meg Wiehe, & Misha Hill*
M	Defs.' Objs. & Resps. to Pls.' First Set of Req. for Admission to Att'y Gen. Jeff Sessions (Oct. 18, 2017)
N	U.S. Dep't of Justice, <i>Attorney General Jeff Sessions Delivers Remarks on DACA</i> (Sept. 5, 2017), http://bit.ly/2jYDmcl
O	Jill Colvin, <i>Thousands Eligible for DACA Renewals Failed To Apply In Time</i> , Assoc. Press, Oct. 19, 2017, available at http://bit.ly/2kzKgEq
P	Liz Robbins, <i>Post Office Fails to Deliver on Time, and DACA Applications Get Rejected</i> , N.Y. Times, Nov. 10, 2017, at A17, available at http://nyti.ms/2zvOoyd
Q	Liz Robbins, <i>Number of DACA Applications Stuck in the Mail Tops 900</i> , N.Y. Times, Nov. 30, 2017, at A23, available at http://nyti.ms/2AiDXhP
R	Maya Rhodan, <i>She's Planning for College. But She'll Miss President Trump's Deadline to Avoid Deportation</i> , Time, Sept. 22, 2017, available at http://ti.me/2fEx1Ra
S	Jonathan Blitzer, <i>A DACA Recipient Describes the Feeling of Watching Her Legal Status Expire</i> , The New Yorker, Dec. 8, 2017, available at http://bit.ly/2Bo02wO
T	Decl. of Suárez-Orozco, Ph.D.*
U	Decl. of Emily Nishi*
V	Decl. of Dr. John Stobo*
W	U.S. Dep't of Homeland Security, <i>Frequently Asked Questions: Rescission Of Deferred Action For Childhood Arrivals (DACA)</i> (Sept. 5, 2017), http://bit.ly/2eBLz2X
X	U.S. Citizenship and Immigration Services, <i>Guidance on Rejected DACA Requests and Frequently Asked Questions</i> (Nov. 30, 2017)
Y	The White House, <i>Remarks by President Trump in Press Conference</i> (Feb 16, 2017), http://bit.ly/2lp8KCt
Z	Assoc. Press, <i>Transcript of AP Interview With Trump</i> , Apr. 23, 2017, available at http://bit.ly/2uwsUzg
AA	Decl. of Dr. Clarence Braddock*
BB	Decl. of Shawn Brick*
CC	Decl. of Holmes-Sullivan*
DD	Decl. of Janet Napolitano*
EE	Decl. of Diana Tellefson*

FF	Decl. of Natalie Cardenas*
GG	Decl. of Kathryn Eidmann*
HH	Decl. of Kathryn Abrams*
II	Decl. of Pamela Beckwith*
JJ	Decl. of Bill Blazar*
KK	Decl. of Miriam Feldblum*
LL	Decl. of Norberto Duenas*
MM	Tr. of Dep. of Gene Hamilton (Oct. 20, 2017)
NN	Tr. of Dep. of James D. Nealon (Oct. 13, 2017)
OO	Mem. from Doris Meissner, Immigration and Naturalization Service Commissioner, to Regional Directors, <i>Exercising Prosecutorial Discretion</i> 1, Nov. 17, 2000
PP	Sam Bernsen, Immigration and Naturalization Service General Counsel, <i>Legal Opinion Regarding Service Exercise of Prosecutorial Discretion</i> 1, July 15, 1976
QQ	Donald J. Trump, @realDonaldTrump, TWITTER (Sept. 5, 2017, 5:38 PM), http://bit.ly/2AAi5vD
RR	U.S. Citizenship and Immigration Services, <i>Guidance on Rejected DACA Requests and Frequently Asked Questions</i> (Dec. 14, 2017) https://www.uscis.gov/daca2017/mail-faqs
SS	[Redacted] Letter from Plaintiffs' Counsel Amy Taylor to Defendants' Counsel Stephen Pezzi, <i>Re: Follow Up on Rejected DACA Renewal Applications</i> , Dec 4, 2017
TT	Pet. for Writ of Cert., <i>United States v. Texas</i> , No. 15-674, 2015 WL 7308179 (filed Nov. 20, 2015)
UU	Br. for 108 Companies as <i>Amici Curiae</i> Supporting Pls.' Mot. for Provisional Relief, <i>Regents of Univ. of Cal. v. Trump</i> , No. 17-CV-05211-WHA (N.D. Cal. filed Nov. 1, 2017)
VV	Decl. of Lisa Gonzales*
WW	Dara Lind, <i>EXCLUSIVE: The Postal Service Kept Him From Renewing His DACA. Now He's In Immigration Detention</i> , Vox, Dec. 13, 2017, http://bit.ly/2o6MGiM
XX	Decl. of Edgardo Garcia*
YY	Decl. of George Gascón*
ZZ	Decl. of Nancy E. O'Malley*
AAA	Decl. of Jeffrey F. Rosen*

BBB	Decl. of Sheriff Laurie Smith*
CCC	Decl. of Gustavo Galicia, DACA recipient
DDD	Decl. of Karen C. Tumlin, Plaintiffs' counsel
EEE	Decl. of Carlos Vargas, Plaintiff
FFF	Decl. of Hirokazu Yoshikawa
GGG	Decl. of Mariano Mondragon, Plaintiff
HHH	Decl. of Martín Batalla Vidal, Plaintiff
III	Decl. of Carolina Fung Feng, Plaintiff
JJJ	Decl. of Antonio Alarcon, Plaintiff
KKK	Decl. of Tom Wong
LLL	Decl. of Eliana Fernandez, Plaintiff
MMM	Decl. of Javier Valdés, Co-Executive Director, Plaintiff Make the Road New York
NNN	Decl. of Ike Brannon
OOO	Decl. of Stephen H. Legomsky
PPP	Decl. of Leighton Ku
QQQ	Talking Points – DACA Rescission
RRR	The White House, <i>Press Briefing by Press Secretary Sarah Sanders</i> (Sept. 5, 2017), http://bit.ly/2kxBJld

* *Denotes declaration filed in support of Plaintiffs' Motion for a Preliminary Injunction in Regents of University of California v. Nielsen, No 3:17-cv-05211-WHA (N.D. Cal. Nov. 1, 2017)*

EXHIBIT A

**Supporting Declaration
of Karen C. Tumlin**

Center for American Progress



IMMIGRATION

Thousands of DACA Recipients Are Already Losing Their Protection From Deportation

By Tom Jawetz and Nicole Prchal Svajlenka | Posted on November 9, 2017, 6:00 am



AP/Reed Saxon

A child sits on a man's shoulders among demonstrators in favor of Deferred Action for Childhood Arrivals during a protest at the historic Plaza de Los Angeles on September 5, 2017.

Each day that Congress delays acting on the Dream Act from now until March 5, 2018, approximately 122 people will lose their [Deferred Action for Childhood Arrivals \(DACA\)](#) protection. That is 851 people each week, and more than 7,900 since the announcement. The logic behind this number is straightforward: The 22,000 eligible DACA recipients who did not successfully apply to renew their DACA will, as a result, see their DACA protections expire in the 181 days between September 5, 2017 and March 5, 2018.

DACA has allowed [nearly 800,000 young people](#) who came to the United States as children to live, work, and study without fear of detention and deportation. When President Donald Trump terminated the program on [September 5, 2017](#), he gave the [154,000 DACA recipients](#) whose protections were set to expire between then and March 5, 2018, just 30 days to submit costly and arduous renewal applications. The administration presented its phase-out approach as the “[least disruptive](#)” way forward and claimed that it would afford Congress six months to take action before current DACA recipients began to lose protection.

But the reality is that with every passing day, DACA recipients lose their protections and become vulnerable to a regime of enforcement overdrive. Shortly after the October 5 deadline, the U.S. Department of Homeland Security announced that [22,000 DACA recipients](#) did not meet the Trump administration’s arbitrary deadline for renewal. Much as the administration is currently attempting to sabotage [open enrollment for Affordable Care Act coverage](#) by shortening the enrollment period and pulling back from promotional efforts, the administration [did nothing](#) to encourage eligible DACA recipients to ensure that their renewal applications were received on or before October 5. Moreover, it ignored [bipartisan requests](#) to extend the enrollment period, particularly for people in hurricane-stricken areas like Texas and Florida.

Estimated number of young people that have lost DACA since September 5, 2017

Losing DACA comes with profound consequences.

Without DACA these young people will no longer be protected from detention and deportation. This is especially worrisome given that DACA recipients entrusted [the federal government](#) with personal identifying information for themselves and their family members long before the Trump administration [expanded its deportation priorities](#) to cover just about any unauthorized immigrant. In fact, months before the Trump administration terminated DACA it had already arrested and detained a series of DACA recipients, including [Daniel Ramirez Medina](#), [Riccy Enriquez Perdomo](#), and [Daniela Vargas](#).

Once their DACA expires, these young people will lose their work authorization and likely be forced out of employment. The largest survey of DACA recipients found that [91 percent](#) of those with DACA were employed. Losing their jobs will have repercussions for DACA recipients that reverberate with their families and their employers who will incur [at least \\$3.4 billion in turnover costs](#).

Another consequence of losing DACA is that many of these young people will lose their access to a driver's license. While DACA recipients may [obtain driver's licenses in every state](#), licenses are only available to the larger unauthorized population in [12 states and the District of Columbia](#).

Lastly, without DACA many young people will face new barriers to pursuing higher education. While [at least 20 states](#) offer in-state tuition to unauthorized immigrants, other states extend in-state tuition only to DACA recipients. Losing the ability to pay in-state tuition could make it extremely difficult for some to afford tuition and enroll in the upcoming spring semester. One such state is Virginia. Ángel Cabrera, president of Virginia's George Mason University, estimates that, once their DACA expires, [between 150 and 300 currently enrolled students](#) may be unable to afford tuition and be forced to leave the university.

By March 5, 2018, approximately 22,000 DACA recipients already will have lost status and face the challenges listed above. But that number will only be the beginning. Come March 6, 2018, the number of people losing DACA each day will significantly increase, until no protections remain for the nearly 800,000 Dreamers who have been making [enormous contributions since they first received DACA](#).

When members of Congress and the president talk about delaying consideration of the Dream Act until some time in the future, they are not only playing with the fears and anxieties of hundreds of thousands of DACA recipients who stand to lose protection beginning in March, but are discounting the real harms already taking place for tens of thousands of DACA recipients. Advocates that regularly call upon Congress to pass the #DreamActNow are focused not only on averting the crisis ahead of us, but also preventing the ongoing crisis from getting any worse.

Tom Jawetz is the vice president of Immigration Policy at American Progress. Nicole Prchal Svajlenka is a senior policy analyst of Immigration Policy at American Progress.



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EXHIBIT B

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

20 THE REGENTS OF THE UNIVERSITY OF
21 CALIFORNIA and JANET NAPOLITANO,
22 in her official capacity as President of the
23 University of California,

23 Plaintiffs,

24 v.

25 U.S. DEPARTMENT OF HOMELAND
26 SECURITY and ELAINE DUKE, in her
27 official capacity as Acting Secretary of the
28 Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

**DECLARATION OF ROBERTO
GONZALES, PH.D.**

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STATE OF CALIFORNIA, STATE OF MAINE, STATE OF MARYLAND, and STATE OF MINNESOTA,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05235-WHA

CITY OF SAN JOSE, a municipal corporation,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, ELAINE C. DUKE, in her official capacity, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05329-WHA

DULCE GARCIA, MIRIAM GONZALEZ AVILA, SAUL JIMENEZ SUAREZ, VIRIDIANA CHABOLLA MENDOZA, NORMA RAMIREZ, and JIRAYUT LATTHIVONGSKORN,

Plaintiffs,

v.

UNITED STATES OF AMERICA, DONALD J. TRUMP, in his official capacity as President of the United States, U.S. DEPARTMENT OF HOMELAND SECURITY, and ELAINE DUKE, in her official capacity as Acting Secretary of Homeland Security,

Defendants.

CASE NO. 17-CV-05380-WHA

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COUNTY OF SANTA CLARA and
SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
States; ELAINE DUKE, in her official
capacity as Acting Secretary of the Department
of Homeland Security; and U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

CASE NO. 17-CV-05813-WHA

1 I, Roberto Gonzales, declare:

2 1. I am a Professor of Education with tenure at Harvard University. I teach in the Harvard
3 Graduate School of Education, which was ranked by the U.S. News & World Report as the number one
4 school of education nationally. I write this declaration in support of all Plaintiffs in the related-lawsuits
5 regarding the Deferred Action for Childhood Arrivals program, commonly known as DACA.

6 2. I am an expert on immigrant incorporation. I have written two peer-reviewed books and
7 have authored several peer-reviewed journal articles, book chapters, and reports on this subject. I have
8 studied undocumented immigrant youth and young adults for more than fifteen years. In fact, my
9 research, including a twelve-year longitudinal study in Los Angeles and a five-year national study on the
10 effects of DACA, are the most comprehensive studies on this population. I received a Ph.D. in
11 sociology in 2008. I have held tenure track academic appointments at the University of Washington and
12 the University of Chicago. I have attached a true and complete copy of my curriculum vitae to this
13 Declaration.

14 3. When DACA was created in 2012, I launched a national research project to study the
15 program's effects on its recipients. In 2013, sixteen months after the program's implementation, my
16 team at Harvard surveyed 2,684 DACA eligible young adults, of those, 2,381 had obtained DACA by
17 the time of the survey. We recruited respondents through a range of local and national organizations,
18 consular offices, college and university campuses, GED programs, and community-based organizations.
19 Because we were interested in understanding how a range of the DACA-eligible population was
20 accessing this new status, we purposely drew our sample so as to include roughly one-third respondents
21 with a high school diploma or less, one-third with some college experience, and one-third with a college
22 degree (Associate's degree or higher). It is difficult to obtain survey data from undocumented
23 populations because they comprise a fairly small proportion of the U.S. population, and because of their
24 legal vulnerability and their low-income background (Bloch, 2006). Surveying them through random
25 dialing methods, respondent driven sampling, or other types of probability sampling can be quite costly,
26 and sometimes cost-prohibitive, especially on a national scale. We therefore relied on a sample drawn
27 through a web survey and a multistage recruitment process—including "gateway" organizations
28 (immigrant service agencies, law offices, churches, schools, universities, and local and national

1 undocumented young adult organizations), snowball sampling, and targeted efforts to find harder-to-
2 reach individuals to learn about the short-term benefits of DACA on the lives of some recipients.

3 **Life Before DACA**

4 4. My research into undocumented immigrants long predates DACA—extending back 15
5 years. From 2002 to 2015, I followed 150 undocumented young adults in Los Angeles, examining the
6 ways they responded to adolescent and adult transitions and an accompanying shrinking of rights.¹
7 Comparing the experiences of a group of college-goers with a group of young people who discontinued
8 their schooling at or before high school graduation, I found that over time even those who had attained
9 advanced degrees shared similar work and life outcomes with their less-educated peers. That is, once
10 they finished their academic programs, their options for employment were similar to those of their lesser
11 achieving counterparts who had not finished high school—college graduates had little choice but to
12 enter into the informal, low-wage labor market.

13 5. My research into the adolescent and adult transitions of undocumented immigrant young
14 people shows how they undergo unique developmental trajectories during adolescence that compare
15 negatively to their American born and citizen peers.² I conceptualize this process as a *transition to*
16 *illegality*.

17 6. Undocumented young adults cannot legally work, vote, receive financial aid, or drive in
18 most states, and deportation remains a constant threat. Unauthorized residency status thus has little
19 direct impact on most aspects of childhood but is a defining feature of late adolescence and adulthood.
20 As such, the life course trajectories of undocumented immigrant young people look markedly different
21 than those of their American-born and citizen peers.

22 7. Due to their constitutional access to K-12 education, undocumented children grow up to a
23 large extent protected from the limits of their immigration status, as they attend public schools and
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26 ¹ I highlight their stories in my book, *Lives in Limbo: Undocumented and Coming of Age in America*
(2016).

27 ² Jeffrey Jensen Arnett, *Emerging Adulthood: A Theory of Development from the Late Teens through the*
28 *Twenties*, 55 AMERICAN PSYCHOLOGIST 469 (2000).

1 develop their identities alongside U.S.-born and citizen peers. Childhood thus constitutes a period of
2 integration for undocumented children, as their school experiences allow them to develop feelings of
3 belonging to the United States as well as expectations and life aspirations rooted in American culture.

4 8. It is not until adolescence that undocumented youth begin to directly confront the social
5 implications of their undocumented status, at which point they enter a critical developmental period of
6 discovery. Although some undocumented youth are cognizant of their immigration status before their
7 teenage years, being undocumented only becomes salient when matched with experiences of exclusion.
8 At the time when they begin to require state identifications for driving, working, and travelling,
9 undocumented youth come to realize how lacking legal status will thwart them from developing their
10 desired adult lives. Characterized by confusion, frustration, and vulnerability, this critical
11 developmental period comprises a major “turning point” in the lives of undocumented youth, producing
12 a jolting shift in their self-perceptions and pressing them to make their transitions into adulthood within
13 same social confines as their undocumented parents.

14 9. For many undocumented youth, knowledge about their immigration status depresses their
15 motivations and renders pursuing educational trajectories both financially unrealistic and meaningless.³
16 Unable to access federal financial aid makes it impossible for most undocumented youth to finance their
17 higher education.

18 10. Further, just as they experience a shrinking of access, their familial and financial
19 responsibilities increase, pressing them to find work in the underground economy and help support their
20 families. A small minority of undocumented youth are able to enroll in postsecondary institutions due in
21 large part to other external factors such as consistent support from educators, counselors, parents, and
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24 ³ Leisy J. Abrego, *Legitimacy, Social Identity, and the Mobilization of Law: The Effects of Assembly Bill*
25 *540 on Undocumented Students in California*, LAW & SOCIAL INQUIRY 33(3) (2009); Leisy J. Abrego, *I*
26 *Can't Go to College Because I Don't Have Papers: Incorporation Patterns of Undocumented Latino*
27 *Youth*, 4 LATINO STUDIES 212-231 (2006); Roberto G. Gonzales, *On the Wrong Side of the Tracks: The*
28 *Consequences of School Stratification Systems for Unauthorized Mexican Students*, 85 PEABODY
JOURNAL OF EDUCATION 469 (2010); Carola Suárez-Orozco, Marcelo M. Suárez-Orozco, and Irina
Todarova, LEARNING IN A NEW LAND: IMMIGRANT STUDENTS IN AMERICAN SOCIETY (2008).

1 other mentors—all of whom contribute to instilling in youth optimistic outlooks and work ethics to
2 pursue their dreams. This, however, is not the norm.

3 11. Ultimately, the transition to “illegality” for undocumented youth involves a gradual,
4 adaptive process that wears them down and leaves them precarious in uncertain legal conditions.
5 Without work authorization or financial aid to pursue their educational goals, undocumented youth are
6 pressed to relinquish their aspirations to accept poorly paid and often physically demanding work with
7 other undocumented workers in the underground economy.

8 12. Further, having to lead adult lives without work authorization or driver’s licenses not
9 only increases their risk of police encounters and deportation, but undermines their moral standing,
10 diminishing their feelings of self-worth and belonging to mainstream society.⁴ In response,
11 undocumented youth learn to avoid immigration authorities, abide closely to traffic laws, and constantly
12 look over their shoulders in case of police.

13 13. Further, they grow vigilant toward strangers, avoid potentially threatening situations, and
14 learn to conceal their immigration status to strangers, authorities, employers, and even friends and
15 romantic partners. Over time these conditions take their toll on young immigrants’ minds and bodies,
16 leaving them physically fatigued, emotionally drained, and feeling increasingly hopeless about their
17 future possibilities. The young people I met described physical and emotional manifestations of stress:
18 chronic headaches, toothaches, ulcers, difficulty sleeping problems, eating disorders, and thoughts of
19 suicide.

20 14. Further, as they associate themselves with other low-skilled and undocumented migrant
21 laborers, they adopt similar lifestyles and perspectives, gradually assuming roles as undocumented
22 immigrants who must live in fear, with minimal prospects, and limited rights. By their late twenties,
23 undocumented young people complete their transition to “illegality,” finding themselves in stagnated
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25 ⁴ Hirokazu Yoshikawa, Carola Suárez-Orozco, and Roberto G. Gonzales, *Unauthorized status and youth*
26 *development in the United States: Consensus statement of the society for research on adolescence*, 27
27 *JOURNAL OF RESEARCH ON ADOLESCENCE* 4-19 (2017); Carola Suárez-Orozco, Hirokazu Yoshikawa,
28 Robert Teranishi, and Marcelo Suárez-Orozco, *Growing Up in the Shadows: The Developmental*
Implications of Unauthorized Status, 81 *HARVARD EDUC. REV.* 438-473 (2011).

1 and uncertain situations. Accordingly, the transition to “illegality” involves a process that leaves them
2 emotionally worn down and feeling hopeless about their futures.

3 15. Those who make it to postsecondary education are able to minimize and delay some of
4 these transformations by avoiding low-wage work and remaining in institutional contexts that tend to
5 support their aspirations and educational progress. However, college goers are not immune to
6 immigration status-related threats, family responsibilities, financial concerns, and fears of deportation.
7 Accordingly, few are able to avoid low-wage informal work to finance their studies, and many leave
8 school in order to save money for their education.

9 16. Even college goers learn to accept that their immigration status—not their dreams—will
10 shape most of their future plans. Without access to work authorization at the end of their studies,
11 educated undocumented young persons face the same limited range of low-wage job opportunities as
12 other undocumented immigrants, arriving even less prepared and more vulnerable than their peers who
13 dropped out of school before them.

14 17. Undocumented young people grow up in communities around the country and attend
15 school alongside American-born and citizen peers. But as friends are obtaining driver’s licenses, taking
16 after-school jobs, and thinking about college, their immigration status prohibits them from accessing
17 important rites of passage. For many, these barriers are debilitating. And, over the years, their levels of
18 stress and anxiety grow. Excluded from financial aid for college and unable to secure the kinds of jobs
19 their American born and citizen peers were taking, my respondents had no choice but to exist as second-
20 class members of our society, living in fear in a shadow economy.

21 **The Benefits of DACA**

22 18. But things changed for many young people in 2012 when DACA was created. In five
23 years, DACA has provided its recipients opportunities to access broader forms of adult life and to
24 benefit from their investments in education. It has also allowed them important opportunities to
25 contribute to their families, communities, and the United States economy. DACA recipients have made
26 enormous gains. They have experienced social mobility. They have increased their educational
27 attainment. They have experienced improved mental health. And they have a greater sense of
28 belonging. None of these gains are trivial. DACA has provided its recipients access to the American

1 Dream and new forms of social mobility. They now lead everyday lives with much more breathing
2 room and without fear of deportation.

3 19. My team at Harvard surveyed 2,684 DACA eligible young adults in 2013, sixteen months
4 after DACA was created. Of those, 2,381 had obtained DACA by the time of the survey.

5 20. Just sixteen months into the program, 59 percent of respondents had obtained a new job,
6 and a significant portion (45 percent) had increased their job earnings. Just over one fifth of survey
7 respondents had obtained a paid internship, which likely provided valuable career training not typically
8 available in jobs for young adults with limited employment histories. In addition, DACA recipients
9 began building credit.⁵ Almost one-half of survey respondents opened up their first bank account after
10 receiving DACA. And roughly one-third of our respondents had acquired their first credit card. Close
11 to 60 percent of our respondents had obtained a driver's license. And, twenty-one percent of those we
12 surveyed had acquired health care after receiving DACA, perhaps due to new education- or
13 employment-based plans or to greater facility in providing documentation to clinics and hospitals.

14 21. Particularly impressive, our survey pointed to DACA's strong impact on recipients
15 finding new opportunities in education and employment. Though having DACA benefited all recipients,
16 the effects were especially pronounced for DACA recipients attending higher education and those with
17 higher education degrees, who have been able to match their educational attainment and degrees with
18 high skilled jobs. Respondents who attended community and four-year colleges were more likely than
19 their peers with no college experience to obtain a new job and increase their earnings.

20 22. Aiding in their success, DACA college graduates had multiple mentors in high school,
21 they were active in clubs and in leadership roles in school, they were involved in their communities, and
22 they were connected to organizations. As a result, these young people likely possessed the social
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26 ⁵ Although undocumented immigrants are not necessarily prohibited from possessing a bank account,
27 the receipt of a Social Security number through DACA allows young people to overcome bureaucratic
28 hurdles and sometimes awkward or uncomfortable situations when trying to open a bank account.
Similar hindrances apply to obtaining a credit card.

1 networks and information that allowed them to maximize DACA’s benefits to access job-related
2 opportunities.

3 23. We found that the improved earnings of DACA recipients were helping them to access
4 higher education.⁶ While DACA does not remove restrictions from federal financial aid, DACA holders
5 were better able to earn and save money for college tuition, related fees, and books. What’s more, while
6 DACA recipients continued to provide financial support to their parents, their increased earnings
7 through DACA allowed them greater flexibility to pay for college. We also found that more modestly
8 educated DACA recipients were successful in finding trade schools and occupational certificate
9 programs.

10 24. Following up on our survey, we were interested in how DACA recipients were
11 experiencing their status. So, in 2015 and 2016, we carried out face-to-face interviews with 481 DACA
12 recipients in Arizona, California, Georgia, New York, Illinois, and South Carolina. This carefully drawn
13 sample provides a unique opportunity to understand how DACA is affecting the educational trajectories
14 of a wide range of young adult immigrants.⁷ The evidence we gained from the survey provided a
15 detailed picture of how DACA was working for a diverse cross-section of young people.
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18 ⁶ Roberto G. Gonzales, Benjamin Roth, Kristina Brant, Jaein Lee, and Carolina Valdivia, *DACA at Year*
19 *Three: Challenges and Opportunities in Assessing Education and Employment, New Evidence from the*
20 *UnDACAmented Research Project*, AMERICAN IMMIGRATION COUNCIL (Feb. 2016)
http://immigrationpolicy.org/sites/default/files/docs/daca_at_year_three.pdf.

21 ⁷ We used purposive sampling methods to generate a sample of DACA recipients exhibiting a range of
22 educational experiences. Based on the DACA requirements for eligibility, the participants screened by
23 the authors were under the age of 31 as of June 15, 2012; had arrived in the United States before age 16;
24 had accumulated at least five years of continuous residence in the United States; and had no felony
25 convictions, significant misdemeanors, or more than two other misdemeanors. Because we were
26 interested in a range of experiences, our sample included those young people who had not yet graduated
27 from or were enrolled in a U.S. high school or the equivalent. While DACA eligibility is open to
28 minors, this study focuses on young adult DACA recipients. We recruited respondents through national
and local organizations and through referrals by those who had taken the survey. The extensive
interview covers several key areas: childhood and early years in the United States; migration history; the
impact of DACA; household and neighborhood characteristics; social networks; elementary and
secondary education; post-secondary education; work history and finances; civic engagement; health
and emotional well-being; interactions with the justice system; and aspirations for the future.

1 25. Take Miguel⁸, from El Monte, California. Miguel graduated from his high school in
2 2011, and started taking classes at a local community college. DACA was initiated during Miguel’s first
3 year of college, and provided him a significant financial boost that allowed him to persist in his
4 schooling. With a work permit, he started working at a print shop and was able to enroll as a full-time
5 student. Having a driver’s license also made life much easier for Miguel. In many parts of California,
6 one could easily spend two or more hours a day on the bus. After working for a year and establishing
7 credit, Miguel pooled his money together with his father and they opened up a cell phone store in nearby
8 La Puente. Just last year, Miguel started a business as a web designer. He credits DACA for providing
9 opportunities to build a career.

10 26. DACA recipients not only have increased access to the very resources that are assisting
11 them to make important educational transitions, they also have a renewed sense of purpose that fueled
12 educational pursuits. Eighteen-year-old Carolina from Chicago told us, “My freshman and sophomore
13 year, I did really bad [in school], mostly because I was just not motivated because all of this is going to
14 be worthless in the end. But then when DACA came out, I started doing a lot better since I was like,
15 ‘OK, I actually have a chance.’”

16 27. Max from New York put it this way, “I finally feel like I am a part of the U.S., like I’m
17 no longer living in the shadows. I can now work legally. I can now be able to drive legally. When I go
18 to the doctor’s, the clinic, it is being paid for through health insurance that I’m eligible for.”

19 28. And Jenny from Phoenix told us, “I don’t know where I would be right now, without
20 DACA. I don’t know if I would be going to school. In some ways, I feel like it saved my life.”

21 29. Perhaps the biggest success of DACA is its positive impact on young people with modest
22 levels of education, those who may have left school at or before their high school graduation.⁹ In terms
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24 ⁸ To protect our research subjects’ confidentiality and to avoid deductive disclosure, we use pseudonyms
25 to conceal real names. This practice is customary in qualitative research with sensitive populations.

26 ⁹ Roberto G. Gonzales, Marco A. Murillo, Cristina Lacomba, Kristina Brant, Martha C. Franco, Jaein
27 Lee, and Deepa S. Vasudevan, *Taking Giant Leaps Forward: Experiences of a Range of DACA*
28 *Beneficiaries at the 5-Year Mark*, CENTER FOR AMERICAN PROGRESS (2017),
<https://www.americanprogress.org/issues/immigration/reports/2017/06/22/434822/taking-giant-leaps-forward/>.

1 of distance traveled, DACA's biggest success stories come from moderate achievers. Statistically, most
2 undocumented immigrant youth end their schooling before entering college.¹⁰ Due to a combination of
3 scarce family resources, exclusion from financial aid at the state and federal levels, and depressed
4 motivations stemming from legal limitations, accessing higher education is prohibitive for many
5 undocumented young people.

6 30. But, for the hundreds of thousands of DACA recipients without high school or college
7 degrees, DACA has incentivized young people to return to GED or workforce development programs.
8 It has also provided important onramps to certificate programs in the trades and in health care. These
9 DACA recipients received training in industries such as medicine, dentistry, construction, cosmetology,
10 teaching, law, nursing, and insurance. As a result, DACA recipients have used these opportunities as
11 stepping stones to build careers.

12 31. Before DACA, choices were severely restricted to jobs in low-wage sectors. Despite
13 length of time in the United States or level of education completed, they were limited to grueling jobs
14 that did not offer opportunities for job security, safety, or benefits. But the work authorization provided
15 by DACA and the incentives to invest in education, DACA has enabled its recipients to obtain better
16 employment. In particular, DACA recipients who completed certificate or licensing programs
17 experienced significant growth in salary. For many (68 percent), hourly salaries increased from \$5 to \$8
18 to more than \$14 an hour. Most (76 percent) at least doubled their previous salaries, earning between
19 \$25,000 and \$30,000 per year.

20 32. Equally impactful is DACA's positive role in improving the mental health of its
21 recipients. DACA has led to an overall decrease in stress. More than two-thirds of recipients told us
22 they were less afraid of law enforcement and of being deported. Many report feeling less fear around
23 government authorities, with new comfort to call on the police when in need. In fact, 59 percent of our
24 respondents say they would report a crime now, but would not before. With work authorization

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27 ¹⁰ In fact, more than 40 percent of unauthorized adults ages 18 to 24 do not complete high school, and
28 only 49 percent of unauthorized high school graduates go to college. See Jeffrey Passel, D'Vera Cohn,
A Portrait of Unauthorized Migrants in the United States (2009),
<http://www.pewhispanic.org/files/reports/107.pdf>.

1 documents, DACA recipients are also able to apply for driver's licenses in any state. The ability to
2 travel freely and safely to school and work, without always looking over their shoulders, has decreased
3 stressful situations.

4 **Ending DACA Would Have Disastrous Effects**

5 33. A repeal of DACA would have disastrous consequences to the young people who have
6 enjoyed increased access over these last five years and who would experience a cruel transition back to a
7 life of blocked access, daily struggles, and stigma.¹¹ Over the last five years, they have grown into their
8 new status. Access to better employment and increased opportunities for education have allowed them
9 to lead lives with more breathing room. They have purchased cars, moved into better living situations,
10 and have provided better opportunities for their children. If DACA were to end, these benefits would be
11 taken away, and their financial situation would decline significantly. They would be hard pressed to
12 keep up with their car payments, they would likely lose their homes, and they would have to make hard
13 decisions, including whether or not to pull their children from daycare they can no longer afford.

14 34. DACA recipients would also return to lives of stigma, fear, and worry. Over time, these
15 processes have grave consequences not only on individuals' mobility trajectories but also on their minds
16 and bodies.¹² They would return to lives on the outside, a fate they would share with many of their
17 parents. Their work options would be limited to unstable, dangerous jobs. They would carry out their
18 day-to-day lives always looking over their shoulders in fear of being apprehended, detained, and
19 deported. And they would likely experience health problems as a result. Everyday lives narrowly
20 circumscribed by their undocumented status, would be punctuated by anxiety, fear, limitation, and
21 dreams—not only deferred, but also—snatched away from them.

22 35. The loss of access to America's polity as well as to their feelings of belonging could have
23 negative consequences on the health and well-being of these young people. This abrupt transition from
24 a protected status with important forms of access to an unprotected reality marked by exclusions from
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27 ¹¹ Roberto G. Gonzales, *Learning to be Illegal: Undocumented Youth and Shifting Legal Contexts in the*
Transition to Adulthood, 76 AMERICAN SOCIOLOGICAL REV. 602-619 (2011).

28 ¹² Roberto G. Gonzales, *LIVES IN LIMBO: UNDOCUMENTED AND COMING OF AGE IN AMERICA* (2016).

1 the very mechanisms to ensure their social mobility and well-being is a cruel revocation of their futures
2 and a very difficult pill to swallow.

3 36. Without DACA, hundreds of thousands of young people who have been leading
4 productive lives will likely return to the shadows—uninsured, underemployed, and carrying high levels
5 of stress and anxiety. What’s more, there is a good possibility that many of these young people will be
6 compelled to leave school. Many will no longer be able to afford postsecondary tuition. And many
7 more will no longer see incentives for investing in school with uncertain payoffs. These realities,
8 marked by feelings of loss, are certain to sow uncertainty and disillusionment.

9 37. In addition, a large segment of the DACA eligible population will lack the tools and
10 experience to navigate clandestine lives. Because of its eligibility criteria, DACA has allowed tens of
11 thousands of teenagers the opportunity to obtain DACA while in high school and, as a result, reduce the
12 developmental barriers to adolescent and adult transitions, thus, at least partially, delaying the transition
13 to illegality. If DACA were to end, these youngsters could be the most vulnerable. Owing to their
14 access to work authorization and driver’s licenses and reduced fears of deportation, these young people
15 have experienced normal adolescent transitions. As such, DACA has positively shaped their sense of
16 belonging and future outlooks. To have everything ripped away from them will likely have dire
17 consequences.

18 I declare under penalty of perjury under the laws of the United States that the foregoing is
19 true and correct.

20 Executed on October 25, 2017, at Cambridge, Massachusetts.

21
22
23 

24
25 Roberto Gonzales, Ph.D.

EXHIBIT A

ROBERTO G. GONZALES

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roberto_gonzales@gse.harvard.edu

[Google Scholar Profile](#)

EDUCATION

Ph.D. University of California Irvine, Sociology (2008).

Fields of Specialization: Immigration, Unauthorized Migration, Race/Ethnicity, Education, Inequality

M.A. University of California, Irvine, Sociology (2004).

A.M. University of Chicago, School of Social Service Administration (1999)

B.A. The Colorado College, Sociology (1992)
Awarded the Abbot Prize for outstanding student in Sociology Department

ACADEMIC APPOINTMENTS

Professor of Education, Harvard Graduate School of Education (2017-)

Assistant Professor, Harvard Graduate School of Education (2013 to 2017)

Assistant Professor, University of Chicago School of Social Service Administration (2011-2013)

Adjunct Assistant Professor, University of Washington, Department of Sociology (2011-2016)

Assistant Professor, University of Washington, School of Social Work (2009 to 201)

Acting Assistant Professor, University of Washington School of Social Work (2008-2009)

ACADEMIC AFFILIATIONS

Faculty Research Affiliate, Institute for Research on Poverty, University of Wisconsin-Madison (2016-Present)

Faculty Research Affiliate, University of Oxford, Department of Social Policy and Intervention (2015)

Faculty Research Affiliate, Chapin Hall Center for Children, University of Chicago (2011-2014)

Faculty Research Affiliate, Center for the Study of Race, Politics & Culture, University of Chicago (2011-2013)

Faculty Research Affiliate, Center for Human Potential and Public Policy, University of Chicago (2011-2013)

Faculty Research Affiliate, West Coast Poverty Center, University of Washington (2009-2011)

HONORS AND AWARDS

Winner (2017), Society for the Study of Social Problems C. Wright Mills Book Award.

Winner (2017), American Sociological Association Sociology of Education Section, Pierre Bourdieu Book Award.

Winner (2017), Law and Society Association Herbert Jacob Book Award.

Winner (2017), American Education Research Association Outstanding Book Award.

Honorable Mention (2017), American Sociological Association International Migration Section, Thomas and Znaniecki Distinguished Book Award.

Honorable Mention (2017), American Sociological Association Aging and the Life Course Section, Outstanding Publication Award.

Honorary Degree Recipient (2017), Colorado College.

Ranked [#1 among Junior Faculty](#) in Rick Hess's 2017 Edu-Scholar Public Influence Rankings.

Winner (20016), American Anthropological Association ALLA Book Award.

Early Career Award (2016), American Educational Research Association Committee on Scholars of Color in Education. Given annually by the Association to a scholar who is within the first decade of his or her career after receipt of a doctoral degree.

Early Career Award (2016), American Educational Research Association Hispanic Research Issues Special Interest Group.

Public Sociology Award (2014), American Sociological Association, International Migration Section.

Distinguished Contribution to Research, Best Article Award (2013), American Sociological Association, Latino/a Sociology Section.

Distinguished Contribution to Research, Honorable Mention, Best Article (2013), American Sociological Association, International Migration Section.

Lauds and Laurels Outstanding Graduate Student (2008), University of California Irvine. Each year the UC Irvine Alumni Association presents this award to recognize a graduate student who has excelled academically and has impacted the campus or community at-large through significant service or program creation.

Order of Merit (2008), UC Irvine School of Social Sciences.

Fellow (2007-2008), Public Policy Institute of California.

Ford Dissertation Fellow (2006-2007), National Academy of Sciences.

Outstanding Graduate Student Instructor (2006), UC Irvine Department of Sociology.

Faculty Mentor Fellowship (2003-2004), UC Irvine.

Abbot Scholar (1996-1999), University of Chicago.

RESEARCH GRANTS

William T. Grant Foundation Research Grant (2017-2018), "Putting Immigration and Education in Conversation Everyday." Co-PI with Rebecca Lowenhaupt, Dafney Blanca Dabach, and Ariana Figueroa, \$50,000.

Spencer Foundation Research Grant (2017-2018), "Putting Immigration and Education in Conversation Everyday." Co-PI with Rebecca Lowenhaupt, Dafney Blanca Dabach, and Ariana Figueroa, \$35,000.

John D. and Catherine T. MacArthur Foundation Research Grant (2016-2017), "From Undocumented to DACAmented and Potentially DAPAmented: Understanding Mixed-Status Families in a New Policy Context," \$100,000.

Heising-Simons Foundation Research Grant (2016-2018), "Putting Immigration and Education in Conversation Every day," \$270,000.

Russell Sage Foundation Research Grant (2015-2016), "Undocumented Immigration: Effects of Policy on the Experience of Illegality," \$35,000.

Bill and Melinda Gates Foundation Research Grant (2014-2016), "Going Back to School? Understanding the Effects of Widened Access for Undocumented Young Adults," \$250,000.

John D. and Catherine T. MacArthur Foundation Research Grant (2013-2016), "Learning to be Legal: A Proposal to Track the Impact of Deferred Action on DREAM Act Eligible Youth and Young Adults," \$600,000.

James B. Irvine Foundation Research Grant (2013-2014), “Assessing DACA Implementation in California,” \$125,000.

Heising-Simons Foundation Research Grant (2013-2014), “Understanding the Effects of Widened Access Among Undocumented Young Adults,” with Veronica Terriquez, Co-PI, \$40,000.

U.S. Department of Health and Human Services Grant, administered under the Stanford Center for the Study of Poverty and Inequality (2012-2013), ‘Hispanic Poverty: Social Mobility.’ (Douglass S. Massey and David Grusky, Co-PI’s).

William T. Grant Scholars Program (Finalist, 2013) “Assessing Critical Supports for the Educational Persistence of the Children of Suburban Latino Immigrants.”

University of California, Davis Poverty Center Small Grant (2012), “Suburban Poverty and Immigrant Integration,” \$19,800.

University of Washington Institute for Ethnic Studies in the United States Small Grant (2010), “The Undocumented 1.5 Generation in Seattle,” \$10,205.

University of Washington West Coast Poverty Center Small Grant for Early Scholars (2009), “The Uncertain Futures of the Children of Undocumented Immigrants,” \$9,000.

University of Michigan National Poverty Center Small Grant (2009), Young Lives on Hold: Undocumented 1.5 Generation Young Adults Learning to be “Illegal,” \$8,228.

UC Irvine Center for Latinos in a Global Society Research Grant (2004-2007), \$30,000.

UC MEXUS Dissertation Research Grant, (2006), “The Children of Post-Industrial America: How the Sons and Daughters of Unauthorized Migrants Make Ends Meet,” \$12,000.

PUBLICATIONS (*Names in italics indicate graduate students*)

Books

Gonzales, Roberto G. 2016. *Lives in Limbo: Undocumented and Coming of Age in America*. Oakland: University of California Press.

- Winner (2017), Society for the Study of Social Problems C. Wright Mills Book Award.
- Winner (2017) Law and Society Association Herbert Jacob Book Award.
- Winner (2017) American Education Research Association Outstanding Book Award.
- Winner (2017), American Sociological Association Sociology of Education Section, Pierre Bourdieu Book Award.
- Honorable Mention (2017), American Sociological Association International Migration Section, Thomas and Znaniecki Distinguished Book Award.
- Honorable Mention (2017), American Sociological Association Aging and the Life Course Section, Outstanding Publication Award.
- Winner (2016) American Anthropological Association ALLA Book Award.

- Chosen for Author Meets Critic Session, Eastern Sociological Society, Boston, 2016.
- Reviewed in *The New York Review of Books*, *International Migration Review*, *Sociological Forum*, *City and Society*, *Migration Studies*, *NACLA Report on the Americas*, *Journal of Children and Poverty*; *Chiricú Journal: Latina/o Literatures, Arts, and Cultures*
- Selected by Tufts University as its Freshman Class's Common Book for AY 2017-2018

Gonzales, Roberto G., and Nando Sigona (Spring, 2017). *Within and Beyond Citizenship: Borders, Membership and Belonging*. New York: Routledge.

Gonzales, Roberto G., and Nando Sigona (Spring, 2018). *Undocumented Migration*. Under Contract. Cambridge: Polity Press.

Gonzales, Roberto G., Benjamin Roth, and Kristina Brant (Spring 2019) *The Growing Significance of Place: Assessing the Diverging Trajectories of DACA-eligible Young Adults*. Under Contract, Oakland: University of California Press.

Special Issues

Gonzales, Roberto G., and Steven Raphael. 2017. *Russell Sage Foundation Journal*, Special Issue on "Undocumented Immigrants and their Experiences of Illegality, Volume 3 No. 4.

Gonzales, Roberto G., Nando Sigona, and Edolina Burciaga. 2016. *American Behavioral Scientist*, Special issue on "Citizenship, Rights, and Deservingness, Volume 60 No. 13.

Aranda, Elizabeth, Elizabeth Vaquera, and **Roberto G. Gonzales**. 2014. *American Behavioral Scientist* Special Issue on "Latino Incorporation in Old and New Immigrant Destinations," 2014, Volume 58 No. 14.

Peer-Reviewed Journal Articles

Zhou, Min, and **Roberto G. Gonzales**. Forthcoming. "Divergent Destinies: Children of Immigrants Growing Up in America. *American Review of Sociology*, Issue 45.

Gonzales, Roberto G. and Edolina Burciaga. Forthcoming. "Segmented Pathways of Illegality: Reconciling the Co-existence of Master and Auxiliary Statuses in the Experiences of 1.5 Generation Undocumented Young Adults." *Ethnicities*.

Yoshikawa, Hirokazu, Carola S. Suarez-Orozco, and **Roberto G. Gonzales**. 2017. "Unauthorized Status and Youth Development in the United States: Consensus Statement of the Society for Research in Adolescence." *Journal of Research on Adolescence*. Volume 27, Issue 1, 4-19.

Gonzales, Roberto G., and Steven Raphael. 2017. "Illegality: A Contemporary Portrait." *Russell Sage Foundation Journal*, Volume 3 No 4.

Trieu, Monica, *Nicholas Vargas*, and **Roberto G. Gonzales**. 2016. "Transnational Patterns among Asian American and Latina/o American Children of Immigrants from Southern California." *Journal of Ethnic and Migration Studies*, Volume 42, Issue 7, 1177-1198.

Gonzales, Roberto G., Luisa L. Heredia, and Genevieve Negron-Gonzales. 2015. "Untangling Plyler's Legacy: Undocumented Students, Schools, and Citizenship." *Harvard Educational Review*, Volume 85 No. 3, 318-341.

Gonzales, Roberto G. 2015. "Imagined Futures: Thoughts on the State of Policy and Research Concerning Undocumented Immigrant Youth and Young Adults." *Harvard Educational Review*, Volume 85 No. 3, 518-524.

Roth, Benjamin J., **Roberto G. Gonzales**, and *Jacob Lesniewski*. 2015. "Building a Stronger Safety Net: Local Organizations and the Challenges of Serving Immigrants in the Suburbs." *Human Service Organizations: Management, Leadership, & Governance*, Volume 39, No. 4 348-361.

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Gonzales, Roberto G., Veronica Terriquez, and *Stephen Ruszczyk*. 2014. "Becoming DACAmented: Assessing the Short-term Benefits of Deferred Action for Childhood Arrivals (DACA)." *American Behavioral Scientist*, Volume 58, No. 14, 1852-1872.

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Gonzales, Roberto G., and *Ariel Ruiz*. 2014. "Dreaming Beyond the Fields: Undocumented Youth, Rural Realities, and a Constellation of Disadvantage." *Latino Studies*, Volume 12 Issue 2, 194-216.

Gonzales, Roberto G., Carola Suárez-Orozco, and *Maria Cecilia Dedios*. 2013. "No Place to Belong: Contextualizing Concepts of Mental Health among Undocumented Immigrant Youth in the United States." *American Behavioral Scientist*, Volume 57 Issue 8, 1173 - 1198.

Gleeson, Shannon, and **Roberto G. Gonzales**. 2012. "When Do Papers Matter? An Institutional Analysis of Undocumented Life in the United States." *International Migration*, Vol. 50, Issue 4, 1-19.

- Lead Article
- Reprinted in *The New Latino Studies Reader: A Twenty-First-Century Perspective*, Gutierrez and Almaguer, Eds. 2016. University of California Press.

Gonzales Roberto G., and Leo R. Chavez. 2012. "Awakening to a Nightmare": Abjectivity and Illegality in the Lives of Undocumented 1.5 Generation Latino Immigrants in the United States." *Current Anthropology* 53(3).

- Lead Article

Gonzales, Roberto G. 2011. "Learning to be Illegal: Undocumented Youth and Shifting Legal Contexts in the Transition to Adulthood." *American Sociological Review*, Volume 76, Number 4, 602-619.

- Featured Article
- Distinguished Contribution to Research, Best Article Award, American Sociological Association, Latino/a Sociology Section, 2013.
- Distinguished Contribution to Research, Honorable Mention, Best Article, American Sociological Association, International Migration Section, 2013.
- Reprinted in *The Structure of Schooling: Readings in the Sociology of Education*, 2015, Arum, Beattie, and Ford, Eds.

Gonzales, Roberto G. 2010. "On the Wrong Side of the Tracks: Understanding the Effects of School Structure and Social Capital in the Educational Pursuits of Undocumented Immigrant Students." *Peabody Journal of Education*, Volume 85 Issue 4, 469-485.

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Gonzales, Roberto G. 2010. "More Than Just Access: Undocumented Students Navigating the Post-Secondary Terrain." *Journal of College Admissions*, Number 206.

Gonzales, Roberto G. 2009. "On the Rights of Undocumented Children." *Society*. Volume 46 Number 5, 419 – 422.

Gonzales, Roberto G. 2008. "Left Out but not Shut Down: Political Activism and the Undocumented Latino Student Movement." *Northwestern Journal of Law and Social Policy*. Volume 3:2, 219-239.

- Reprinted in *Governing Immigration through Crime: A Reader*, Dowling and Inda, Eds. 2013. Stanford University Press.

Peer Reviewed Book Chapters

Gonzales, Roberto G. and *Edelina M. Burciaga.* Forthcoming. "Undocumented Youth and Local Contours of Inequality." In *Handbook of the Sociology of Education in the 21st Century*, Barbara Schneider and Guan Saw, Editors. New York: Springer International Publishing.

Gonzales, Roberto G. In Press. "Sergio Rodriguez's Dream Deferred: Illegality, Deportation, and the Long Term Impacts of Lives in Limbo." *Forced Out and Fenced In: Immigration Tales From the Field*, Tanya Golash-Boza, Editor. New York: Oxford University Press.

Gonzales, Roberto G., *Joanna Perez,* and *Ariel Ruiz.* 2016. "Ni de aqui, ni de alla": Undocumented Immigrant Youth and the Challenges of Identity Formation amid Conflicting Contexts." In *Bilateral Perspectives on Mexican Migration: Demographic, Economic and Incorporation Trends*, Harriett Romo and Olivia Lopez, Editors. Austin: University of Texas Press.

Stein, Gabriela, **Roberto G. Gonzales**, Cynthia Garcia Coll, and Juan I. Prandoni. 2015. "Latinos in Rural, New Immigrant Destinations: A Modification of the Integrative Model of Child Development." In *Rural Ethnic Minority Youth and Families in the United States*, Crockett and Carlo, Eds. Springer International Publishing.

Gonzales, Roberto G., and Benjamin Roth. 2015. "Immigrant Children and the Transition to Adulthood." In Scott, R. & Kosslyn, S. Eds. *Emerging Trends in the Social and Behavioral Sciences*. SAGE Publications.

Gonzales, Roberto G., and Cynthia N. Carvajal. 2015. "Difficult Transitions: Undocumented Immigrant Students Navigating Vulnerability and School Structures." In *Inequality, Power and School Success: Case Studies on Racial Disparity and Opportunity in Education*, Gilberto Conchas and Michael Gottfried, Editors. New York: Routledge.

Gonzales, Roberto G., Luisa Heridia, and Genevieve Negrón –Gonzales 2013.. "Challenging the Transition to New 'Illegalities': Undocumented Young Adults and the Shifting Boundaries of Inclusion." In *Immigrant Illegality: Constructions, Critiques and Resistance*, Cecilia Menjivar and Daniel Kanstroom, Editors. Cambridge: Cambridge University Press.

Gonzales, Roberto G. 2013 "Reassessing Human Capital and Intergenerational Mobility." In *Poverty, Inequality, and Immigration*, David Card and Steven Raphael, Editors. New York: Russell Sage.

Gonzales, Roberto G., and Rennie Lee. 2013."Second generation, identity formation." *The Encyclopedia of Global Migration*. Malden, MA: Wiley.

Gonzales, Roberto G. 2011. "In Spite of the Odds: Undocumented Immigrant Youth, School Networks, and College Success." In *Is Becoming an American a Developmental Risk?*, Cynthia García Coll and Amy Marks, Editors. Washington DC: APA Books.

Gonzales, Roberto G. 2009. "Dirty Pretty Things: The State, Global Migration and Survival in Contemporary Cities," in *Cinematic Sociology: Social Life in Film*, Feltey, K. and J. Sutherland eds. London, U.K.: Sage Press.

Rumbaut, Rubén G., **Roberto G. Gonzales**, Golnaz Komaie, and Charlie V. Morgan. 2008."Inmigración, encarcelamiento y delincuencia en los Estados Unidos de América: La percepción pública frente a la evidencia empírica," in *Procesos de infracción de normas y de reacción a la infracción de normas: dos tradiciones criminológicas. Nuevos estudios en homenaje al profesor Alfonso Serrano Gómez*. Alfonso Serrano Maíllo y José Luis Guzmán Dálbora, editores. Madrid: Editorial Dykinson.

Rumbaut, Rubén G., **Roberto G. Gonzales**, Golnaz Komaie, and Charlie V. Morgan and Rosaura Tafoya-Estrada. 2006. "Immigration and Incarceration: Patterns and Predictors of Imprisonment among First – and Second-Generation Young Adults," in *Immigration and Crime: Ethnicity, Race, and Violence*, Martinez, R. and A. Valenzuela eds. New York University Press.

Policy Reports

Gonzales, Roberto G., Marco A. Murillo, Cristina Lacomba, Kristina Brant, Martha C. Franco, Jaein Lee, and Deepa S. Vasudevan. 2017. "Taking Giant Leaps Forward: Experiences of a Range of DACA Beneficiaries at the 5-Year Mark." Center for American Progress. Available at: <https://www.americanprogress.org/issues/immigration/reports/2017/06/22/434822/taking-giant-leaps-forward/>

Gonzales, Roberto G., Maria E. Luna-Duarte, Daysi X. Diaz-Strong, M. Ireva Rivas, and Kristina Brant. 2016 "How Will I Pay for It? Undocumented Students and the Barriers to College Affordability." Latino Policy Forum. Available at: <http://www.latinopolicyforum.org/blog/nurp-financial-accessibility#>

Gonzales, Roberto G., Benjamin Roth, Kristina Brant, Jaein Lee, and Carolina Valdivia. 2016. "DACA at Year Three: Challenges and Opportunities in Assessing Education and Employment, New Evidence from the UnDACAmented Research Project." American Immigration Council: February, 2016. Available at: http://immigrationpolicy.org/sites/default/files/docs/daca_at_year_three.pdf

Gonzales, Roberto G., and Angie Bautista-Chavez. 2014. "Two Years and Counting: Assessing the Growing Power of DACA." Immigration Policy Center, June 2014. Available at: <http://www.immigrationpolicy.org/special-reports/two-years-and-counting-assessing-growing-power-daca>

Cervantes, Wendy, and **Roberto G. Gonzales**. 2013. "The Cost of Inaction: Why Children Can't Wait for Immigration Reform." First Focus: Center for the Children of Immigrants, October 2013.

Gonzales, Roberto G., and Veronica Terriquez. 2013. "How DACA is Impacting the Lives of Those Now DACAmented: Preliminary Findings from the National UnDACAmented Research Project." Immigration Policy Center and the Center for the Study of Immigrant Integration, August, 2013. Available at: <http://www.immigrationpoliPreliminary Findings from the National UnDACAmented Research Projectcy.org/just-facts/how-daca-impacting-lives-those-who-are-now-dacamended>

Gonzales, Roberto G. 2011. "Where Do We Go From Here? Undocumented Youth and an Effort Requiring the Entire Village." UC Berkeley Center for Latino Policy Research. Available at: <http://escholarship.org/uc/item/1k51m25n;jsessionid=BDBD64FF6A2F9C48D5A4B8DDE41B391C>

Gonzales, Roberto G. 2009. "Young Lives on Hold: The College Dreams of Undocumented Students" (with a foreword by Marcelo Suárez-Orozco). *The College Board*. Available at: <http://professionals.collegeboard.com/profdownload/young-lives-on-hold-college-board.pdf>

- Reprinted in Spanish. 2009. "Vidas Jóvenes en Espera: Los Sueños Universitarios de Estudiantes Indocumentados" (Prólogo de Marcelo M. Suárez-Orozco). *The College Board*. Available at:

<http://professionals.collegeboard.com/profdownload/young-lives-on-hold-college-board-spanish.pdf>

Gonzales, Roberto G. 2009. “Why Integration Matters: Undocumented Immigrant Youth and Making a Case for Moving Beyond Enforcement.” *The Role of Local Police: Striking A Balance Between Immigration Enforcement and Civil Liberties*, The Police Foundation.

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Available at:

<http://www.immigrationpolicy.org/sites/default/files/docs/Wasted%20Talent%20and%20Broken%20Dreams.pdf>

- Reprinted in *Current Controversies: Illegal Immigration*, 2012. Noel Merino, Editor. Greenhaven Press.

Rubén G. Rumbaut, **Roberto G. Gonzales**, Golnaz Komaie, and Charlie V. Morgan. 2006. “Debunking the Myth of Immigrant Criminality: Imprisonment Among First- and Second-Generation Young Men,” in *Migration Information Source*, June 1, 2006 (with Rubén G. Rumbaut, Golnaz Komai, and Charlie V. Morgan). Available at:

<http://www.migrationinformation.org/usfocus/display.cfm?ID=403>

Book Reviews

Gonzales, Roberto G. Forthcoming. Review of *Dreams and Nightmares: Immigration Policy, Youth, and Families*, Marjorie Zatz and Nancy Rodriguez. *Contemporary Sociology*.

Gonzales, Roberto G. 2016. Review of *Skills of the Unskilled: Work and Mobility Among Mexican Migrants*, Jacqueline M. Hagan, Ruben Hernandez-Leon, and Jen-Luc Demonsant. *American Journal of Sociology*, 121 (6): 1947-1949.

Gonzales, Roberto G. 2013. Review of *Rallying for Immigrant Rights: The Fight for Inclusion in 21st Century America*, Kim Voss and Irene Bloemraad, Eds. *Contemporary Sociology* 42 (5): 755-756.

Gonzales, Roberto G. 2012. Review of *Immigrants Raising Citizens: Undocumented Parents and Their Young Children*, by Hirokazu Yoshikawa. *Social Service Review*, 86 (3): 547-548.

Gonzales, Roberto G. 2010. Review of *Manifest Destines: The Making of the Mexican American Race*, by Laura E. Gomez. *Contemporary Sociology*, 39 (1): 38.

Gonzales, Roberto G. 2006. Review of *Chicanas and Chicanos in School: Racial Profiling, Identity Battles, and Empowerment*, by Marcos Pizarro. *Latino Studies* 2006, Volume 4 Issue 3 Autumn 2006.

Op-Eds

Gonzales, Roberto G. “I study young immigrants. Here’s how DACA changed their lives” *Vox: The Big Idea*, September 2, 2017. <https://www.vox.com/2017/9/2/16244380/daca-benefits-trump-undocumented-immigrants-jobs>

Gonzales, Roberto G., and Kristina Brant. “DACA Boosts Young Immigrants’ Well-Being, Mental Health,” *NBC News*, June 15, 2017. <https://www.nbcnews.com/news/latino/analysis-daca-boosts-young-immigrants-well-being-mental-health-n772431>

Gonzales, Roberto G. “Community Support Can Help Integrate Immigrants,” *The New York Times, Room for Debate*, September 12, 2016.

Gonzales, Roberto G. “How the Supreme Court’s immigration decision hurts all of us,” *The Washington Post*, June 23, 2016.

Gonzales, Roberto G. “Supreme Court ruling could put immigrants deeper into shadows,” *The Boston Globe*, June 23, 2016.

Gonzales, Roberto G. 2012. “Five Myths about the Dream Generation,” *Washington Post*, June 22, 2012.

Gonzales, Roberto G. 2010. “We Cannot Afford to Not Pass the DREAM Act: A Plea from Immigration Scholars.” *Huffington Post*, December 8, 2010. Lead author accompanied by 381 of the nation’s top scholars. Available at: http://www.huffingtonpost.com/roberto-g-gonzales/we-can-not-afford-not-to-1_b_793702.html

Gonzales, Roberto G. 2010. “Investing in the American Dream: The DREAM Act Would Allow Undocumented Youth to Give Back to America.” The Immigration Policy Center. Available at: http://immigrationpolicy.org/sites/default/files/docs/Gonzales_Investing_in_the_American_DREAM_120210.pdf

Gonzales, Roberto G. 2009. Perspectives Piece on the DREAM Act and Comprehensive Reform for the Illinois Coalition for Immigrant and Refugee Rights. Available at: <http://icirr.org/ko/node/4206>

Selected Works in Progress

“Immigration Policy and Mental Health Outcomes among Undocumented Latino Young Adults: An Elaboration of the Stress Process Model,” with Veronica Terriquez and Juanita Garcia. Preparing for *Journal of Health and Social Behavior*.

“The Impact of DACA on the Life Course,” with Basia Ellis and *Sarah Rendon-Garcia*. Preparing for submission to *Child Development*.

“Imagined Futures: The Effects of Uncertainty on DACAmented Youth in the United States,” with Cristina Fernandez-Gutierrez and *Carolina Valdivia*. Preparing for submission to the *American Journal of Sociology*.

“On the Path to College: Undocumented Students Disclosing their Immigration Status to School Personnel,” with *Carolina Valdivia*. Preparing for submission to the *Sociology of Education*.

"Power and Political Opportunity in the Lives of Young Undocumented Immigrants: Complicating Established Frameworks, Constructing New Theory," with *David Knight*. Preparing for submission to *Perspectives on Politics*.”

“The Contours of Concealment and Disclosure: An Analysis of Undocumented Youth’s Disclosures in School Settings,” with Dafney Blanca Dabach and *Deepa Vasudevan*. In Progress.

“Undocumented Youth’s Disclosure Patterns across Contrasting State Contexts: Implications for Policy and Practice, with Dafney Blanca Dabach and *Deepa Vasudevan*. In Progress.

“The Power of Inclusion: How DACA Transforms the Psychological Lives of Undocumented Youth,” with Basia Ellis and *Sarah Rendon-Garcia*. In Progress.

“What Counts as Well-being for Undocumented Youth?” with Basia Ellis and *Sarah Rendon-Garcia*. In Progress.

“Because My Dad Helped Me”: Assessment of Family Engagement in the DACA Application Process,” with *Jaemin Lee*. In Progress

"Documenting the Undocumented: Methodological and Ethical Strategies," with *Thomas Swerts*. Preparing for submission to *Qualitative Methods*.

PRESENTATIONS

Keynote Addresses and Select Invited Presentations

Future of Latinos in the United States: Law Opportunity, and Mobility, Northeast Roundtable, Yale Law School, April 8-9, 2017.

Children of Immigrants in New Places of Settlement, The American Academy of Arts and Sciences, April 19-21, 2017.

Keynote Speaker, Global Politics of Migration and Refuge Symposium, Grinnell College, September 8, 2016.

Keynote Speaker, Undocumented and Coming of Age: What lessons can Europe draw from the USA? European Parliament, Sponsored by MEP Brando Benifei and the European Parliament Youth Intergroup, March 16, 2016.

Carl A. Grant Lecture, University of Wisconsin-Madison Center for Educational Research, May 6, 2016.

Keynote Speaker, Illinois African American and Latino Higher Education Alliance Research Forum, University of Illinois at Chicago, April 6, 2016.

George I. Sanchez, Lecture, University of Houston Institute for Higher Education Law and Governance, March 29, 2016.

Keynote Speaker, University of Chicago Latino Student Association Annual Conference, April 17, 2015.

National Academy of Sciences, Committee on Population, Panel on Integrating Immigrants into America, July 17, 2014.

Keynote Speaker, Serving Mexican Population's Educational Needs: Lessons from Coast to Coast, City University New York, December 5, 2014.

Annual Daniel Patrick O'Connor Memorial Lecture, Colorado College, December 11, 2013.

Keynote Speaker, César E. Chávez Undergraduate Research Symposium, Indiana University, March 21, 2013.

Keynote Speaker, 50 Years Later: (R)Evolution of the Dream, University of Michigan, February 5, 2013.

Keynote Speaker, Latino Heritage Month, Illinois State University, October 4, 2012.

Keynote Speaker, Social Services in the Latino/a Community Conference, UCLA Luskin School of Public Affairs, May 7, 2011.

Presentations at Professional Associations and Meetings

“Between Peril and Possibility: DACAmented Youth Views of American Democracy.” Society for the Study of Social Problems Annual Meeting, Seattle, WA, August, 2016.

“From Undocumented to DACAmented: Understanding Legal Status in a New Policy Context.” American Education Research Association Annual Meeting, Washington, D.C., March, 2016.

“Between Peril and Possibility: DACAmented Youth Views of American Democracy.” Eastern Sociological Society, Boston, MA, February, 2016.

“Taking Small Steps Forward: Assessing Short-term Benefits of DACA from the National Undocumented Research Project.” American Sociological Association Annual Meeting, San Francisco, CA, August, 2014.

“Are Small Steps Forward Enough? Assessing the Benefits of Deferred Action for Childhood Arrivals from the National Undocumented Research Project.” Presidential Panel, American Educational Research Association Annual Meeting, Philadelphia, PA, 2014.

“Invisible Work and the Undocumented, A Conversation with Roberto Gonzales and Robert Smith.” Eastern Sociological Society Annual Meeting, Baltimore, MD, February, 2014.

“Immigration, Schooling, and the Transition to Illegality.” Eastern Sociological Society Annual Meeting, Boston, MA, March, 2013.

“Education Not Deportation! Undocumented Students & the Reframing of the Debate about Immigrant Rights.” Law and Society Annual Meeting, Honolulu, HI, May, 2012.

“Dreams in a Time of Confusion: Undocumented Youth and the Four Shocks of Discovery.” American Anthropological Association Annual Meeting, Montreal, November 21, 2011.

“Waking up to a Nightmare.” Law and Society Annual Meeting, San Francisco, June 2011.

“Making Connections, Building a Movement: Undocumented Students Organizing Online.” Thematic Session, American Sociological Association Annual Meeting, Atlanta, GA, Aug. 2010.

“Wasted Talent and Hard Work: An Evaluation of Framing in the Immigrant Rights Movement” Law and Society Association Annual Meeting, Chicago, May 2010, with Shannon Gleeson (UC Santa Cruz)

“Citizenship, Abjectivity, and Illegality: The end(s) of Identity.” 2009 Presidential Panel on "Dilemmas of Citizenship," the annual meetings of the AAA, December 2009, Philadelphia, Pennsylvania, with Leo Chavez (UC Irvine).

(Presider and Discussant) “Emerging Issues in Social Work Research and Practice with Immigrant Communities.” Council on Social Work Education, San Antonio, TX, November 2009.

“Transitioning to Work and Uncertainty.” American Sociological Association Annual Meeting, San Francisco, CA, Aug. 2009.

“Membership, Opportunity, and Claims Making: Undocumented Immigrants Negotiating Bureaucracies.” Law and Society Association Annual Meeting, Denver, CO, May 2009, with Shannon Gleeson (UCSC)

“Learning to be Illegal: Undocumented Mexican Youth Coming of Age at a Crossroads” Presidential Session: *Mexican Immigration: Current Issues & Controversies*, Pacific Sociological Association Annual Meeting, San Diego, CA April 2009.

“Dreams Deferred: Immigration and the Construction of Liminal Americans.” University of Texas at Austin, American Studies Conference. Austin, TX. September 2007.

(Presider) Immigrant Networks Roundtables, American Sociological Association Annual Meeting, New York, New York, August 2007.

(Presider and Discussant) “The Future of Ethnic Identity: Case Studies of 1.5- & Second-Generation Young Adults in Southern California,” panel at the Pacific Sociological Association’s Annual Conference, Oakland, CA. March 2007.

(Organizer) “Waking the Sleeping Giant? Organizing & the Immigrants Rights Movement,” panel at the Pacific Sociological Association’s Annual Conference, Oakland, CA. March 2007.

“Growing up on the margins: The children of Mexican unauthorized migrants.” Pacific Sociological Association Annual Meeting, Hollywood, CA, April 2006.

Policy Briefings

Center for American Progress, Harnessing the Talent of Unauthorized and DACA Students: What’s Working in K-12 Policy and Practice, with Frances Esparza, Assistant Superintendent, Boston Public Schools; Richard Loeschner, Principal, Brentwood High School, Brentwood, New York; and Yehemi Cambron, Georgia Public School Teachers, March, 2016.

Center for American Progress, DACA Turns 1: Lessons and Challenges on the Anniversary of the Deferred Action for Childhood Arrivals Directive, with Tom Wong (UC San Diego), Audrey Singer (Brookings Institute), and Erika Andiola (Rep. Krysten Sinema D-AZ), August, 2013.

The Immigration Policy Center, A Roadmap to Citizenship for the 11 million Undocumented Immigrants in the U.S., with Rob Paral (Rob Paral and Associates) and Sherri Kassoudji (University of Michigan), January, 2013.

Center for American Progress, Legal Violence: How Immigration Enforcement Affects Families, Schools, and Workplaces, with Leisy Abrego (UCLA), Cecilia Menjivar (ASU), Lisa Moore (National Domestic Workers Alliance), and Chris Newman (National Day Laborer Organizing Network), December, 2012.

Reform Immigration for America, National Education Leaders Discuss the DREAM Act, with Becky Pringle (Secretary Treasurer, National Education Association); Antonia Cortese (Secretary-Treasurer, American Federation of Teachers); Gary Rhoades (Secretary General, American Association of University Professors); and Junot Diaz (Pulitzer Prize winning writer and Professor, Massachusetts Institute of Technology), December, 2010.

The Immigration Policy Center, Noted American Scholars Discuss the DREAM Act, with Douglas S. Massey (Princeton University), Carola Suarez-Orozco (New York University), Rubén G. Rumbaut (UC Irvine), and Jacqueline Hagan (University of North Carolina at Chapel Hill), December, 2010.

The University of Washington, Pursuing the Dream: Beyond Achieving Education, with Hon. Maria Cantwell (U.S. Senator, D-WA); Rep. Phyllis Gutierrez-Kenney (46th District, Washington), August, 2009.

The College Board, *Young Lives on Hold: The College DREAMS of Undocumented Students*. Washington DC: Capitol Briefing, with Hon. Robert Menendez (U.S. Senator, D-New Jersey); Joseph Zogby (Chief Counsel to Senator Richard Durbin, D-IL); James M. Montoya (Vice President, The College Board); Hemi Kim (D.C. Director, National Korean American Service & Education Consortium); Gumecindo Salas (Vice President, Government Relations, Hispanic Association for Colleges and Universities, April, 2009.

“Why Integration Matters: Making a Case for Moving Beyond Enforcement.” The Police Foundation, Conference on the Role of Local Police: Striking a Balance between Immigration Enforcement and Civil Liberties. Washington DC, August 2008.

American Immigration Law Council. Policy and Politics: Senator Durban and Education Experts Discuss the DREAM Act. Washington DC. Presented research on panel with Hon. Richard Durbin (U.S. Senator, D-IL); Robert J. Birgeneau, (Chancellor, University of California at Berkeley); Reg Weaver (President, National Education Association); Gov. Bob Wise (President, Alliance for Excellent Education and former governor of West Virginia), October, 2007.

The Chief Justice Earl Warren Institute on Race, Ethnicity and Diversity, UC Berkeley, Boalt Hall School of Law. *The Education of Our Children: The 25th Anniversary of Plyler V. Doe*, May, 2007.

TEACHING

Harvard Graduate School of Education (2013 to Present)

Contemporary Immigration Policy and Educational Practice

Ethnographic Methods

University of Chicago School of Social Service Administration (2011 to 2013)

Contemporary Immigration Policy and Practice

Cultural and Political Understandings of Youth

University of Washington (2008-2011)

Critical Youth Empowerment

Maco-Practice I: Organizational, Community and Policy Practice

University of California, Irvine (Graduate Teaching, 2004-2007)

Summer Academic Enrichment Program

Sociology of Los Angeles

Contemporary Minority Politics

Latino Metropolis

University of Illinois, Chicago (2002)

Intro to the Barrio

Associated College of the Midwest Urban Studies Program (1998-2002)

Immigration and Labor: Becoming an American in the Global City
Economics, Community, and Urban Change in the Global City
Immigration and Ethnicity: The Journey to Becoming an America
Youth and the System: Making Sense of the Institutions in a Kid's Life
The Immigrant Dilemma: Changing Demographics and a City's Response.
Chicago Communities: Race and Ethnicity/Art and Culture.
Communities, Institutions, and Families in Chicago.

STUDENT ADVISING

Dissertation Committees

Matthew Shaw, HGSE, (**Assistant Professor, Vanderbilt**).
Eve Ewing, HGSE, (**Assistant Professor, University of Chicago**).
Benjamin Roth, University of Chicago (**Assistant Professor, U. South Carolina**).
Kevin Escudero, University of California, Berkeley 2014. (**Assistant Professor, Brown University**)
Joanna Perez, University of Illinois, (**Assistant Professor, Cal State Dominguez Hills**)
Thomas Swerts, University of Chicago (**Postdoctoral Fellow, University of Antwerp**)
Marcelle Medford-Lee, University of Chicago, (**Postdoctoral Fellow, University of Connecticut**)
Michele Statz, University of Washington, (**Postdoctoral Fellow, University of Minnesota**)
Daysi Diaz-Strong, University of Chicago (current student).
Matt Maronic, University of Chicago (current student)
Maria Luna-Duarte, University of Illinois Chicago (current student)
Alessandra Bazo Vienrich, University of Massachusetts, Boston (current student)
Deepa Vasudevan, HGSE (current student)
Abena Subira Mackall, HGSE (current student)
Stephany Cuevas, HGSE (current student).
Carolina Valdivia, HGSE (current student).
Jain Lee, HGSE (current student)
Sarah Rendon-Garcia, HGSE (current student).
Jonathan Hampton, HGSE (current student)
Daphne Penn, HGSE (current student)
Clint Smith, HGSE (current student)
Martha Franco, HGSE (current student)
Carlos Aguilar (current student)

Undergraduate Thesis Advising

Lisette Candia Diaz, Harvard College, 2016
Juan Guevara, The College, University of Chicago, 2013
Michele Suarez, University of Washington, 2010

Other Advising (Ph.D. Proposal Committees)

Miriam Valdovinos, University of Washington (**Assistant Professor, University of Connecticut**)
 JoAnn Lee, University of Washington (**Assistant Professor, George Mason University**)
 Marcela García-Castañon, University of Washington (**Assistant Professor, San Francisco State University**)
 Natasha Merchant, University of Washington (**Assistant Professor, University of North Georgia**)
 Eric Waithaka, University of Washington
 Sabrina C. Bonaparte, University of Washington

SELECTED PROFESSIONAL SERVICE

Editorial Board, <i>Sociology of Education</i>	2016
Associate Editor, <i>Social Problems</i>	2014-Present
Editorial Board, <i>Research in the Sociology of Education</i>	2014-Present
Chair, American Sociological Association Latino/a Section, Distinguished Contribution to Research Best Paper Award	2014
Committee Member, American Sociological Association International Migration Section, Distinguished Contribution to Research Best Paper Award	2014
Advisory Board, Dream.US Scholarship Fund	2013-Present
Council Member (elected), American Sociological Association Latino/a Section	2012-Present
Advisory Board Member (Chosen by Mayor Rahm Emanuel), City of Chicago Office of New Americans	2102-Present
Editorial Board, <i>Social Problems</i>	2011-2014
Editorial Board, <i>Social Service Review</i>	2011-2013
Scholarship Committee, Seattle Central Community College Foundation	2011
Panel Organizer, Pacific Sociological Association Annual Meeting, Oakland	2007
Organizer, Graduate Student Mini-Conference, Center for Research on Latinos in a Global Society, UC Irvine	2006
Co-Director, UC Irvine Labor Studies Group	2005 – 2007
Organizer, Graduate Student Mini-Conference, Center for Research on Latinos in a Global Society	2005
Co-Organizer, UCI Labor Studies Conference	2002

UNIVERSITY SERVICE

Member, Committee on Ethnicity, Migration, Rights, Harvard University	2015-Present
Member, Committee on Rights & Responsibilities, HGSE	2015-Present
Member, Ph.D. Steering Committee, Harvard Graduate School of Education	2015-Present
Member, Ph.D. Admissions Committee, Harvard Graduate School of Education	2013-Present
Member, Committee on Degrees, Harvard Graduate School of Education	2013-Present
MSW Admissions Committee – UW School of Social Work	2009-2011
Social Justice Sub-Committee – UW School of Social Work	2009-2010
Qualitative Methods Committee – UW School of Social Work	2009-2010
Founder, Purple Group (support group of UW undocumented students)	2008
Dissertation Fellowship Committee, Public Policy Institute of California	2008
Co-Founder, Student Group, DREAMS (Dedication for the Realization of an Education and Always Motivated for Success) UC Irvine	2006

Search and Hire Committee, UC Irvine Department of Sociology	2004
Graduate Student Representative, UCI Sociology	2002-2005
Director Search Committee, Associated Colleges of the Midwest Urban Studies	2000
Co-Organizer Associated Colleges of the Midwest Faculty Spring Conference	2000
Faculty Search Committees, Associated Colleges of the Midwest Urban Studies	1999-2000
Policies and Procedures Committee, Associated Colleges of the Midwest	1999

PROFESSIONAL MEMBERSHIPS

American Educational Research Association, member
American Sociological Association, member
Eastern Sociological Society, member
Pacific Sociological Association, member
Law and Society Association, member

REVIEWER

Journal Manuscript Reviewer

American Sociological Review, American Journal of Sociology, Demography, Ethnicities, Social Forces, Social Problems, Journal of Ethnic and Migration Studies, Sociological Forum, Sociological Perspectives, International Migration Review, Ethnos, Mexican Studies, Sociology of Education, Review of Higher Education, Latino Studies, Analyses of Social Issues and Public Policy, Journal of Latino-Latin American Studies, British Journal of Social Work, Childhood, Sociology Quarterly, Education Policy.

Book Manuscript Reviewer

Stanford University Press
New York University Press
Cambridge University Press
University of California Press
Palgrave Press

Grant Reviewer

National Science Foundation
Russell Sage Foundation

International Dissertation, Outside Reviewer

Elizabeth Benedict Christensen, Copenhagen Business School

EXHIBIT C

1 Q Can you describe what is communicated
2 during these weekly check-ins?

3 A Any matters of interest. Usually they
4 are operationally focused so whatever issues might
5 be arising at the center that need attention, how
6 well they are performing, where the backlogs are
7 developing, that sort of thing.

8 Q Anything else that they might keep you
9 apprized of?

10 A Well, it is open to anything anybody
11 wants to bring up.

12 Q And do they prepare memoranda in
13 preparation for this check-in?

14 A No.

15 Q Do they -- do they keep you apprized of
16 the number of immigration related requests that
17 each service center has processed?

18 A Not normally.

19 Q Do they keep you apprized of the number
20 of DACA applications processed?

21 A No, not normally.

22 Q So within these weekly check-ins with

1 the service center directors are there -- is there
2 any agenda created beforehand?

3 A Infrequently.

4 Q How often would sometimes these agendas
5 be created?

6 A So I believe we started having an
7 agenda, maybe within the last two months and it's
8 been weekly since then.

9 Q Are there minutes coming out of these
10 check-ins?

11 A No. No.

12 Q Are there any written records of what
13 was discussed at these check-ins?

14 A No.

15 Q To whom do you directly report,
16 Mr. Neufeld?

17 A To the deputy director of USCIS.

18 Q Who is that, Mr. Neufeld?

19 A James McCament.

20 Q Do you report to anyone else?

21 A Directly, no.

22 Q So let's now turn to the processing of

1 DACA applications that was conducted at your
2 office. As part of your official duties you
3 oversaw the processing of DACA applications. Is
4 that correct?

5 A That's correct.

6 Q So I want to focus my understanding of
7 that process and I want to focus on the process
8 specifically prior to your office learning about
9 the decision to terminate DACA. So I would like
10 to go step by step through each process beginning
11 with when an individual submits an initial DACA
12 application. Is that all right?

13 A Yes.

14 Q So at the beginning of the application
15 process DACA applications are sent to lockboxes.
16 Is that correct?

17 A Do you mean DACA applications?

18 Q Yes?

19 A Yes.

20 Q How many of lockboxes are there?

21 A I don't recall specifically.

22 Q After arriving at those lockboxes they

1 are reviewed for completeness. Correct?

2 A Yes.

3 Q And if an application is missing a
4 component, for example there is no attached filing
5 fee or if it's unsigned it would be rejected.

6 Correct?

7 A Yes.

8 Q How did SCOPS handle rejected
9 applications?

10 A We wouldn't be the ones rejecting them.
11 It would be rejected by the lockbox.

12 Q How do -- do you know how the lockbox
13 handled rejected applications?

14 A No.

15 Q Were application -- were applicants
16 notified of the rejection?

17 A I believe so, yes.

18 Q Do you know how they were notified?

19 A I believe by letter, with the rejected
20 application would come a notice instructing them
21 that it had been rejected.

22 Q You said that they would be issued a

1 **letter. Is that correct?**

2 A I don't know the specific format. What
3 I do know is that when the physical application or
4 request would be rejected that along with that
5 rejection would be some sort of communication
6 explaining that it had been rejected.

7 **Q Would it be sent back to the applicant?**

8 A Yes. I am not sure how if they were
9 represented how that would be handled.

10 **Q Who manages those lockboxes, Mr.**
11 **Neufeld?**

12 A The Treasury Department.

13 **Q So, it would be the Treasury Department**
14 **that evaluates the applications for completeness**
15 **and would reject them and send the notice back.**
16 **Is that correct?**

17 A The Treasury Department has a contract
18 with banks that manage the lockboxes.

19 **Q If upon initial review the application**
20 **moves forward were applicants also notified?**

21 A Can you repeat that?

22 **Q If upon initial review by the lockboxes**

1 the application moves forward are applicants
2 notified?

3 A They would receive a receipt notice.

4 Q Were renewal applications processed in
5 the same way as initial DACA applications?

6 A With respect to the lockbox process?

7 Q Right now we're still on the lockbox
8 process.

9 A Yes.

10 Q So they are reviewed for completion,
11 notified of denial, and receive a receipt if the
12 application is forwarded. Is that correct?

13 A That's correct.

14 Q What happens once an application is
15 approved at the lockboxes?

16 A The lockbox wouldn't approve, they would
17 only accept or reject.

18 Q What happens if the lockbox -- what
19 happens if an application is accepted by a
20 lockbox? What happens next?

21 A Then the lockbox -- I'm not sure of the
22 process that they use. But they are responsible

1 for the data entry into our systems. I'm not sure
2 exactly how that process works. I believe they
3 have their own system but they do data entry into
4 it and then it is transmitted to our system so
5 that we have an electronic record of the filing.

6 Q What system is that?

7 A Our system?

8 Q Yes.

9 A It has changed over time. It was
10 initially claims 3. Now it is ELIS. E-L-I-S.

11 (Court reporter requested
12 clarification.)

13 THE WITNESS: E-L-I-S.

14 BY MR CHEN:

15 Q Do you know what the system that the
16 lockbox managers use?

17 A I do not.

18 Q Who would know? Do you know who would
19 know what system that was?

20 A The manager of our Office of Intake and
21 Document Production.

22 Q Who, what is the name of your manager?

1 A Ernest DeStefano.

2 Q Once the accepted applications are
3 logged do they move on to the service centers?

4 A Yes.

5 Q At the service centers who reviewed each
6 DACA application?

7 A The typical process would be that it
8 would be reviewed by an immigration services
9 officer.

10 Q Were DACA applications processed
11 anywhere else besides these service centers?

12 A They are only adjudicated at service
13 centers. A very small percentage in the last
14 several years have been referred to a field office
15 for interview but they did not make the final
16 decision. They would -- after the interview they
17 would send it back to the service center for the
18 final decision.

19 Q Do you know approximately how many
20 applications were referred to a field office for
21 an interview?

22 A It would be a few hundred.

1 **Q Do you know what percentage of that is**
2 **to the total number of DACA applications?**

3 A I do not, but it is a very small
4 percentage.

5 **Q Approximately how many USCIS immigration**
6 **officers work at each service center?**

7 A It varies. Most of these -- let me
8 clarify. Things have changed over the years, but
9 for the majority of the time the cases have been
10 processed at either the Nebraska service center.
11 Most of the cases are processed at Nebraska
12 service center or the California service center.
13 The officer component at each of those has also
14 changed. I would imagine that it's around
15 probably 400 adjudicators, officers at each of
16 those centers.

17 **Q And what about with the other three**
18 **service centers?**

19 A Vermont service center is approximately
20 the same size.

21 The Texas service center is a smaller
22 center, so it probably -- although it has grown

1 recently. It's probably closer to the 300 range.

2 The Potomac service center is the newest
3 center. It is the smallest center and I think
4 that they have maybe 200 officers.

5 Q And so DACA applications are processed,
6 you said that DACA applications are primarily
7 processed in the Nebraska and the California
8 service centers. Is that correct?

9 A That's correct.

10 Q But the other three service centers also
11 process DACA applications. Is that correct?

12 A The Vermont service center processes a
13 very small number and those would relate to DACA
14 requests where the requester may have had another
15 benefit request in the T and U nonimmigrant
16 categories or the Violence Against Women Act
17 request. I just don't -- well, the Potomac
18 service center has never processed DACA requests.
19 I don't recall the Texas service center's role. I
20 believe that they have processed them at some
21 point in the past but it was a very short period
22 of time and not very large numbers.

2 I, DONNA M. LEWIS, RPR, Certified
3 Shorthand Reporter, certify;

4 That the foregoing proceedings were
5 taken before me at the time and place therein set
6 forth, at which time the witness, Donald Neufeld,
7 was put under oath by me;

8 That the testimony of the witness, the
9 questions propounded and all objections and
10 statements made at the time of the examination
11 were recorded stenographically by me and were
12 thereafter transcribed;

13 I declare that I am not of counsel to
14 any of the parties, nor in any way interested in
15 the outcome of this action.

16 As witness, my hand and notary seal this
17 19th day of October, 2017.

18 
19 Donna M. Lewis, RPR
20 Notary Public



21
22 My Commission expires:
March 14, 2018

EXHIBIT D

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

THE REGENTS OF THE UNIVERSITY OF) Case No.
CALIFORNIA and JANET NAPOLITANO,) 17-CV-05211-WHA
in her official capacity as)
President of the University of)
California,)

Plaintiffs,)

v.)

U.S. DEPARTMENT OF HOMELAND)
SECURITY and ELAINE DUKE, in her)
official capacity as Acting)
Secretary of the Department of)
Homeland Security,)

Defendants.)

-----)
AND RELATED CASES.)
-----)

- - -
Tuesday, October 17, 2017
- - -

Videotaped deposition of JAMES McCAMENT,
taken at the offices of Gibson, Dunn & Crutcher,
1050 Connecticut Avenue NW, Washington, D.C.,
beginning at 9:14 a.m., before Nancy J. Martin, a
Registered Merit Reporter, Certified Shorthand
Reporter.

1 simply put, promoting this as an available option.

2 Q. Why did DHS, USCIS do that?

3 MR. GARDNER: Objection. Calls for
4 speculation.

5 THE WITNESS: If I may ask, Counsel, so with
6 your objection I may proceed but --

7 MR. GARDNER: Right.

8 MR. DETTMER: That's okay.

9 THE WITNESS: So why did DHS and USCIS
10 promote it?

11 BY MR. DETTMER:

12 Q. Yes.

13 A. Well, it was a direction from our secretary
14 that we would begin implementing this ability, this
15 capacity for folks within those guidelines to request
16 DACA. And to be clear, to respond to your question,
17 again looking across all the many benefit types, when
18 there is direction given, it's incumbent, appropriate
19 for us, USCIS or other agencies, to explain clearly to
20 the public what those guidelines in this case would be
21 and note to recipient requesters that this was now an
22 available option. I hope I'm explaining it clearly.

23 Because of the many benefit types and
24 requests in this case that we administer, for that
25 reason our website at USCIS has a very high level of

1 two months or three months -- I had said I would do it
2 for two or three months, to just bridge the gap, help
3 in the transition as she served as chief of staff and
4 get acclimated.

5 I guess open opinions on my performance, but
6 I was asked to stay until the following August in one-
7 to two-month increments at a time.

8 So to your question as to why the leg
9 affairs, legislative affairs chief position remained
10 the official title, but I was in this acting role.

11 Q. You were wearing two hats?

12 A. I was. And as acting deputy chief of staff,
13 it largely reflects what I shared of the role of
14 acting chief of staff but more of an administrative,
15 administrator function, much less on the policy side.
16 I'm no longer in an acting role that has a political
17 title. But still, with respect to internal processes,
18 keeping the trains running, documents to be signed by
19 the director, reviewed in the government what we refer
20 to as sort of the executive secretary process to make
21 sure things continue to run as well, as oversight on
22 certain matters, like leadership conferences to be
23 built and some other things. Other duties assigned, I
24 believe is more precise.

25 Q. Related duties as required.

1 A. Yes.

2 Q. In that role, what interactions did you have
3 with the DACA program?

4 A. So from August on to -- basically from August
5 to August for DACA, what I recall, again, it would
6 have been some of the after discussions as the renewal
7 process was taking effect. I think there would
8 have -- I'm trying to -- I'm seeking to recall if
9 there were any changes. I think there were
10 adjustments to the FAQs. I just don't remember what
11 those were, but they were sort of part of what was
12 happening.

13 And then reviewing and assessing the intake
14 of the DACA renewal requests and sort of the
15 operational mechanics, not that I necessarily was, but
16 sort of that was in the process along with other
17 duties.

18 As well, from my head of legislative affairs,
19 while I had a good deputy who was lucky or unlucky for
20 him, having to serve as the acting head while I was in
21 the front office. If there were questions on DACA
22 or -- I don't recall if there was testimony. There
23 might have been. But, you know, just sort of if there
24 were inquiries on DACA or any other benefits, I will
25 say that kind of bleeds somewhat because of all the

1 it?

2 MR. GARDNER: Object- --

3 BY MR. DETTMER:

4 Q. Do you know how common that is?

5 MR. GARDNER: Sorry. Objection. Vague as to
6 time frame.

7 THE WITNESS: As far as overall approval rate
8 for renewal?

9 BY MR. DETTMER:

10 Q. Yeah.

11 A. I probably do know. I just don't recollect.

12 Q. Can you ballpark it?

13 A. I'm sorry. I'm just blanking.

14 Q. I was going to say, I don't mean it to be a
15 memory test. I actually brought some data that you
16 can look at.

17 A. Sure. Yep. Happy to.

18 Q. All right. Great.

19 A. We're dealing with a lot of numbers. So I
20 really don't want to speculate.

21 (Deposition Exhibit 15 was marked for
22 identification.)

23 MR. DETTMER: I'm showing you Exhibit 15.

24 And I apologize. We actually have blown-up versions
25 of this, if that's helpful. It's hard for me to read

1 too.

2 Do you want the blown up version? It's kind
3 of huge.

4 MR. GARDNER: No. Thank you for asking.

5 THE WITNESS: I think I'm all right, but I
6 may reserve that.

7 (The witness reviewed the documents.)

8 BY MR. DETTMER:

9 Q. While you're looking at that --

10 A. Yes.

11 Q. -- Exhibit 15 is a two-page document. It's
12 printed off of the website for USCIS. And it says, at
13 the top, "Request by" -- I'm sorry. "Number of
14 Form I-821D Consideration of Deferred Action for
15 Childhood Arrival by Fiscal Year, Quarter, Intake,
16 Biometrics and Case Status Fiscal Year 2012 through
17 2017, June 30."

18 A. Uh-huh.

19 Q. So am I correct that this basically is the
20 data for, you know, the measured categories here for
21 the DACA program up through June 30 of this year?

22 A. Yes. That's what it appears to reflect.

23 Q. And this is data that USCIS keeps track of?

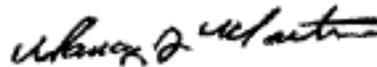
24 A. Yes.

25 Q. Okay. I should say these are data, to be

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C E R T I F I C A T E

I do hereby certify that the aforesaid testimony was taken before me, pursuant to notice, at the time and place indicated; that said deponent was by me duly sworn to tell the truth, the whole truth, and nothing but the truth; that the testimony of said deponent was correctly recorded in machine shorthand by me and thereafter transcribed under my supervision with computer-aided transcription; that the deposition is a true and correct record of the testimony given by the witness; and that I am neither of counsel nor kin to any party in said action, nor interested in the outcome thereof.



Nancy J. Martin, RMR, CSR

Dated: October 18, 2017

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying shorthand reporter.)

EXHIBIT E



National Standard Operating Procedures (SOP)

**Deferred Action for Childhood Arrivals
(DACA)
(Form I-821D and Form I-765)**

Prepared by: Service Center Operations Directorate

April 4, 2013
Version 2.0

1.0 REVISION HISTORY

Revision History					
Version	V02	Date Released	4/4/2013	Changes Made By	SCOPS
Reason for SOP Update					
	Reason	Chapter/Section	Page No(s).		
1	New Guidance	Chapter 2, ROIQ	14		
2	New Guidance	Chapter 2, Childhood Arrivals	18		
3	New Guidance	Chapter 2, DACA Requestors in Immigration Detention	19		
4	New Guidance	Chapter 5, Homebound Biometrics Capturing	27		
5	New Guidance	Chapter 7, Commonwealth of the Mariana Islands Note Eligible	42		
6	New Guidance	Chapter 7, Initial DACA Package	43		
7	New Guidance	Chapter 7, DACA Guidelines	44		
8	New Guidance	Chapter 8, Unobtainable A-Files	45		
9	New Guidance	Chapter 8, A-File Requests from USCIS Field/Asylum Offices	46		
10	New Guidance	Chapter 8, Unlawful Immigration Status on June 15, 2012	52		
11	New Guidance	Chapter 8, Continuous Residence	55		
12	New Guidance	Chapter 8, Education	58		
13	New Guidance	Chapter 8, Public or Private, Elementary...	60		
14	New Guidance	Chapter 8, Graduated From School	67-68		
15	New Guidance	Chapter 8, Misdemeanors	83		
16	New Guidance	Chapter 8, Requesting Certified Court Disposition	84		
17	New Guidance	Chapter 8, Expunged or Vacated Convictions	86		
18	New Guidance	Chapter 8, Juvenile Delinquency	87		
19	New Guidance	Chapter 8, DACA Requestors in Immigration Detention	88-89		
20	New Guidance	Chapter 8, Non-EPS Cases	91		
21	New Guidance	Chapter 8, Notice of Intent to Deny	102		
22	New Guidance	Chapter 8, Denials – After RFE or NOID	105		
23	New Guidance	Chapter 8, Denials – Supervisory Review	106		
24	Correction	Chapter 12, Application Annotations	115		
25	New Guidance	Chapter 12, Denials	119		
26	New Guidance	Chapter 15, Prescribed Conditions for Advance Parole	135		
27	New Guidance	Chapter 15, Advance Parole Requested for Humanitarian Purposes	136		
28	New Guidance	Chapter 15, Advance Parole Requested for Educational Purposes	137		
29	New Guidance	Chapter 15, Advance Parole Requested for Employment Purposes	137		

Note: SOP revisions listed are reflected in blue font.

Table of Contents

Chapter	Page #
1: Definitions and Applicability to DACA	6-15
2: Introduction	16-20
3: Summary of the Overall Process Flow for DACA Filings	20-22
4: Lockbox Intake	23-24
5: Service Center Intake	25-32
6: Background and Security Checks	33-41
7: DACA Overview	42-44
8: Adjudication of the DACA Request	
A. Procedural Overview	45-46
B. System Searches	47
C. Determining if Guidelines are Met	48-69
D. Economic Necessity	70
E. Removal Proceedings	71-76
F. Fingerprints and RAP Sheets	77-79
G. Evaluating Issues of Criminality, Public Safety, and National Security	80-93
• Court Dispositions	84-86
• Arrests and Convictions	87
• Public Safety Concerns	88
• National Security Concerns	88
• Immigration Detention	88-89
• Handling Procedures	90-93
H. Adjudicating Form I-821D, Part 3, Criminal, National Security and Public Safety Information	94-96
I. Fraud Review and Fraud Referrals	97-100
9: Decisions	
A. Request for Evidence	101
B. Notice of Intent to Deny	102
C. Approvals	103-104
D. Denials	105-109
• Supervisory Review	106
10: Post Denial Process	110
11: Returned Mail	111

Continued on next page

Table of Contents

Chapter	Page #
12: Employment Authorization	
A. General Information	112-113
B. Adjudication	114-119
C. Replacement Cards	120
13: Customer Service - Use of Service Request Management Tool (SRMT) to Respond to Requests to Review Certain Denials	121-131
14: DACA Termination	132-134
15: Processing Form I-131, Application for Travel Document, for Individuals With Approved Form I-821D, Consideration of Deferred Action for Childhood Arrivals (DACA)	135-136

Appendices

Appendix A: June 15, 2012, Secretary of Homeland Security memorandum entitled, Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children.

Appendix B: November 7, 2011, memorandum entitled, Revised Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Removable Aliens.

Appendix C: Overview of the Background Check Process

Appendix D: DACA RFE Call Ups

Appendix E: Notice of Intent to Deny Call-Ups

Appendix F: DACA Denial Template

Appendix G: SRMT Responses

Appendix H: SRMT Denial Template

Appendix I: Notice of Intent to Terminate Deferred Action for Childhood Arrivals and Termination Notice

Appendix J: Notice of Intent to Deny Review Policy

Appendix K: DACA Denial Call-Ups

Chapter 1: Definitions and Applicability to DACA

Absconder	An alien who failed to surrender to DHS for removal after receiving a final order of deportation, exclusion, or removal.
Aggravated Felon	Any alien who has been convicted of a criminal offense within the definition of 101(a)(43) of the Immigration and Nationality Act (Act).
Alias	An additional name (e.g., nickname, maiden name, or married name) or an assumed name.
Ancillary Application	Applications for travel, employment authorization, or applications that do not convey an immigrant or nonimmigrant status, and are filed in connection with a primary or an underlying application or petition.
ASC	Application Support Center. The ASCs, which are located throughout the United States and its outlying territories, facilitate the capture of fingerprints and biometric data.
BCU	Background Check Unit. A work unit located at each of the Service Centers and the National Benefits Center. The BCU is responsible for reviewing and resolving (b) (7)(E) hits and other criminal, national security, and public safety concerns in accordance with Agency policy.
BCU DACA Team	A specialized team within the BCU that specifically reviews and adjudicates issues of criminality arising from DACA requests. The team may consist of Immigration Services Officers, as well as officers assigned to CARRP, NTA issuance, and Triage duties, and the analysts who support them.

Continued on next page

Definitions and Applicability to DACA, Continued

Brief, Casual, and Innocent Absence

A brief, casual, and innocent absence from the United States before August 15, 2012 will not interrupt continuous residence for purposes of DACA. An absence will be considered brief, casual, and innocent, if:

- (1) The absence was short and reasonably calculated to accomplish the purpose of the absence;
- (2) The absence was not the result of an order of exclusion, deportation, or removal;
- (3) The absence was not because of an order of voluntary departure, or an administrative grant of voluntary departure before the requestor was placed in exclusion, deportation, or removal proceedings; and
- (4) The purpose of the absence from the United States or actions while outside of the United States were not contrary to law.

This definition of a brief, casual, and innocent absence has its basis in case law and was codified into the regulations for the Temporary Protected Status (TPS) program. Elements of this definition of brief, casual, and innocent will be used for individuals requesting DACA. See 8 C.F.R. §244.1. See also “Continuous Residence” below for additional circumstances that will not break continuous residence.

CFDO

The Center Fraud Detection Operations (CFDO) is the Fraud Detection and National Security (FDNS) organization within Service Centers. The CFDO is comprised of FDNS officers under the direction of an FDNS supervisor who reports directly to the CFDO Assistant Center Director (ACD). While most CFDO work occurs in an office environment, some Service Centers conduct administrative investigations in support of FDNS’s field operations.

CLAIMS (C3)

Computer - Linked Application Information Management System Version 3. A case management application system to track and process the adjudication of applications, petitions, and other requests for immigration benefits and services.

Continued on next page

Definitions and Applicability to DACA, Continued

Continuous Residence	The DACA requestor is to reside in the United States for the entire period specified in the guidelines for DACA to be considered. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual, and innocent absence as defined within this section.
-----------------------------	--

CARRP	Controlled Application Review and Resolution Program. This program outlines the process to identify, record, and adjudicate applications/petitions/requests where a National Security concern is identified.
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DACA	Deferred Action for Childhood Arrivals
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Deferred Action	Deferred action is a discretionary determination to defer removal action of an individual as an act of prosecutorial discretion. Deferred action does not confer any lawful status.
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DNR	Does Not Relate. A determination by USCIS personnel of whether a security check result relates to a DACA requestor.
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Egregious Public Safety (EPS) Concern	Any case where routine systems and background checks indicate that an individual is under investigation for, has been arrested for (without disposition), or has been convicted of, a specified crime, including but not limited to, murder, rape, sexual abuse of a minor, trafficking in firearms or explosives, or other crimes listed in the November 7, 2011, memorandum entitled <u>Revised Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Removable Aliens.</u>
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Definitions and Applicability to DACA, Continued

Evidence

Affidavits

Affidavits generally will not be sufficient on their own to demonstrate that a requestor meets the DACA guidelines. However, affidavits may be used to support the following guidelines when primary and secondary evidence are unavailable:

- A gap in the documentation demonstrating that the requestor meets the five year continuous residence requirement; and
- A shortcoming in documentation with respect to the brief, casual and innocent departures during the five years of required continuous presence.

Two or more affidavits, sworn to or affirmed by people other than the requestor, who have direct personal knowledge of the events and circumstances, can be submitted. If the affidavits are not sufficient to establish that the guideline is met, issue an RFE using RFE DACA 302 call up in Appendix D.

USCIS will not accept affidavits as proof of satisfying the following guidelines:

- The requestor is currently in school, has graduated or obtained a certificate of completion from high school, has obtained a general education development certificate, or is an honorably discharged veteran from the Coast Guard or Armed Forces of the United States;
- The requestor was physically present in the United States on June 15, 2012;
- The requestor came to the United States before reaching his/her 16th birthday;
- The requestor was under the age of 31 on June 15, 2012; and
- The requestor's criminal history, if applicable.

Weigh the assertions in the affidavit in light of the totality of all the evidence presented. When evaluating what weight to give an affidavit, take the following into consideration:

- An affidavit needs to be signed and dated;
- The identity of the affiant needs to be readily ascertainable from the information in the affidavit;
- The affidavit should state the relationship between the affiant and the DACA requestor and contain facts that are relevant to the guideline the requestor seeks to meet;
- The affidavit should state the basis of the affiant's knowledge and exhibit first-hand knowledge of the fact asserted.

Continued on next page

Definitions and Applicability to DACA, Continued

Evidence
(Continued)

Preponderance of the Evidence

A DACA requestor is to establish by a preponderance of the evidence that he/she meets the guidelines for the exercise of prosecutorial discretion in the form of deferred action. Under this standard, the requestor must demonstrate that it is more likely than not that he or she meets those guidelines. The preponderance of the evidence standard is a lower standard of proof than both the “clear and convincing evidence” standard and the “beyond a reasonable doubt” standard applicable to criminal cases.

Primary Evidence

Primary evidence is evidence which, on its face, proves a fact. In the DACA context, an example of primary evidence that could be submitted to satisfy the age guideline would be a birth certificate. An example of primary evidence that could be submitted to satisfy all or part of the continuous residence guideline would be rental agreements or school records in the DACA requestor’s name.

Secondary Evidence

Secondary evidence must lead the officer to conclude that it is more likely than not (in other words, probable) that the fact sought to be proven is true. For example, if an individual is unable to obtain a copy of his birth certificate to establish his date of birth, baptismal records issued by a church showing that an individual was born at a certain time would be acceptable secondary evidence of the birth for purposes of satisfying the DACA age guideline. Similarly, to satisfy the continuous residence guideline under DACA, rental agreements in the name of the DACA requestor’s parent could be acceptable secondary evidence demonstrating periods of the requestor’s residence in the United States, if corroborating evidence in the file (for example, school or medical records) points to the DACA requestor’s residence at that address.

Sufficiency of the Evidence

The sufficiency of all evidence is judged according to its relevance, consistency, and credibility.

Continued on next page

Definitions and Applicability to DACA, Continued

Evidence
(Continued)

Totality of the Evidence

For DACA, the totality of the documentary evidence should be reviewed to determine whether the facts needed to establish a specific guideline have been demonstrated. In many instances, an adjudicator may be satisfied based upon the review of all the documentary evidence, that it is more likely than not that a specific guideline has been met even if the record does not contain one specific document that, in fact, satisfies the guideline. For example, if a DACA requestor is unable to submit a specific document evidencing his/her presence in the United States on June 15, 2012, he/she may be able to satisfy this guideline by submitting various forms of credible documentation evidencing that he/she was present in the United States shortly before and shortly after June 15, 2012 from which the officer could infer, based on the totality of the evidence, that the individual was present in the United States on June 15, 2012. (Note: evidence upon which one may infer that a fact has been demonstrated is also known as “circumstantial evidence,” a term that appears in many DACA public information documents).

Officers must see documentary evidence (either primary or secondary) in order to determine if the following guidelines have been met:

- Requestor was under the age of 31 on June 15, 2012; and
- Requestor is currently in school, has graduated or obtained a certificate of completion from high school, has obtained a general education development certificate, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States

Officers may not infer from other sources that either of these two guidelines have been met.

Officers should look to the totality of the evidence (meaning that facts can be inferred from one or more sources) to determine if the following guidelines have been met:

- The requestor was physically present in the United States on June 15, 2012;
- The requestor came to the United States before reaching his/her 16th birthday;
- The requestor satisfies the continuous residence requirement, (as long as he or she presented clear documentation of continuous residence in the United States for a portion of the required five-year period and any other evidence submitted supports a finding that the requestor was actually residing in the U.S. during the period for which he has not provided clear documentary evidence of such residence); and
- Any travel outside the United States during the five years of required continuous presence was brief, casual, and innocent.

Continued on next page

Definitions and Applicability to DACA, Continued

Evidence (Continued)	For the remaining guidelines, i.e., the requestor was in unlawful status on June 15, 2012, has no disqualifying criminal convictions, and does not otherwise pose a threat to public safety or national security, the information presented by the DACA requestor on his/her Form I-821D in combination with background and security checks, routine systems checks, supporting evidence submitted by the requestor, and any other information on file, may establish that these guidelines have been met.
Front End Check	Security and systems checks performed upon the receipt of an application or petition or other requests to screen for national security, EPS, fraud, or other criminal concerns.
HQ FDNS	Headquarters Office of the Fraud Detection and National Security Directorate of USCIS.
Hit	A record returned by a security or background check system in response to a query that may relate to the subject being queried.
Interpol	International Criminal Police Organization, the world's largest international police organization. This organization facilitates cross-border police cooperation and supports and assists all organizations, authorities, and services whose mission is to prevent or combat international crime.
JTTF	Joint Terrorism Task Force. The JTTF is run by the Federal Bureau of Investigation (FBI). The JTTF is comprised of small groups of highly trained, locally based members from U.S. law enforcement and intelligence agencies. JTTF is responsible for all domestic and international terrorism matters.

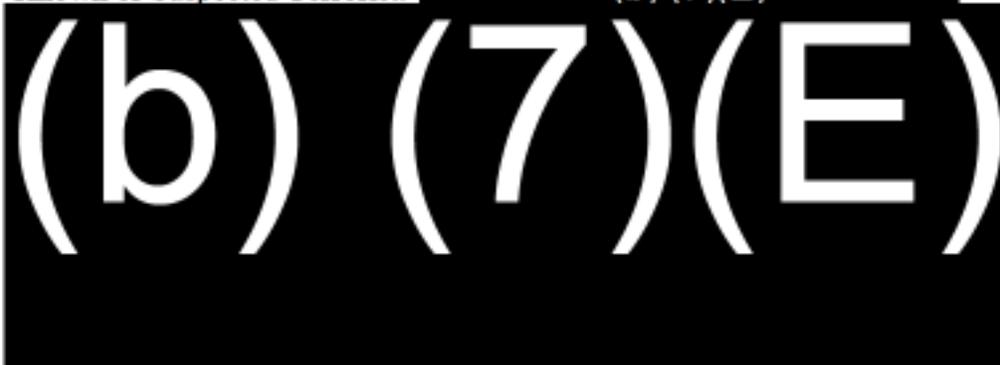
Continued on next page

Definitions and Applicability to DACA, Continued

KST

Known or Suspected Terrorist.

(b) (7)(E)



National Security (NS) Concern

An NS Concern exists when an individual or organization has been determined to have an articulable link to prior, current, or planned involvement in, or association with, an activity, individual, or organization described in §§ 212(a)(3)(A), (B), or (F), or 237(a)(4)(A) or (B) of the Act. This determination requires that the case be handled according to the CARRP policy outlined in the memorandum issued on April 11, 2008.

NCIC

The National Crime Information Center (NCIC) is a database maintained by the FBI. NCIC includes the Interstate Identification Index (NCIC III) that allows authorized users to access criminal history information. Access to NCIC III is limited to FDNS personnel only. FDNS personnel may only access NCIC III when an individual has been determined to have, or is likely to have, a link to a current or planned criminal activity and the case is referred to FDNS for further investigation with the appropriate law enforcement agency, when a reasonable suspicion of fraud is identified that may be referred to ICE for criminal investigation or when an individual has been determined to be involved in current or planned terrorist activity. Prior to accessing NCIC III information, USCIS personnel who are TECS users must first complete the NCIC Certification Course.

NCTC

National Counterterrorism Center. In August 2004, the President established NCTC, a multi-agency organization, to serve as the primary organization for the U.S. Government for integrating and analyzing all intelligence pertaining to terrorism and counterterrorism (CT) and to conduct strategic operational planning by integrating all instruments of national power.

Continued on next page

Definitions and Applicability to DACA, Continued

No Match	This annotation is used on the Record of (b) (7)(E) if a (b) (7)(E) query results in no (b) (7)(E) hit.
Non-KST	A Non-KST NS concern includes all other NS concerns, regardless of the source, including but not limited to: associates of KSTs, unindicted coconspirators, terrorist organization members, persons involved with providing material support to terrorists or terrorist organizations, and agents of foreign governments.
Primary Name and DOB	The name and date of birth provided by an applicant, petitioner, or requestor as his/her given name and date of birth. This is generally listed in the first part of the application/petition/request.
Relates	This annotation is used on the ROIQ if a (b) (7)(E) query results in a hit that closely corresponds to the subject queried.
Resolution	A determination of the effect or relevance of the available information on the eligibility of the applicant, requestor, petitioner, beneficiary, or derivative for the benefit or request sought.
ROIQ	Record of IBIS Query. This form is used to record the search criteria queried and the results of those queries. The ROIQ was revised on March 5, 2013 to include checkbox "R" for requestors.
SNAP	Scheduling and Notification of Applicants For Processing. An automated system that schedules appointments for individuals to submit biometric information to ASCs.
Secretary's Memorandum	The June 15, 2012, memorandum entitled, Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children, issued by the Secretary of Homeland Security.

Continued on next page

Definitions and Applicability to DACA, Continued

Security Check	A specific check or a combination of checks required for each application, petition, or request conducted in accordance with Agency policy.
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System Match	A record returned by (b) (7)(E) in response to a query, the subject of which may or may not relate to the subject being queried. This is the same as a (b) (7)(E) Hit.
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TECS	TECS is formerly known as the Treasury Enforcement Communications System/Interagency Border Inspection System. TECS is an automated enforcement and inspection lookout system that combines information from multiple agencies, databases, and system interfaces to compile data relating to national security risks, public safety issues, current or past targets of investigations, and other law enforcement concerns. The system is maintained by U.S. Customs and Border Protection.
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VGTOF	Violent Gang and Terrorist Organization File. The VGTOF file has been designed to provide identifying information about violent criminal gangs and terrorist organizations and members of those gangs and organizations to law enforcement personnel. This information serves to warn law enforcement officers of the potential danger posed by violent individuals and to promote the exchange of information about these organizations and members to facilitate criminal investigations. USCIS has access to VGTOF through NCIC.
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Chapter 2: Introduction

Purpose	This SOP describes the procedures Service Centers are to follow when adjudicating DACA requests. This SOP includes the procedures for processing Form I-821D, Consideration of Deferred Action for Childhood Arrivals, and Form I-765, Application for Employment Authorization. It also describes the procedures for adjudicating advance parole requests for individuals whose removal has been deferred under DACA and who need to travel outside of the United States for educational, employment, or humanitarian purposes.
References	<p>For DACA: Memorandum issued June 15, 2012, <u>Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children</u>, by Secretary of Homeland Security Janet Napolitano to U.S. Customs and Border Protection; U.S. Citizenship and Immigration Services; and Immigration and Customs Enforcement. <u>See Appendix A</u> for a copy of the Secretary's memorandum.</p> <p>For Employment Authorization: 8 C.F.R. § 274a.12(c)(14) is the legal authority for employment authorization based on a grant of deferred action. The (c)(33) code will be used to distinguish EAD grants under DACA from EAD grants under other forms of deferred action. <u>See</u> also the Secretary's memorandum, which provides that USCIS shall accept applications to determine whether individuals whose removal has been deferred under DACA qualify for work authorization during the period of deferred action.</p>
Fraud Cases	All officers are required to review cases for the possibility of fraud. All officers should review the case based on the standard fraud referral protocols and the additional guidance provided in Chapter 8, Section K of this SOP.
Applicability	This SOP is applicable to all Service Center personnel performing adjudicative and clerical functions or review of those functions. Personnel outside of Service Centers performing duties related to DACA processing will be similarly bound by the provisions of this SOP.

Continued on next page

Introduction, Continued

Conflict Resolution

Any provision of the Act or 8 C.F.R. found by Headquarters Service Center Operations Directorate (SCOPS) to be in conflict with this SOP will take precedence over the SOP; any individual who identifies such an apparent conflict will report the matter immediately to the DACA SISO POC, who will in turn report the conflict to SCOPS.

If any apparent conflict is noted between this SOP and policy or guidance documents, the matter should be reported to SCOPS through the supervisory chain of command.

Revisions

SCOPS will issue numbered revisions to this SOP. No other document will be considered a valid modification.

Version Control

All personnel who maintain a hard copy of the SOP will ensure that it is the latest version. An electronic copy of the latest version will be posted per local procedures. The training unit will archive all prior electronic versions of this SOP.

Additional Resources

For additional resources on DACA, please see a supervisor or training coordinator for DACA training presentations and modules.

Continued on next page

Introduction, Continued

DACA Overview

On June 15, 2012, the Secretary of Homeland Security issued a memorandum entitled, Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children. In this memorandum, the Secretary provides guidelines for exercising prosecutorial discretion on a case -by-case basis to defer removal action of individuals who were brought to the United States as children. By issuing this memorandum, the Secretary recognized that, as a general matter, these individuals lacked the requisite intent to violate the law when they entered the United States as children. Therefore, the Secretary determined that additional measures are necessary to ensure that enforcement resources are not expended on these low priority cases, but rather, on those who meet DHS's enforcement priorities.

Childhood Arrival

For purposes of considering an individual for DACA under the Secretary's memorandum, an individual may be favorably considered for DACA if he/she:

1. Entered without inspection before June 15, 2012, or his or her lawful immigration status expired as of June 15, 2012. For DACA purposes, the phrase "in unlawful status as of June 15, 2012" means that he/she never had a lawful immigration status on or before June 15, 2012, or any unlawful status or parole that he/she obtained prior to June 15, 2012 had expired before June 15, 2012;
2. Was under the age of 31 as of June 15, 2012;
3. Came to the United States prior to reaching his/her 16th birthday;
4. Has continuously resided in the United States since June 15, 2007, up to the date of filing;
5. Was present in the United States on June 15, 2012, and at the time of making his/her request for consideration of deferred action with USCIS;
6. Is currently in school at the time of filing, has graduated or obtained a certificate of completion from a U.S. high school, has obtained a GED certificate or other equivalent State authorized exam in the United States, or is an honorably discharged veteran of the U.S. Coast Guard or U.S. Armed Forces; and
7. Has not been convicted of a felony, a significant misdemeanor, or three or more misdemeanors, and does not otherwise pose a threat to national security or public safety.

Continued on next page

Introduction, Continued

DACA Requests Filed with USCIS

USCIS will process all DACA requests, regardless of whether the individual is in removal proceedings (unless the individual is in immigration detention under the custody of ICE) or subject to a final order of removal. Depending on when the order was issued, this could be an order of deportation, exclusion or removal. A complete DACA package consists of concurrently filed Forms I-821D, Consideration of Deferred Action for Childhood Arrivals and I-765, Application for Employment Authorization, with the worksheet, Form I-765WS. Forms I-821D and I-765 must be filed concurrently. DACA requests will be adjudicated by all four Service Centers.

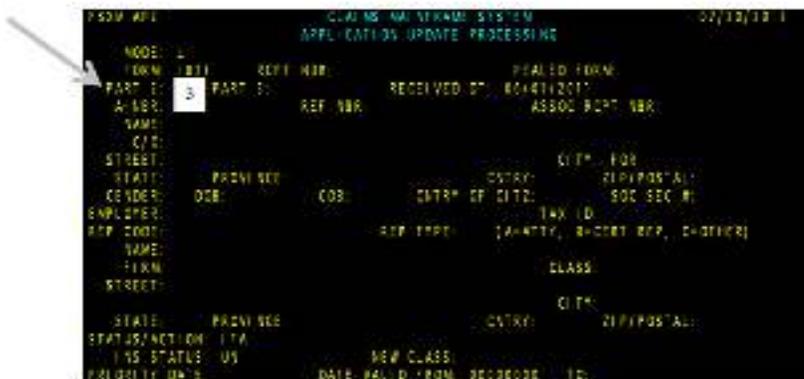
DACA Requestors in Immigration Detention

USCIS lacks the authority to consider requests from individuals who are in immigration detention under the custody of ICE at the time of filing Form I-821D and remain in immigration detention as of the date Form I-821D is adjudicated. Since the Lockbox is currently unable to reject these cases, the Center may receive a Form I-821D when the requestor was in immigration detention under the custody of ICE at the time of filing. Whenever this occurs, the Center should follow the procedures in Chapter 8, Section G. Evaluating Issues of Criminality, Public Safety, and National Security, Continued.

Introduction, Continued

Lockbox

All DACA requests are filed, with applicable fees, and with the appropriate USCIS Lockbox. DACA filings mistakenly mailed to a Service Center will be forwarded to the appropriate Lockbox for processing. Requests received at a Lockbox Facility will be electronically scanned into OnBase (the Lockbox intake system) and all pertinent fields will be populated in CLAIMS 3 (C3) into the Form I-821 screen, but with a new category “3” as the basis for requesting DACA. While Forms I-821 for TPS, and I-821D for DACA are very similar, when Form I-821 appears in CLAIMS with category “3” (to denote that it is actually an I-821D for DACA), only those fields pertaining to the DACA request will be active.



The file containing the Form I-821D and Form I-765 will be forwarded to the appropriate Service Center for adjudication, based on the agreed upon routing logic between Service Centers and Lockbox.

The Lockbox will screen DACA requests to determine whether they have been filed correctly with USCIS.

Chapter 3: Summary of Overall Process Flow For DACA Filings

Introduction This section summarizes the general process flow for an initial DACA request, from intake at the Lockbox, to the point of a final decision.

Process Flow

Step 1:
Intake occurs at the Lockbox per the agreed upon Lockbox/SCOPS business rules.

Step 2:
Service Center Records performs the A-number look-up and validation process.

Step 3:
Data is populated into C3 via the Lockbox-Service Center interface.

Step 4:
Lockbox creates and ships A-Files/T-Files to the appropriate Service Center based on the agreed upon routing.

Step 5:
Service Centers receive the files and perform file intake functions.

Step 6:
ASC appointments are scheduled via SNAP by the Service Center pursuant to local procedures.

Continued on next page

Summary of Overall Process Flow For DACA Filings, Continued

Process Flow (Continued)

Step 7:

In parallel to the SNAP scheduling process, background and security checks are initiated via (b) (7)(E)

Step 8:

The Service Center must look for the following to determine the next steps:

- Whether the DACA requestor appeared at the ASC for biometrics capture and whether the FBI returned the fingerprint results (fingerprint results are required only for those 14 years and older); and
- Whether (b) (7)(E) fingerprint results returned derogatory information impacting the exercise of discretion for DACA.

Step 9:

The Service Center will take adjudicative action.

Step 10:

The process flow splits off here, depending on the results from the FBI, the (b) (7)(E) check, on whether an adjudication hold should be placed on the request. A DACA request will be routed based on these results, as laid out in the chart below:

(b) (7)(E)	
No hit	are routed to an officer for adjudication.
A hit	is routed to adjudications from BCU with the annotation Does Not Relate (DNR); or
	is routed to BCU for confirmation and vetting of the related hit.

Chapter 4: Lockbox Intake

Rejection Criteria

The Lockbox will use the following rejection criteria for DACA filings:

Rejection of Form I-821D:

- Missing Signature on either Form I-821D or Form I-765;
- Missing or wrong fee for Form I-765 (Expecting \$465 total, which includes the biometrics fee, unless the individual fits within certain fee exemptions established for DACA requestors and an exemption has been previously approved);
- Missing Required Fields – needed for ingestion to C3:
 - Family Name
 - Address: or
 - Date of Birth:
- Form I-821D received without Form I-765;
- Filed from a foreign address;
- Form I-131 for advance parole received with Form I-821D (If the Form I-131 is filed with a separate check, only the Form I-131 will be rejected and the Form I-821D and Form I-765 will be accepted);
- The requestor was 31 years or older on June 15, 2012;
- The requestor is under 15 at time of filing and does not indicate that he/she is in removal proceedings in Question 3.b. of Form I-821D.

Rejection of Form I-765 (based on DACA grant):

- Missing or wrong fee (Expecting \$465 total, including the biometrics fee, unless the individual fits within certain fee exemptions established for DACA requestors and an exemption has been previously approved); or
- Missing Signature.

The “stand-alone” Form I-765s filed by those whose removal has been deferred under DACA by ICE will be processed at the National Benefit Center. Prior to the decision that USCIS will process all DACA requests to include those in removal proceedings, ICE did defer removal for some DACA requestors.

Continued on next page

Lockbox Intake, Continued

**A#
Validation/
Assignment**

The Lockbox will perform the following:

- A# validation is triggered by the Form I-821D;
- If the requestor provides an A# that matches the Central Index System (CIS) based upon the same name and date of birth, the A# is retained and cloned to the Form I-765;
- If the A# provided by the requestor is incorrect, the transaction goes to the queue for research. If the correct A# is found in USCIS systems, it is inserted into the Form I-821D record and cloned to the Form I-765. If no A# is found in USCIS systems, then an A# is assigned to Form I-821D and cloned to the Form I-765;
- If there is no A# on the Form I-821D, the transaction goes to the queue for research. If the correct A# is found, it will be inserted into the Form I-821D record and cloned to the Form I-765. If no A# is found in USCIS records (manual search), then the A# is assigned to Form I-821D and cloned to the Form I-765.

Research is completed by Service Center staff remotely accessing the Lockbox intake system. DACA requests with a missing or invalid A# are routed to USCIS to review. USCIS may correct the A# or assign a new A#.

**Record of
Proceeding
(ROP)**

The Lockbox will assemble the DACA files in the following order:

Records Side	Non-Records Side
Valid Form G-28	Form G-28 (not-valid) face down
Form I-821D	Property Envelope (facing backward and upside down)
Form I-765WS	
Form G-1145	
Attorney's Letter (if applicable)	
Passport	
Birth Certificate	
Form I-94	
Other Supporting Documentation (e.g., school transcripts and relating envelope)	
Form I-765 (2 requestor's photos will be placed in a ziplock bag and stapled to the Form I-765)	
Address Side of Envelope	

Chapter 5: Service Center Intake

Incoming Files

The contractor will perform the following actions:

- Open the boxes from the Lockbox;
- Date stamp and check the manifest against the files in the boxes;
- Separate A-file and T-files;
- Perform “new add” for the receipt files, A-files, and T-files, as well as consolidate Forms I-821D and I-765 into the A-file/T-file in the National File Tracking System (NFTS);
- T-files – locate the A-file(s) using the NFTS inquiry screen and if the A-file(s) are located outside the Service Center, initiate the A-file request;
- A-files – Perform “new add the A-file” into the Central Index System (CIS); and
- Deliver DACA files to work distribution. Responsible Party Codes (RPCs) are used to track the location of files at the Service Center. An NFTS barcode is placed on each shelf, box, or drawer in which DACA files are stored.

The Service Center will perform the following actions:

- Perform a Quality Assurance review on a random sample of incoming DACA files. ROP order, proper acceptance, and correct matching data on the form compared with the CLAIMS record, will all be reviewed. Any errors will be recorded and reported back to the Lockbox service provider for process improvement steps. Corrections will be made at the Service Center.
- Initiate an automated (b) (7)(E) check of the DACA requestor’s name(s) and date(s) of birth; and
- Review and resolve any identified hit (performed by BCU officers).

See Chapter 6 for more detailed information relating to background checks.

Biometric Capture

The Service Center will perform the following actions:

- Compile **daily bulk scheduling** requests and send them to the ASC for SNAP scheduling; and
 - Fill officer work orders, as biometric and fingerprint results post for DACA requestors.
-

Continued next page

Service Center Intake, Continued

Biometric Rescheduling

All reschedule requests will go through the centralized rescheduling facility. The centers will be notified via a spreadsheet from the centralized rescheduling facility upon rescheduling of an original ASC appointment.

The requestor can reschedule multiple times within 87 days of the initial ASC appointment date. If the requestor fails to appear at the ASC within the 87 days, the DACA request will be denied for abandonment.

If the requestor asks for an appointment beyond 30 days into the future, the centralized rescheduling facility will send a scanned request to the Service Center for processing. The rescheduled ASC appointment date is not to exceed the 87-day window.

Biometric No Shows

If a requestor is originally scheduled for an ASC appointment and does not appear, the center should issue RFE DACA 130. The RFE should include other deficiencies identified during the review of the request. A written response to the RFE is not required, provided that the requestor goes to the rescheduled ASC appointment and no other evidence is requested.

The centers will be notified via a spreadsheet from the centralized rescheduling facility upon rescheduling of an original ASC appointment. The center will then hold the case for the new appointment, and if the requestor fails to appear again, or if the requestor fails to reschedule a second appointment within 87 days based on that RFE, the case will be denied for abandonment.

**Homebound
Biometrics
Capturing**

If a requestor is unable to attend the biometrics appointment at the ASC due to medical limitations, the ASC notice directs the requestor to call the National Customer Service Center (NCSC) telephone line. The NCSC will create a SRMT and route it to the Service Center according to the designation within the receipt number of Form I-821D. Once the SRMT has been created, the Center will initiate contact with SCOPS for assistance.

- The Center will email HQSCOPSDACA with subject line: “Homebound DACA Requestor” and include the information provided by the requestor in the SRMT concerning medical limitations, contact information, and the SRMT referral ID {e.g., ETC.334.12.00177.CIN}.
- Once the email is received, SCOPS/SPB will coordinate with the Field Operations Directorate (FOD)/Operations Support Branch (OSB) to designate a District/Field Office that has a mobile unit to capture the required biometrics.
- SCOPS will email FOD to ask for assistance in biometric capturing for the homebound DACA requestor and identify a Center POC for the District/Field Office to liaise with if questions arise.
- Once notified, SCOPS will instruct the Service Center to transfer the SRMT to the designated District/Field Office for completion.
- The District/Field Office will contact the DACA requestor to make arrangements for biometrics capturing. Biometrics capturing should occur within 30 days of the transfer. The District/Field Office will notify the Center POC if there are extenuating circumstances that will delay the capturing of biometrics beyond 30 days.
- The Center should monitor the SRMT to ensure biometrics are captured within 30 days of the transfer.
- If 30 days have elapsed from the date of the transfer and no action has occurred, the Center should notify SCOPS/SPB so follow-up can occur with FOD/OSB.

Once collected, the mobile unit’s live scan will be uploaded into the Benefits Biometric Support System (BBSS), or if the mobile unit is unavailable at the time of biometrics capturing, the District/Field Office will send the two FD-258 cards and photo material to the designated Center POC for appropriate action.

**Officer
Work Orders**

The contractor will perform the following actions:

- In accordance with local procedures, screen prints may be provided to officers to reduce the need to search systems at the point of adjudication; and
- Adjudication ready DACA files will be delivered to officers.

Service Center Intake, Continued

Non-Sufficient Funds (NSF)

Background

This section addresses the procedures to be used for completing the non-sufficient funds (NSF) cases. The NSF cases are identified by the Burlington Finance Center (BFC) and are listed in the NSF “New Bill Report” in the Federal Finance Management Service (FFMS) system.

For DACA, Forms I-821D and I-765 must be filed concurrently. There is no fee for Form I-821D. The \$380 fee is required for Form I-765. The \$85 biometrics fee is also required. Lockbox will be looking for \$465, either in one check or in two checks. The I-765 fee and the biometrics fee will be bundled in C3 and listed as one fee -- \$465. If the DACA requestor does not remit \$465, Lockbox will reject the entire filing. Even when the proper fee has been remitted, it is possible that payment may be returned due to NSF. The NSF can occur in a combination of scenarios: the fees are paid in one check and the entire check is returned as NSF; or the fee is paid in two checks and either or both checks are returned as NSF. Failure of either fee or both fees to clear the bank, or being made good within the 14 calendar days allowed, will result in denial of Form I-821D and rejection of Form I-765. See Chapter 9 for more information on the denial.

Retrieving the New Bill Listing Report in FFMS

Fee payments in the form of personal checks, cashier checks, or money orders are submitted along with a DACA request. When a discrepancy is found in a payment, such as stale, dated, or without sufficient funds, etc., the bank will notify the Burlington Finance Center (BFC) in Vermont. These non-payment checks or money orders are referred to as bounced checks. The BFC will compile all the bounced checks and enter the data into the FFMS system, create an invoice number for each bounced check case, and place them on the bounced check “New Bill Report.” The Service Center Records Divisions, on a daily basis, access this data via the FFMS website to download a bounced check “New Bill Report.”

Continued on next page

Service Center Intake, Continued

Non-Sufficient Funds (NSF)
(continued)

Invoicing the Payee

Along with listing the case in FFMS, the BFC will also mail an invoice to the payee of the fee, requesting that the new payment be sent to them and that a \$30 NSF charge also be paid. The \$30 NSF charge is assessed on each bounced check.

Notifying the DACA Requestor

The Service Center will mail an informational notice on the I-797C to the DACA requestor regarding the specific NSF payment. In this case, the DACA requestor will receive the NSF notice, regardless of whether they are the payee or not. In this manner, both the payee and the DACA requestor receive notification if they are different parties.

Placing Case in Hold Status

To reflect the hold status of the case, the action codes will be recorded in C3, are as follows:

(b) (7)(E) CHECK BOUNCED, CASE NOT YET COMPLETED and
CHECK DEFICIENCY NOTICE 1 SENT

Place file on a hold shelf.

Completion procedure when case is paid

The bounced check paid cases are identified by Burlington Finance Center and are listed in the bounced check "Paid Activity Report" in the FFMS system. The Service Center Records Divisions access this data daily via the FFMS website to download the bounced check Paid Activity Report.

Continued on next page

Service Center Intake, Continued

Non-Sufficient Funds (NSF)
(continued)

System Update Steps

The CLAIMS GUI I-765 record will be accessed. The new paid date from the Paid Activity Report will become the new Received Date in the record.

The remittance screen will be updated with the action code:

(b) (7)(E) FEE COLLECTED ELSEWHERE

A modified receipt notice will be printed and mailed reflecting the new Received Date. The action code recording this is: (b) (7)(E) MODIFIED RECEIPT NOTICE 1 SENT

The hold status will be removed from the record. The action code recording this is: (b) (7)(E) BOUNCED CHECK CORRECTED ON CASE NOT YET COMPLETED

The case is now ready to proceed again through the pre-adjudication process. Schedule the biometrics appointment in SNAP and place the file on the biometrics hold shelf.

Mailing the Receipt notice

The receipt notice states:

“This is to notify you that we have received full payment for the above referenced application or petition and processing has resumed. Your filing date has been adjusted to reflect the receipt of payment. We will notify you separately of our decision on the application or petition.”

Completion procedure when case remains unpaid

Unless fee exempt, the DACA requestor has 14 calendar days from the invoice date to submit proper payment by credit card, money order or cashier's check to the BFC. The proper payment is \$465 -- \$380 for the Form I-765 and \$85 for the biometrics fee. If the \$465 was paid in two checks, either check exceeding the 14 calendar days allowed to correct NSF status will result in rejection of Form I-765.

- Pull the files that have been staged on the bounced check hold shelf for over 14 days and verify the case in the CLAIMS system and determine the bounced check “paid” status in FFMS.

Continued on next page

Service Center Intake, Continued

Non-Sufficient Funds (NSF)
(continued)

The FFMS “Status” box indicates “OPEN”

The “Open” status means the BFC has not received the bounced check payment in full from the debtor. After the 14-day hold on the bounced check hold shelf, a C3/GUI application/petition shall be pulled from the hold shelf for review. If it has been over 14 days past due and the case status shows “Open” in FFMS and there is no indication of a “Change of the Due Date” made by the BFC in the in the Customer Log (RM043) screen, reject the Form I-765 as “untimely paid.”

Recording the Rejection

The case is accessed in C3 and the action code recorded is: (b) (7)(E)
BOUNCED CHECK NOT CORRECTED, REJECTED

Form I-765 form will be closed by the Records Analyst in this manner:
In the “Action Block” of the application, stamp in red or black ink
“REJECTED Bounced Check.”

A memorandum is printed from a template in MS Word recording the following data:

- Today’s Date
- Form Type
- A# (if available)
- Receipt #
- Date Rejected
- Invoice #
- Amount
- Debtor’s Name (Optional)

Place this memo on the top of the right side of the DACA A-file.

Continued on next page

Service Center Intake, Continued

Non-Sufficient Funds (NSF)
(continued)

Mailing the Rejection

A rejection notice printed on I-797 is generated from C3 and mailed to the requestor. It reads:

We previously notified you that the payment for the filing fee in the above case was returned. The Burlington Finance Center did not receive payment within 14 days of the invoice.

Your application or petition has been rejected as improperly filed. Any previously assigned priority or processing date is no longer applicable. A new application or petition must be filed, and a new fee is required, if you wish to pursue the benefit. Personal Checks will not be accepted.

Disposition of the I-821D

After processing the rejection for Form I-765 due to the NSF, on **the same day**, route the A-file to a DACA Supervisory Immigration Services Officer for issuance of a denial for the Form I-821D.

The denial should be issued per the instructions in Chapter 9 of this SOP.

Chapter 6: Background and Security Checks

Introduction

Background and security checks will be conducted for all DACA requests. As part of the background check, USCIS requires that specific security checks or a combination of checks are completed for Forms I-821D and I-765. The background checks refer to the analysis of the results of the security checks or any other identified concern relating to national security or public safety and the actions required to resolve the concern. The resolution must be conducted in accordance with current NaBISCOP and CARRP policies.

Fraud related concerns that arise during the course of background and security checks should be addressed according to the March 2011 SOP, 2008 ICE/USCIS MOA and Chapter 8, Section K of this SOP. Fraud related issues will be referred to CFDO.

The following specific background and security checks apply to DACA requestors:

(b) (7)(E)

Responsibility

All DACA requestors with national security issues, (b) (7)(E) hits, or other criminality concerns will be processed by the BCU DACA team per the following guidance:

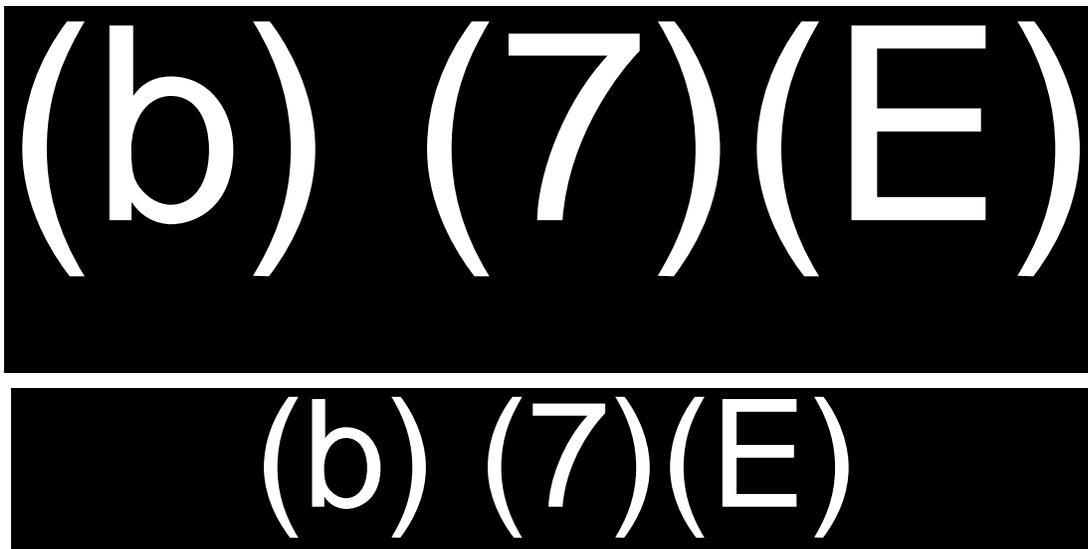
- **National Security:** All (b) (7)(E) national security issues will be resolved through the established CARRP process. All cases with National Security concerns will be resolved and adjudicated by the CARRP officer attached to the BCU DACA Team.

(b) (7)(E)

Continued on next page

Background and Security Checks, Continued

Responsibility
(continued)



**System Updates
for DACA File
Movement Into
and Out of
BCU**

For reporting purposes, DACA file movement into and out of the BCU will require the following updates in C3:

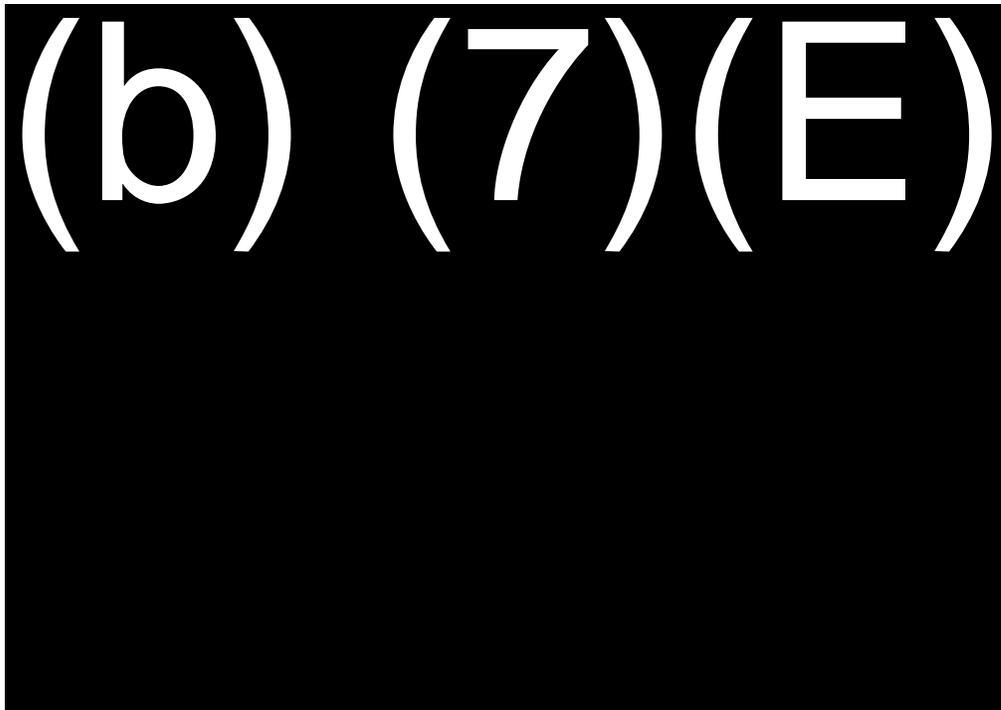
- “Sent to Background Check Unit (BCU) for Resolution” (b) (7)(E) when sending a DACA request to the BCU; and
- “Received from Background Check Unit (BCU) with Resolution” (b) (7)(E) when receiving a DACA request from the BCU for final processing.

Continued on next page

Background and Security Checks, Continued

Overview of Background Check Process

Appendix C illustrates a high level overview of the background check process once potentially derogatory information has been identified as a result of the security checks, or from other sources.



A. Procedures for confirming a match

USCIS personnel must:

- Determine if the subject of the derogatory information relates to the requestor; and
- Compare the information from the security check or other source to the biographic, biometric information, and physical descriptors about the individual.

USCIS personnel may use any combination of available identifiers, to assist in the determination. While USCIS officers primarily rely on best judgment and experience in determining whether the information relates to the individual, USCIS personnel should consult with a supervisor if there is any uncertainty as to whether the information relates to the DACA requestor. If there continues to be any uncertainty about the match, supervisors may work through their chain of command and with HQ, if necessary.

Continued on next page

Background and Security Checks, Continued

**Overview of
Background
Check Process**
(continued)

B. Triage Information

1. *Conclusive Match*

Once it is determined that the information relates to the individual, USCIS personnel must determine if the results fall into the following categories, which require special processing:

- National Security;
- EPS or other criminal cases; or
- Articulated immigration Fraud.

Criminal hits, which involve a violation of U.S., state, or local criminal law, but do not rise to the level of an EPS concern, as defined in the November 7, 2011, NTA memorandum, impact each case differently and should be considered during the adjudication process to determine if such activity is germane to the request for consideration of deferred action for childhood arrivals. Criminal activity occurring outside of the United States (including foreign convictions) that may be revealed during routine background checks or which the requestor may have disclosed on the deferred action request, factor into the evaluation of whether the requestor poses a public safety concern, under the totality of the circumstances.

2. *Inconclusive Match*

When USCIS officers are unable to confirm the match after exhausting available electronic systems searches and other resources, personnel must consult their chain of command to determine the appropriate follow-up action. In some instances, (b) (7)(E) RFE to confirm the match, or other appropriate action may be required. USCIS personnel must then document the hit, include a statement in the Resolution Memorandum or other memoranda, as required, explaining the inconclusive nature of the match determination, the actions taken to resolve the hit, and refer the case to the appropriate unit or field office to confirm the match. If USCIS personnel are still unable to confirm the match, refer the case through the chain of command.

C. Resolve Concern

Resolution may require a variety of activities to be completed by the BCU which include, but are not limited to (b) (7)(E)

(b) (7)(E)

Continued on next page

Background and Security Checks, Continued

Overview of Background Check Process (continued)

Deconfliction is the coordination between USCIS and another governmental agency or record owner to ensure that planned adjudicative activities (e.g., interview, request for evidence, site visit, decision to grant or deny, issue an NTA, and the timing of such) do not compromise or impede an ongoing investigation or other record owner interest.

D. Document the Resolution

Each hit requires documentation by the BCU DACA Team member of any resolution. Review the specific information for each background and security check for more information on documenting the resolution.

E. Adjudication

Once the NS/EPS/other criminal concern has been resolved, the BCU DACA ISO should proceed with adjudication.

(b) (7)(E)

USCIS will conduct (b) (7)(E) batch queries on the (b) (7)(E) all DACA requests within 15 calendar days of initial receipt. The objective of

(b) (7)(E)

In addition, USCIS has access to other types of records, referred to as “hot files.” The following records are “hot files”:

- Wants/Warrants;
- Foreign Fugitives;
- Missing Persons;
- Registered Sex Offenders;
- Deported Felons;
- Supervised Release;
- Protection Orders;
- Terrorist Organization Members; and
- Violent Gang Members.

Continued on next page

Background and Security Checks, Continued

(b) (7)(E)

(continued)

Officers must determine whether the result of a security check relates to the subject or does not relate (DNR). Officers review and resolve security checks and complete the background checks. For (b) (7)(E) procedures, search criteria and best practices, refer to the current NaBISCOP policy.

(b) (7) (E)

The following items, if present, must be reviewed in the DACA A-file for name and DOB combinations and aliases, (b) (7)(E)

- Form I-821D;
- Form I-765;
- All supporting documents; and
- Any other documents in the A-file relating to the DACA request including, but not limited to the following:
 - Passports;
 - Visas;
 - Border Crossing Cards (BCC);
 - Forms I-94;
 - Birth Certificates;
 - Marriage Certificates;
 - Divorce Decrees;
 - Diplomas/Academic Transcripts;
 - Student Identification Cards;
 - Military Identification Cards;
 - Driver's Licenses;
 - Social Security Cards; or
 - Business/Membership Cards.

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Background and Security Checks, Continued

(b) (7)(E)

(b) (7)(E)

(b) (7)(E)

Continued on next page

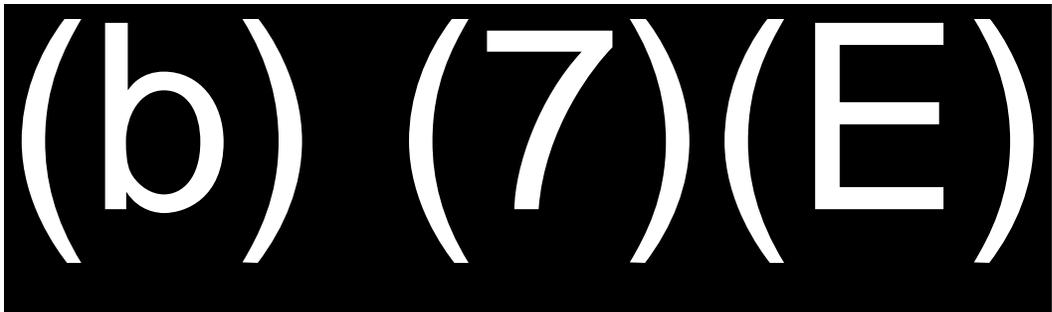
Background and Security Checks, Continued

Resolution Memorandum

The resolution memorandum is the formal documentation of the reconciliation of a related hit. This is a mandatory action that must be completed before rendering a final adjudicative decision. Before completing the adjudication, the officer should ensure that each resolution memorandum completely resolves the hit. For a related hit, a separate resolution memorandum must be completed for each subject with a related hit and each file containing a related hit. For procedures and formats for the resolution of related hits, refer to the current NaBISCOP policy.

FBI Fingerprint Check

The FBI Fingerprint Check provides summary information of an individual's administrative or criminal record within the United States. The FBI Fingerprint Check is conducted through the Integrated Automated Fingerprint Identification System (IAFIS). The IAFIS is a national fingerprint and criminal history system maintained by the FBI's Criminal Justice Information System (CJIS) Division. State, local, and Federal law enforcement agencies submit fingerprints and corresponding administrative or criminal history information to IAFIS. Participation by state and local agencies is not mandatory, so the FBI Fingerprint check does not contain records from every jurisdiction. The information contained in the record is obtained using prior fingerprint submissions to the FBI related to arrests and, in some instances, Federal employment, naturalization, or military service.



Issues of criminality arising from an IDENT, IDENT handling procedures, and adjudication of the case based on the IDENT, are addressed more fully in Chapter 8, Section G of this SOP.

Continued on next page

Background and Security Checks, Continued

**FBI
Fingerprint
Check
Procedures**

All individuals filing a DACA request will be scheduled for biometrics capture (photo, fingerprints, and signature) at an ASC regardless of whether biometrics were captured for the requestor from a previous filing with USCIS within the last 15 months. DACA requestors under the age of 14 will have the press print captured instead of full fingerprints.

Chapter 7: DACA Overview

Filing

All individuals requesting DACA must file their request individually and satisfy the DACA guidelines in their own right; USCIS will not consider deferring removal action of an individual under DACA based on their familial relationship to someone who has received DACA. There is no derivative DACA.

Commonwealth of the Northern Mariana Islands (CNMI) Not Eligible

The CNMI is part of the United States and is not excluded from this process. However, because of the specific guidelines for DACA, individuals who have been residents of the CNMI are in most cases unlikely to qualify for the program because they must, among other things, have come to the United States before their 16th birthday and have resided continuously in the United States since June 15, 2007.

Under the Consolidated Natural Resources Act of 2008, the CNMI became part of the United States for purposes of immigration law only on November 28, 2009. Therefore, entry into, or residence in, the CNMI before that date is not entry into, or residence in, the United States for purposes of DACA.

USCIS has used parole authority in a variety of situation in the CNMI to address particular humanitarian needs on a case-by-case basis since November 28, 2009. If an individual lives in the CNMI and believes that he or she meets the guidelines for DACA except that his or her entry and/or residence to the CNMI took place entirely or in part before November 28, 2009, USCIS will consider the situation on a case-by-case basis for a grant of parole. Individuals who believe this situation applies to them are instructed to make an appointment through INFOPASS with the USCIS Application Support Center in Saipan to discuss their case with an immigration officer.

Continued on next page

DACA Overview, Continued

Initial DACA Package

A complete DACA package must include the following items:

1. Form **I-821D**, Consideration of Deferred Action for Childhood Arrivals, properly filed with proper signature.
2. Form **I-765**, Application for Employment Authorization with **I-765 WS**, properly filed with proper signature, the base filing fee, and the biometric services fee. The fees for Form I-765, and the biometric services fee are not eligible for fee waiver consideration.*
3. Evidence of identity to include date of birth, which would establish compliance with the upper and lower age limits.
4. Evidence of entry prior to the requestor's 16th birthday.
5. Evidence of continuous residence since June 15, 2007, up to the date of filing.
6. Evidence of unlawful status on June 15, 2012, if admitted or paroled.
7. Evidence of presence in the United States on June 15, 2012.
8. Evidence that any absences from the United States during the required period of continuous residence were brief, casual, and innocent absences.
9. Evidence that the requestor is currently in school at the time of filing, graduated or obtained a certificate of completion from a U.S. high school, public or private college, or university or community college, obtained a general educational certificate (GED) or other equivalent State-authorized exam in the United States, or is an honorably discharged veteran of the Coast Guard or U.S. Armed Forces.

*If the requestor has been determined exempt from the fee. The DACA package must be accompanied by the exemption approval letter from USCIS Headquarters.

Continued on next page

DACA Overview, Continued

DACA Guidelines

An individual meeting the following guidelines may be favorably considered for DACA if, under the totality of the circumstances, he/she:

1. Entered without inspection before June 15, 2012, or his or her lawful immigration status expired as of June 15, 2012. For DACA purposes, the phrase “in unlawful status as of June 15, 2012” means that he/she never had a lawful immigration status on or before June 15, 2012, or any unlawful status or parole that he/she obtained prior to June 15, 2012 had expired before June 15, 2012;
 2. Was under the age of 31 as of June 15, 2012 (Born after June 15, 1981 so was not age 31 or older on June 15, 2012);
 3. Came to the United States prior to reaching his/her 16th birthday;
 4. Has continuously resided in the United States since June 15, 2007, up to the date of filing;
 5. Was present in the United States on June 15, 2012, and at the time of making his/her request for consideration of deferred action with USCIS;
 6. Is currently in school at the time of filing, has graduated or obtained a certificate of completion from a U.S. high school, has obtained a GED certificate or other equivalent State authorized exam in the United States, or is an honorably discharged veteran of the U.S. Coast Guard or U.S. Armed Forces; and
 7. Has not been convicted of a felony, a significant misdemeanor, or three or more misdemeanors, and does not otherwise pose a threat to national security or public safety.
-

Chapter 8: Adjudication of The DACA Request

A. Procedural Overview

Evaluating the Evidence

When evaluating the evidence submitted in support of a request for DACA consideration, refer to the discussion of the different types of evidence, the weight to be given to such evidence, and the standards of proof, all of which are discussed in Chapter 1.

Request for Evidence (RFE) versus Notice of Intent to Deny (NOID)

Officers will **NOT** deny a DACA request solely because the DACA requestor failed to submit sufficient evidence with the request (unless there is sufficient evidence in our records to support a denial). As a matter of policy, officers will issue an RFE or a Notice of Intent to Deny (NOID).

If additional evidence is needed, issue an RFE whenever possible.

When an RFE is issued, the response time given shall be 87 days. A list of DACA RFE call-ups and the actual templates can be found in Appendix D.

When a NOID is issued, the response time given shall be 33 days.

Unobtainable A-files

After requesting an A-file from the FCO, there may be occasions when there is no response or the file cannot be released (e.g., pending interview, etc.). After three unsuccessful attempts to obtain the file from a field office via CIS or from ICE, adjudicate the DACA filing from the T-file.

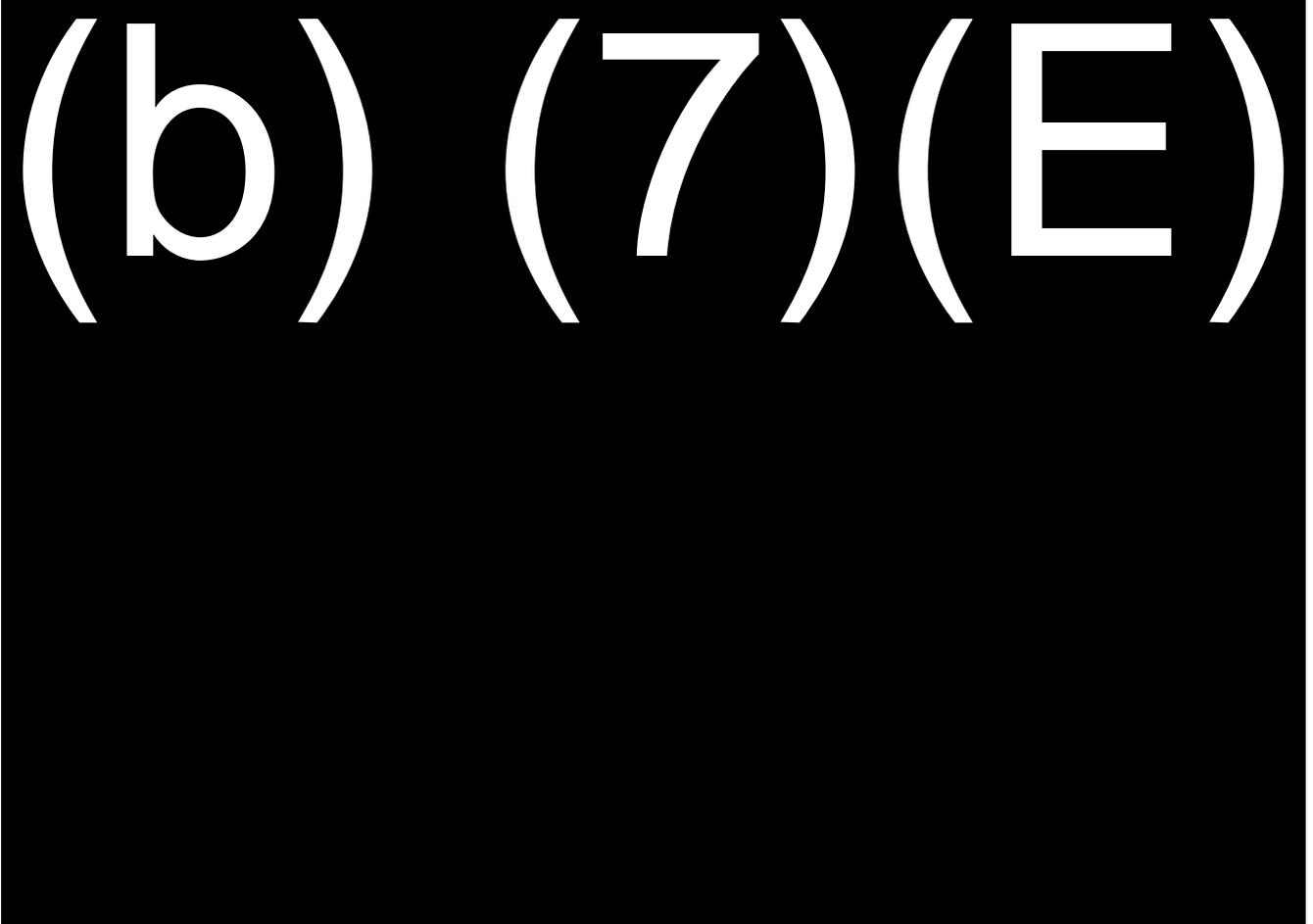
If the A-file is with ICE, the center should send three requests via CIS using standard procedures. However, if the A-file is not received from ICE within the 30 days allowed after the initial request, the center's Records Section should also send a manifest containing a list of the A-files requested from ICE to the designated ICE e-mail box, which has been created specifically for the DACA workload. The center's Records Section has this e-mail box and will designate a primary and an alternate Point of Contact who will send the manifest.

A-File Requests from USCIS Field/Asylum Office Centers may release an A-file to a USCIS Field Office or Asylum Office without SCOPS approval whenever the A-file request is based upon adjudication of a pending of a pending Form I-589, Form I-485 (or motion to reopen/reconsider I-485), or Form N-600 located within the requesting office unless the requestor's case contains novel, complex, or sensitive information (i.e., national security concern, currently in detention, etc.).

In these instances, Centers are instructed to notify SCOPS of the novel, complex, or sensitive information within the case and wait for approval to release the A-file.

Whenever the A-file is released to a USCIS Field Office or Asylum Office, Centers will hold adjudication of the Form I-821D and I-765 and send the A-file with the DACA forms pending. Prior to release, Centers should coordinate with their Records Division to identify a POC within the requesting office to inform the POC that the A-file must be returned as soon as final adjudication is rendered so that appropriate action can be taken on the DACA forms.

B. System Searches



C. Determining if Guidelines are Met

Introduction Individuals may be considered for DACA upon showing that they meet the prescribed guidelines by a preponderance of the evidence. The evidentiary standards are discussed in Chapter 1. If additional information is needed for DACA consideration, issue an RFE. Appendix D has a list of DACA RFE call ups.

Identity Acceptable evidence may consist of, but is not limited to:

- A passport,
- A birth certificate accompanied by some type of photo identification,
- Any national identity document from the requestor's country of origin bearing the requestor's photo and/or fingerprint;
- Any U.S.-government immigration or other document bearing the requestor's name and photograph (e.g., Employment Authorization Documents (EADs), expired visas, driver's licenses, non-driver cards);
- Any school-issued form of identification with photo;
- Military identification document with photo
- State-issued Photo ID showing date of birth; or
- Any document that the requestor believes is relevant.

The Matricular Consular or other form of consular identification issued by a consulate or embassy in the United States will be accepted as proof of identity.

Expired documents are acceptable.

If identity is not established, then issue RFE DACA 100 call up from Appendix D.

Age at Time of Filing If the DACA requestor is not in removal proceedings, does not have a final removal order, or does not have voluntary departure, he/she is to be age 15 or older to file the DACA request. To determine the requestor's age at the time of filing, review the requestor's birth certificate or other acceptable secondary evidence establishing the requestor's date of birth.

If the DACA requestor is in removal proceedings (including cases that have been administratively closed), which includes having an order of voluntary departure after proceedings were initiated or a final order, he/she may be under age 15 at the time of filing the DACA request.

Regardless of whether the DACA requestor is in removal proceedings or not, he/she was born after June 15, 1981 and meets the remaining guidelines in the Secretary's memorandum.

Continued on next page

C. Determining if Guidelines are Met, Continued

Arrived in the United States Prior to 16th Birthday

The Secretary's memorandum states as one of the guidelines to be met before an individual is considered for DACA is that he/she arrived in the United States prior to reaching his/her 16th birthday. To determine the date of arrival, review the response to Part 1, questions 13 through 17 of Form I-821D for the date and place of initial entry into the United States and status at entry. In addition, review question 6 in Part 1 and the requestor's birth certificate or other acceptable evidence establishing the requestor's date of birth.

If the requestor indicates a status in response to question 15 of Form I-821D, but does not provide the I-94# or a copy of the I-94 or any other document, such as a copy of his/her passport showing the date of initial entry, perform a systems check (SQ94/Arrival Departure Information System (ADIS)) to validate the date of entry, if needed.

If the requestor entered "no status" in response to question 15 of Form I-821D, or if the requestor indicates that he/she arrived with a status or was paroled into the United States, but this cannot be validated through a systems check, review the totality of the evidence submitted to establish whether the individual entered before age 16.

If the totality of the evidence does not establish that the requestor arrived in the United States before his/her 16th birthday, issue RFE DACA 103 call up from Appendix D for evidence of the date of arrival.

Present in the United States on June 15, 2012

The Secretary's memorandum states as one of the guidelines to be met before an individual may be considered for DACA that the individual was present in the United States on June 15, 2012. To determine if the requestor was present in the United States on June 15, 2012, review the responses to Part 1 regarding the date of entry, status at entry and date authorized stay expired, and the responses to the questions in Part 2 regarding all absences from the United States since June 15, 2007. Review the totality of the evidence submitted. The evidentiary standards are discussed in Chapter 1. If the requestor arrived before June 15, 2007, and there is no indication of any departure and the evidence submitted establishing his/her presence in the United States on June 15, 2012 is credible, then this guideline has been met.

If a given document does not specifically refer to June 15, 2012, review the dates on all the documentation submitted in its totality to establish presence in the United States on that date.

Continued on next page

C. Determining if Guidelines are Met, Continued

Present in the United States on June 15, 2012
(continued)

The following are examples of acceptable evidence to establish presence in the United States on June 15, 2012. This list of examples is not exhaustive.

Evidence	Acceptable Documentation
Employment Records	<ul style="list-style-type: none"> • Pay stubs; • W-2 Forms; • Federal, State, or local income tax returns; or • Letters from employer(s) or, if the DACA requestor has been self-employed, letters from banks, and other firms with whom he/she has done business. <p>In all of these documents, the employee's name and the name of the requestor's employer or other interested organization must appear on the form or letter, as well as relevant dates. Letters from employers must be signed by the employer and must include the employer's contact information.</p> <p>Such letters must include: (1) the requestor's address(es) at the time of employment; (2) the exact period(s) of employment; (3) period(s) of layoff; and (4) a brief summary of the requestor's duties with the company.</p>
Receipts, Bills, Letters	<ul style="list-style-type: none"> • Rent receipts; • Utility bills (gas, electric, telephone, etc.) bearing the requestor's name (or family name if residing at same address) and address; or • Receipts or letters from companies showing the dates during which the requestor received service.
School Records	Transcripts, letters, report cards, etc., from the school(s) that the requestor attended in the United States showing the name of school(s) and the period(s) of school attendance.
Medical Records	Hospital or medical records showing medical treatment or hospitalization of the requestor. Such records should show the name of the medical facility or physician, as well as the date(s) of the treatment or hospitalization.

Continued on next page

C. Determining if Guidelines are Met, Continued

Present in the United States on June 15, 2012
(continued)

Evidence	Acceptable Documentation
Memberships	<ul style="list-style-type: none"> • Official records from a religious entity in the United States confirming the requestor’s membership or attendance in the entity, attendance at entity events, or participation in a religious ceremony, rite, or passage (e.g., baptism, first communion, wedding, etc.). • Documentation showing membership in community organizations (e.g. Scouts).
Military Records	Military records (e.g., Form DD-214, Certificate of Release or Discharge from Active Duty; NGB Form 22, National Guard Report of Separation and Record of Service; military personnel records; or military health records).
Additional Documents	<p>Additional documents to support the requestor’s claim may include:</p> <ul style="list-style-type: none"> • Money order receipts for money sent in or out of the country; • Passport entries; • Birth certificates of children born in the United States; • Dated bank transactions; • Correspondence between the DACA requestor and other persons or organizations; • U.S. Social Security card; • Selective Service card; • Automobile license receipts, title, vehicle registration, etc.; • Deeds, mortgages, contracts to which the DACA requestor has been a party; • Tax receipts; • Insurance policies, receipts, or postmarked letters; and/or • Any other relevant document.

If the totality of the evidence does not establish that the requestor was present in the United States on June 15, 2012, issue RFE DACA 105 call up from Appendix D for additional evidence.

Continued on next page

C. Determining if Guidelines are Met, Continued

Unlawful Immigration Status on June 15, 2012

To be considered for DACA, the requestor is to demonstrate that he/she was in an unlawful status on June 15, 2012. For DACA purposes, the phrase “in unlawful status” means that the requestor never had a lawful immigration status on or before June 15, 2012, or any lawful immigration status or parole that he/she obtained prior to June 15, 2012, had expired before June 15, 2012.

To determine whether the requestor was in an unlawful status on June 15, 2012, review the responses to Part 1 of Form I-821D regarding date of entry, status at entry, and any date that authorized stay or parole expired, if such authorized stay or parole existed. If the requestor was admitted for duration of status or for a period of time that extended past June 14, 2012, but violated his/her immigration status (e.g., by engaging in unauthorized employment, failing to report to his/her employer, or failing to pursue a full course of study) before June 15, 2012, USCIS will not consider his/her case for DACA unless the Executive Office for Immigration Review terminated his/her status by issuing a final order of removal against you before June 15, 2012.

Examples of documents that may show the requestor’s immigration status on June 15, 2012 include, but are not limited to the following:

- I-94/I-95/I-94W Arrival/Departure Record showing the date the requestor’s authorized stay expired;
- If the requestor has a final order of exclusion, deportation, or removal issued on or before June 15, 2012, a copy of that order and related charging documents, if available;
- An INS or DHS charging document placing the requestor into deportation, exclusion, or removal proceedings;
- Any other document that is relevant to show that the requestor lacked lawful immigration status on June 15, 2012; or
- Any document relating to parole.

If needed, officers should conduct a systems check (i.e., to determine if a record exists) for the DACA requestor that will help in establishing his/her unlawful status on June 15, 2012.

If the evidence submitted does not establish that the requestor was in an unlawful status on June 15, 2012, issue RFE DACA 104 call up from Appendix D for additional evidence.

An individual who had Temporary Protected Status (TPS) on June 15, 2012, will not be considered for deferred action for childhood arrivals.

**Not
Age 31 or Older
on
June 15, 2012**

The Secretary's memorandum provides that one of the guidelines to be met before an individual is considered for DACA is that the individual was not age 31 or older on June 15, 2012. In other words, the DACA requestor was born after June 15, 1981. To determine whether the requestor was born after June 15, 1981, review the requestor's birth certificate or other acceptable secondary evidence establishing the requestor's date of birth.

If there is no evidence establishing the requestor's date of birth, issue DACA RFE 140 call up from Appendix D.

Continued on next page

C. Determining if Guidelines are Met, Continued

Continuous Residence (CR)

The individual requesting DACA is to submit evidence that he/she has resided continuously in the United States since June 15, 2007, or earlier, and up to the present time. Present time means the date of filing.

If the answers to any of the questions on page 3 (Part 2, Arrival/Residence Information) of the Form I-821D are blank or if page 3 of the form is missing and no documentation was submitted, or the documentation submitted does not reasonably show when the requestor arrived and that the requestor meets the continuous residence (CR) guideline, issue an RFE. Include a copy of the original Form I-821D (if page 3 is missing, also include a blank page 3) with the RFE asking the requestor to provide the missing answers and to provide documentation that may establish CR.

The following are examples of acceptable evidence of (CR). This list of examples is not exhaustive.

Evidence	Acceptable Documentation
Employment Records	<ul style="list-style-type: none"> • Pay stubs; • W-2 Forms; • Federal, State, or local income tax returns; or • Letters from employer(s) or, if the DACA requestor has been self-employed, letters from banks, and other firms with whom he/she has done business. <p>In all of these documents, the employee’s name and the name of the requestor’s employer or other interested organization is to appear on the form or letter, as well as relevant dates. Letters from employers are to be signed by the employer and are to include the employer’s contact information.</p> <ul style="list-style-type: none"> • Such letters are to include: (1) the requestor’s address(es) at the time of employment; (2) the exact period(s) of employment; (3) period(s) of layoff; (4) and a brief summary of the requestor’s duties with the company
Receipts, Bills, Letters	<ul style="list-style-type: none"> • Rent receipts; • Utility bills (gas, electric, telephone, etc.) bearing the requestor’s name (or family name if residing at same address) and address; or • Receipts or letters from companies showing the dates during which the requestor received service.

Continued on next page

C. Determining if Guidelines are Met, Continued

Continuous Residence (CR)
(continued)

Evidence	Acceptable Documentation
School Records	<ul style="list-style-type: none"> • Transcripts, letters, report cards, etc., from the school(s) that the requestor attended in the United States showing the name(s) of the school(s) and periods of school attendance.
Medical Records	Hospital or medical records showing medical treatment or hospitalization of the requestor. Such records are to show the name of the medical facility or physician, as well as the date(s) of the treatment or hospitalization.
Memberships	<ul style="list-style-type: none"> • Official records from a religious entity in the United States confirming the requestor’s membership or attendance in the entity, attendance at entity events, or participation in a religious ceremony, rite, or passage (e.g., baptism, first communion, wedding, etc.). • Documentation showing membership in community organizations (e.g. Scouts).
Military Records	Military records (e.g., Form DD-214, Certificate of Release or Discharge from Active Duty; NGB Form 22, National Guard Report of Separation and Record of Service; military personnel records; or military health records).
Additional Documents	<p>Additional documents to support the requestor’s claim may include:</p> <ul style="list-style-type: none"> • Money order receipts for money sent in or out of the country; • Passport entries; • Birth certificates of children born in the United States; • Dated bank transactions; • Correspondence between the DACA requestor and other persons or organizations; • U.S. Social Security card; • Selective Service card; • Automobile license receipts, title, vehicle registration, etc.; • Deeds, mortgages, contracts to which the DACA requestor has been a party; • Tax receipts; • Insurance policies, receipts, or postmarked letters; and/or • Any other relevant document.

Continued on next page

C. Determining if Guidelines are Met, Continued

Brief, Casual and Innocent (BCI) Absence on CR

A brief, casual, and innocent absence from the United States will not interrupt the DACA requestor's continuous residence. A departure made before August 15, 2012, will not be disqualifying if the departure was "brief, casual, and innocent." Travel occurring after August 15, 2012, will not be considered brief, casual, and innocent, unless removal has been deferred under DACA and advance parole have been granted.

If the requestor indicated in Part 2 of the Form I-821D that he/she has been absent before August 15, 2012, review the reason for the absence and any evidence submitted to show that it was brief, casual, and innocent.

Examples of evidence establishing that an absence was brief, casual, and innocent and therefore did not interrupt the requestor's continuous residence include, but are not limited to:

- Plane or other transportation tickets or itinerary showing the travel dates;
- Passport entries;
- Hotel receipts showing the dates the requestor was abroad;
- Evidence of the purpose of the travel (e.g., the requestor attended a wedding or funeral);
- Copy of any advance parole documents; or
- Any other relevant/probative evidence that could support a brief, casual, and innocent absence, as that term is defined in the definitions section of this SOP.

Note that a departure made while under an order of voluntary departure or deportation, exclusion, or removal is not brief, casual, and innocent.

Continued on next page

C. Determining if Guidelines are Met, Continued

Effect of Travel Outside of the United States After August 15, 2012

- Travel outside the United States after August 15, 2012 and before the DACA request is filed:
 - The departure interrupts a requestor's continuous residence in the United States. The requestor cannot meet the continuous residence guideline for DACA and removal action should not be deferred.
 - Travel outside the United States while the DACA request is pending:
 - The departure shall be deemed an abandonment of the DACA request; therefore, the request will be denied for abandonment.
 - Travel outside the United States after removal action has been deferred under DACA, but without advance parole:
 - Deferred action under DACA is terminated automatically.
-

CR/BCI Not Met

If CR is not met, issue the following RFE DACA 101 call up from Appendix D.

If no documentation is submitted to show that a departure was brief, casual, and innocent, or the documentation is not sufficient, issue the following RFE DACA 102 call up from Appendix D.

If routine systems checks, documentation submitted with the DACA request, or evidence in the A-file indicate that a departure was made while under an order of voluntary departure or deportation, exclusion, or removal, issue a Notice of Intent to Deny (NOID) with the opportunity for the requestor to rebut the derogatory information. See Appendix E for NOID Template.

Continued on next page

C. Determining if Guidelines are Met, Continued

Education

To meet the educational guideline for DACA consideration, a DACA requestor may show that he/she is currently in school, has graduated or obtained a certificate of completion from a U.S. high school or has a recognized equivalent of a high school diploma under State law, public or private college, or university or community college, or has obtained a General Educational Development (GED) certificate or equivalent State-authorized exam in the United States. Note that evidence of enrollment in on-line courses is acceptable. When reviewing such evidence, the completeness, credibility, relevance, and sufficiency are germane and take precedence over the electronic medium over which the education was received.

Each component of this guideline is discussed in more detail below.

Currently In School

To be considered “currently in school,” a requestor is to be enrolled in:

- a public or private elementary school, junior high or middle school, high school, or secondary school;
- an education, literacy, or career training program (including vocational training or an English as a Second Language (ESL) course) that is designed to lead to placement in post-secondary education, job training, or employment;
- an education program assisting students either in obtaining a regular high school diploma or its recognized equivalent under State law (including a certificate of completion, certificate of attendance, or alternate award), or in passing a GED exam or other equivalent State-authorized exam; or
- a public or private college or university or a community college;

For ease of reading, education, literacy, and career training programs will be referenced collectively as “alternative educational programs.” When the DACA requestor seeks to meet the “currently in school” component of the educational guideline based on enrollment in an alternative educational program, the requestor’s current enrollment in that program is to be in preparation for the requestor’s anticipated subsequent placement in post-secondary education, job training, or employment (new employment or advancement within existing employment). Evidence of such subsequent placement is not required.

Continued on next page

C. Determining if Guidelines are Met, Continued

Currently In School (continued)

A DACA requestor who is enrolled in a personal enrichment class (such as arts and crafts) or who is enrolled in a recreational class (such as canoeing) is not in an alternative educational program and thus not considered to be “currently in school” for DACA purposes.

In determining whether enrollment in an alternative educational program meets the “currently in school” component of the educational guideline for DACA consideration, first, review the documentary evidence provided to see whether the alternative educational program is an education, literacy, or career training program (including vocational training and ESL) and whether it is publicly funded in whole or in part (State, Federal, county, or municipal funds.) If it is an alternative educational program and it receives public funding, no further evaluation is required. As long as the information is provided by the school/program, it is not necessary to RFE for copies of the actual funding documents. If this information is not provided, the RFE should request the information, but not require copies of the actual funding documents. If it is a literacy program that is run by a non-profit entity, no further evaluation is required with respect to the first part of the analysis. If, however, it is an alternative educational program that does not receive any public funding and it is not a non-profit literacy program, then officers are also to assess whether the program is of demonstrated effectiveness and are to look for such evidence, as described in more detail below.

Some of the ways a DACA requestor can meet the “currently in school” component of the educational guideline for DACA consideration and the different types of evidence that can be submitted, depending on the type of program in which he/she is enrolled, are discussed separately below. The examples and types of evidence listed here are illustrative, and not exhaustive.

Continued on next page

**Public or Private
Elementary,
Junior
High/Middle
School, or High
School/Secondary
School**

Currently in School

Public or Private Elementary, Junior High/Middle School, or High School/Secondary School

Evidence of enrollment in a public or private elementary, junior high/middle school, or high school/secondary school may include, but are not limited to, copies of:

- **Accepted for Enrollment:** Evidence of acceptance for enrollment may include, but is not limited to:
 - An acceptance letter on school letterhead from the school's authorized representative, if the requestor was accepted for enrollment, but the classes have not yet commenced. Such acceptance letter is to include the name and address of the school, the requestor's grade level, and the date that the classes are scheduled to commence. The letter is to be accompanied by evidence that the student has registered for classes, or other evidence showing the student has accepted the offer and has committed to start classes on a certain date;
 - A current individualized education program (IEP), as required under the Individuals with Disabilities Education Act, for a student with a disability, would also be acceptable evidence of enrollment;
 - A copy of the current tuition bill;
 - A current class schedule containing the student's name, the list of courses, and the day and time of each class; or
 - Any other relevant evidence.

- **Already Attending Classes:** For DACA requestors already enrolled and attending classes, evidence may include, but is not limited to, current school registration cards, current transcripts, report cards, and progress reports. The document(s) presented are to show the name of the student, the name of the school, the time period or semester covered by the document, and the current grade level. A current IEP showing the student's progress to date would also be acceptable evidence that the DACA requestor has been accepted for enrollment and is attending classes.

A claim of homeschooling is not necessarily an indicator of fraud; however, because homeschool programs and their requirements vary widely from state to state, refer the case to CFDO for further research and evaluation. Even if the file contains documents including transcripts, a diploma or a certificate of completion as a result of homeschooling, the case must be referred to CFDO for further research and evaluation prior to final adjudication. CFDO referrals on "homeschooling" are only mandatory prior to adjudication if the homeschooling is the basis for meeting the education guideline; if not, then the case can be processed normally and is then referred to the CFDO after final adjudication for tracking purposes.

C. Determining if Guidelines are Met, Continued

Public or Private
College or
University, or
Community
College

Currently in School

Public or Private College or University, or Community College

Evidence of enrollment in a public or private college or university or a community college may include, but is not limited to, copies of:

- **Accepted for Enrollment:** Evidence of acceptance for enrollment may include, but is not limited to:
 - An acceptance package or other related material on school letterhead from the school's authorized representative, if the requestor was accepted for enrollment, but the classes have not yet commenced. Such acceptance package or other related material is to include the name and address of the school, the requestor's grade level or class year, and the date or term when the classes are scheduled to commence, and is to be accompanied by evidence that the student has registered for class. In addition, the acceptance package or other related material is to be accompanied by evidence that the student has registered for classes, or other evidence showing the student has accepted the offer and has committed to start classes on a certain date;
 - A current individualized education program (IEP), as required under the Individuals with Disabilities Education Act, for a student with a disability, would also be acceptable evidence of enrollment;
 - A copy of the student's current tuition bill;
 - The student's current class schedule containing the list of courses, and the day and time of each class; or
 - Any other relevant evidence.
- **Already Attending Classes:** For DACA requestors already enrolled and attending classes, evidence may include, but is not limited to, current school registration cards, current transcripts, report cards, and progress reports. The submitted document(s) are to show the name of the student, the name of the school, the time period or semester covered by the document, and the current grade level or class year. A current IEP showing the student's progress to date would also be acceptable evidence that the DACA requestor has been accepted for enrollment and is attending classes.

It is not necessary to RFE for a copy of the high school diploma or GED, unless there are articulable reasons to question the evidence of acceptance and enrollment or attendance in a public or private college or university, or community college.

Continued on next page

C. Determining if Guidelines are Met, Continued

General
Education
Development
(GED)

Currently in School

GED

If a DACA requestor claims that he/she is enrolled in a course of study to pass a GED exam or other equivalent State-authorized exam, the DACA request is to include a letter or other documentation from an authorized representative of the program, that includes information such as:

- The requestor's name and date of enrollment;
- The duration of the program and expected completion date;
- Whether the course of study is for a GED exam or other equivalent State-authorized exam;
- The program's source of public funding (Federal, State, county, or municipal), if any; and
- The program's authorized representative's contact information.

If the GED/Equivalency program is not publicly funded in whole or in part, documentation from the program should also provide information about the program's demonstrated effectiveness. Such information could include, but is not limited to, information relating to:

- The duration of the program's existence;
- The program's track record in assisting students in obtaining a GED, or a recognized equivalent certificate;
- Receipt of awards or special achievement or recognition that indicate the program's overall quality; and/or
- Any other information indicating the program's overall quality.

Continued on next page

C. Determining if Guidelines are Met, Continued

Educational or Career Training Program (Including Vocational Training)

Currently in School

Educational or Career Training Program (Including Vocational Training)

The documentary evidence submitted in support of the “currently in school” guideline based on enrollment in an educational or career training program (including vocational training) may include, but is not limited to:

- **Accepted for Enrollment:** An acceptance letter on school letterhead from the school registrar/authorized school representative, if the requestor was accepted for enrollment, but the classes have not yet commenced. Such acceptance letter is to include the name and address of the program, a brief description of the program, the duration of the program, and state the date the classes are scheduled to commence, and is to be accompanied by evidence that the student has registered for the program. Evidence of the requestor’s acceptance for enrollment may also include a copy of his/her current year registration (intake form/enrollment form), or any other relevant documentation. The DACA request is also to be supported by evidence of the school or program’s public funding or its demonstrated effectiveness, as described below.

- **Already Attending Classes:**
 - Current attendance records, transcripts, report cards, test reports, progress reports showing the name of the school, the name of the requestor, the time period or semester covered by the document, and, if relevant, the current educational or grade level;
 - A letter from the school registrar/authorized school representative, with contact information, providing information related to the program’s public funding or its demonstrated excellence:

Continued on next page

C. Determining if Guidelines are Met, Continued

Educational or Career Training Program (Including Vocational Training)
(continued)

Public Funding: If the educational or career training program is publicly funded in whole, or in part, the above-referenced letter from the school registrar/authorized school representative is to provide basic details about the funding, such as the source(s) of the funding; or,

Demonstrated Effectiveness: If the educational or career training program is not publicly funded in whole, or in part, the school registrar/authorized school representative is to provide information about the program's demonstrated effectiveness, with supporting documentation, if available. Such information could include, but is not limited to: information relating to:

- The duration of the program's existence;
- The program's track record in placing students in employment, job training, or post-secondary education; Receipt of awards or special achievement or recognition that indicate the program's overall quality; and/or
- Any other information indicating the program's overall quality.

Literacy Training

Currently in School

The documentary evidence submitted in support of the "currently in school" guideline based on enrollment in a literacy program is to include, but is not limited to:

- A letter from the literacy program administrator or authorized representative providing information such as:
 - The requestor's name;
 - The date of the requestor's enrollment;
 - The duration of the literacy program and the expected completion date;
 - The program administrator or authorized representative's contact information;
 - Information about the literacy program's non-profit status, if applicable, and evidence of such status:
 - Evidence of the literacy program's non-profit status is to include a copy of a valid letter from the Internal Revenue Service confirming exemption from taxation under section 501(c)(3) of the Internal Revenue Service Code of 1986, as amended, or equivalent section of prior code; or
- If the literacy program is not administered by a non-profit organization, information related to the literacy program's source of public funding or its demonstrated effectiveness:

Continued on next page

C. Determining if Guidelines are Met, Continued

Literacy Training (continued)

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- **Public Funding:** If the literacy program is publicly funded in whole, or in part, the letter from the literacy program administrator or authorized representative is to provide basic details about the funding, such as the source(s) of the funding. ; or
 - **Demonstrated Effectiveness:** If the literacy program is not publicly funded in whole or in part, or not administered by a non-profit entity, the literacy program administrator or authorized representative is to provide information about the program's demonstrated effectiveness. Such information could include, but is not limited to:
 - The duration of the program's existence;
 - The program's track record in placing students in employment, job training, or post-secondary education;
 - Receipt of awards or special achievement or recognition that indicate the program's overall quality; and/or
 - Any other information indicating the program's overall quality.

It should be noted that many literacy programs may not track statistics on placement rates following completion of the program. Therefore, the lack of such data, standing alone, does not diminish the literacy program's record. Evaluate all of the information and evidence provided in its totality for credibility and sufficiency.

A claim of enrollment in a literacy class run by a for-profit entity that does not receive any public funding is not necessarily an indicator of fraud; however, a vast number of literacy programs are offered for free or at a minimal cost. Therefore, if the literacy program is a **for-profit** entity and does not receive any public funds, refer the case to CFDO for further research and evaluation.

Continued on next page

C. Determining if Guidelines are Met, Continued

English as a
Second Language
(ESL)

Currently in School

English as a Second Language (ESL)

The documentary evidence submitted in support of the “currently in school” guideline based on enrollment in an ESL class is to include, but is not limited to:

- A letter from the ESL program administrator or authorized representative providing information such as:
 - The requestor’s name;
 - The date of the requestor’s enrollment;
 - The duration of the ESL program and the expected completion date;
 - The program administrator or authorized representative’s contact information;
 - Information/documentation related to the ESL program’s public funding or its demonstrated effectiveness:
 - **Public Funding:** If the ESL program is publicly funded in whole, or in part, the letter from the ESL program administrator or authorized representative is also to provide specific details about the funding, such as the source(s) of the funding;
 - **Non-Profit Status:** If the ESL program non-profit status, the ESL program administrator or authorized representative is to provide evidence that the ESL program has non-profit status; or
 - **Demonstrated Effectiveness:** If the ESL program is not publicly funded in whole or in part, the ESL program administrator or authorized representative is to provide information about the program’s demonstrated effectiveness. Such information could include, but is not limited to:
 - The duration of the program’s existence;
 - The program’s track record in placing students in post-secondary education, job training, or employment; Receipt of awards or special achievement or recognition that indicate the program’s overall quality; and/or
 - Any other information indicating the program’s overall quality.

It should be noted that many ESL programs may not track statistics on placement rates following completion of the program. Therefore, the lack of such data, standing alone, does not diminish the school’s record. Evaluate all of the information and evidence provided in its totality for credibility and sufficiency.

Continued on next page

C. Determining if Guidelines are Met, Continued

School Breaks and Medical Leave

At the time of filing, it is possible that school may not be in session due to a holiday or a semester (or quarter or trimester) break. A break may occur during a course, for example spring break, or it may occur between semesters, for example summer break. If a DACA request is filed between semesters, the requestor is considered to be currently in school if he/she is enrolled for the next semester and submits evidence of such enrollment. Note that a requestor on temporary medical leave from school is considered to be currently in school. Evidence of the medical leave and the expected return date to school are to be provided.

Graduated From School

A DACA requestor can also meet the educational guideline if he/she has graduated from school. To meet the “graduated from school” component of the educational guideline, the DACA requestor may show that he/she has graduated or obtained a certificate of completion from a U.S. high school or has a recognized equivalent of a high school diploma under State law, public or private college or university or community college, or has obtained a GED certificate or other equivalent State-authorized exam in the United States. For the purpose of considering an initial DACA request, the phrase “graduated from school” does not include graduation from an education, literacy or career training program (including vocational training or an ESL course). Evidence of graduation may include copies of:

- A diploma;
- A recognized equivalent of high school diploma under State law;
- Transcripts showing the date of graduation;
- A GED Certificate
 - Documentation sufficient to demonstrate that the DACA requestor obtained a GED includes, but is not limited to, evidence the he/she passed a GED exam, or other comparable State-authorized exam, and, as a result, he/she received the recognized equivalent of a regular high school diploma under State law;
- A certificate of completion or certificate of attendance that is equivalent to a high school diploma under state law
 - A certificate of completion or certificate of attendance may or may not be equivalent to a high school diploma. Because the definition of these types of certificate varies widely from state to state, it is important to seek information about how the state’s school district defines a certificate of completion or certificate of attendance and make the determination if it meets the “Graduated from School” guideline;

**Graduated
From
School**
(continued)

- If there is uncertainty about whether the certificate of completion or certificate of attendance meets the “Graduated from School” guideline, in this instance a requestor may be able to meet the “Currently Enrolled in School” guideline if the requestor shows enrollment in an education program assisting students either in obtaining a high school diploma or its recognized equivalent under State law;
- An alternate award from a public or private high school or secondary school.

A claim of homeschooling is not necessarily an indicator of fraud; however, because homeschool programs and their requirements vary widely from state to state, refer the case to CFDO for further research and evaluation. Even if the file contains documents including transcripts, a diploma or a certificate of completion as a result of homeschooling, the case must be referred to CFDO for further research and evaluation prior to final adjudication. CFDO referrals on "homeschooling" are only mandatory prior to adjudication if the homeschooling is the basis for meeting the education guideline; if not, then the case can be processed normally and is then referred to the CFDO after final adjudication for tracking purposes.

Continued on next page

Military Service

The Secretary's memorandum states that, in lieu of being currently in school, or having graduated from school (including a GED), the requestor may be an honorably discharged veteran of the U.S. Coast Guard or U.S. Armed Forces. This may include reservists who were honorably discharged.

Examples of acceptable evidence include, but is not limited to the following:

- Form DD-214, Certificate of Release or Discharge from Active Duty;
- NGB Form 22, National Guard Report of Separation and Record of Service;
- Military personnel records;
- Military health records; or
- Any other relevant document.

If the requestor indicated in question 24 of Part 1 that he/she was a member of the U. S. Armed Forces or Coast Guard, but did not submit evidence of an honorable discharge and does not otherwise meet the educational guidelines, issue RFE DACA 107 call up from Appendix D.

The Form DD-214 and NGB Form 22 both contain a section, "Character of Service" listing the type of discharge a service member obtained. The main types of discharges include the following:

- (1) Honorable;
- (2) General (Under Honorable Conditions);
- (3) Under Other Than Honorable Conditions;
- (4) Bad Conduct;
- (5) Dishonorable; or
- (6) Uncharacterized.

For purposes of DACA, if Character of Service is Honorable or General (Under Honorable Conditions) the requestor has satisfied the military service guideline.

Currently serving in the U.S. Coast Guard or U.S. Armed Forces does not qualify.

D. Economic Necessity

Reviewing Economic Necessity

An EAD based on a grant of deferred action requires a showing of economic necessity. To facilitate this economic necessity review, a separate worksheet was created, Form I-765WS. To streamline adjudication of the DACA request and the I-765, officers will review the I-765WS during the adjudication of Form I-821D. During file set-up, the I-765WS will be put in ROP order immediately behind the Form I-821D.

If Form I-765WS is completely blank or is missing, issue an RFE on the I-765 (not the Form I-821D) using DACA 180 call up from Appendix D, but only if the requestor does not include evidence that a fee exemption was granted. The fee exemption will be indicated in C3 as “Fee Waiver Granted.” If an officer issues an RFE on the I-765, he/she should proceed with adjudication of the I-821D. When the response to the I-765 RFE is received and the I-765 is approved, the expiration date of the EAD should not exceed the end date of the deferred removal under DACA.

If the requestor does not respond to the I-765 RFE, the I-765 should be denied for abandonment; however, the Form I-821D can be approved for DACA if the guidelines have been met. When denying the Form I-765 for abandonment, an officer should use the standard abandonment denial used at his/her center.

If/when Form I-765WS has been completed, review the information provided regarding current income, assets, and expenses to determine whether economic necessity has been established. The requestor may, but need not, include supporting documents with Form I-765WS.

There is a general presumption that DACA requestors will need to work given their undocumented circumstances and the fact that they are not generally anticipated to have independent means. Absent evidence of sufficient independent financial resources, the Form I-765WS is sufficient to establish economic need, without any further economic analysis.

D. Removal Proceedings

Removal Proceedings

Individuals in removal proceedings may file a DACA request, even if they are under age 15, as long as they were born after June 15, 1981. As explained more fully below, removal proceedings commence with the filing of Form I-862, Notice to Appear, with the Immigration Court and terminate in one of several ways. See 8 C.F.R. §245.1(c)(8)

If a DACA requestor has been or is currently in deportation, exclusion, or removal proceedings, he/she may have another A-file, which should have been discovered by the officer during the initial review of the I-821D and/or Record of Arrest and Prosecution (RAP) sheet (if any). Please see the “A-File” section.

There are several ways to determine if the DACA requestor:

- Was or is in proceedings;
- What the outcome of the proceeding was; and
- If he/she was previously removed.

(b) (7)(E)

See the charts below for an overview of the electronic systems to check.

(b) (7)(E)

Continued on next page

Removal Proceedings, Continued

Removal Proceedings (continued)



Effects of Deportation or Removal Proceedings

The existence of deportation, exclusion, or removal proceedings may have an effect on the exercise of prosecutorial discretion for DACA. If the DACA requestor is in proceedings, the A-file is likely with the ICE office. Before a DACA request may be adjudicated by the Center, the Center should make every attempt to obtain all A-File(s).

Determining Whether an Individual is in Removal Proceedings

Deportation, exclusion, and removal proceedings begin with the filing of the charging document with the Immigration Court. Currently, the charging document used is Form I-862, Notice to Appear. Over the years, proceedings commenced in other ways, including:

1. With the issuance of Form I-221, Order to Show Cause and Notice of Hearing, prior to June 20, 1991;
2. With the filing of Form I-221, Order to Show Cause and Notice of Hearing, issued on or after June 20, 1991, with the immigration court;
3. With the issuance of Form I-122, Notice to Applicant for Admission Detained for Hearing Before Immigration Judge, prior to April 1, 1997; and
4. With the issuance and service of Form I-860, Notice and Order of Expedited Removal.

It is possible for an individual to have voluntary departure and be in removal proceedings. See Voluntary Departure section below for more information.

Continued on next page

E. Removal Proceedings, Continued

**Determining
Removal
Proceedings
have been
Terminated**

Deportation, exclusion, or removal proceedings terminate when one of the following occurs:

1. The individual leaves the United States under an outstanding order of deportation, exclusion, or removal;
2. The individual is found not to be inadmissible or deportable from the United States;
3. The individual leaves the United States before the expiration of his/her voluntary departure, which was granted in connection with an alternate order of deportation or removal;
4. The charging document is canceled (Form I-122, I-221, I-860, or I-862);
5. The immigration judge or the Board of Immigration Appeals terminates the proceedings; or
6. A Federal court grants a petition for review or an action for habeas corpus.

See 8 C.F.R. §245.1(c)(8)

**Voluntary
Departure**

An individual with voluntary departure may or may not be in removal proceedings. Voluntary departure may be issued before the commencement of proceedings, during proceedings, or at the conclusion of proceedings. When voluntary departure is issued during or at the conclusion of proceedings, it is normally issued as an alternate order of voluntary departure/removal or deportation. An alternate order of voluntary departure converts automatically to an order of removal/deportation when the individual does not leave the United States voluntarily by the specified date.

**Administratively
Closed**

Administratively closed proceedings means that proceedings have commenced, but the parties subsequently agreed to remove the matter from the immigration court's docket. Administratively closed does not mean terminated, and thus the individual remains in proceedings. Either party may file a motion to place the case on the court's active docket at any time.

Continued on next page

E. Removal Proceedings, Continued

Use the chart below to assist in determining if a DACA requestor is in removal proceedings:

If...	Then...	And...
(b)	(7)	(E)

Note: The guideline that the individual is under age 31 on June 15, 2012 applies to all DACA requestors regardless of whether they are in deportation, exclusion, or removal proceedings. If the individual was age 31 or older on June 15, 2012, issue a NOID.

Individuals With Final Removal Orders (FRO)

An individual with an unexecuted final removal order is still in removal proceedings. See 8 C.F.R. § 245.1(c)(8). Although the final removal order may have been issued before, on, or after June 15, 2012, the volume of individuals that could be considered for DACA with a post-June 15th final removal order should be small, because ICE began applying the DACA guidelines upon publication of the Secretary’s memorandum. Final removal orders issued after June 15, 2012 should be reviewed carefully to examine the underlying grounds for removal.

If the requestor is the subject of an FRO, then determine the requestor’s age on June 15, 2012. Review the answer provided to question #9 in Part 1 of Form I-821D and review the requestor’s birth certificate or other acceptable secondary evidence submitted to show the date of birth. If the evidence submitted does not show that the requestor satisfies the upper age limit, issue RFE DACA 140 call up from Appendix D.

E. Removal Proceedings, Continued

Subject to the Reinstatement of a Prior Removal Order

When an individual reenters the United States illegally after having been removed or after leaving voluntarily under an order of removal, the individual is subject to reinstatement of the prior removal order from its original date. See INA § 241 (a)(5).

An individual who is subject to reinstatement of their prior removal order under the provisions of § 241 (a)(5) of the Act may file a DACA request; however, the removal **and** the illegal reentry must have occurred before June 15, 2007. This is because a DACA requestor must have resided continuously in the United States for at least five years before June 15, 2012, the date of Secretary's memorandum. Additionally, a removal is not deemed to be a brief, casual, and innocent departure and, therefore, it interrupts the period of continuous residence.

Underlying Removal Ground Adversely Impacts Prosecutorial Discretion

If the DACA requestor indicates in Question #3.a. in Part 1 of Form I-821D that he/she has been in removal proceedings, and/or routine systems, background, and fingerprint checks indicate that the requestor is in removal proceedings, proceed as follows:

- Review the underlying removal charges; and
- Review the derogatory information obtained through routine checks.

Do not rely solely on the grounds listed in the charging document and/or EARM, as not all issues may have necessarily been captured, or new issues may have arisen since the charging document was issued. It is necessary to review all derogatory information in its totality and then make an informed assessment regarding the appropriate exercise of prosecutorial discretion for DACA.

Underlying Removal Ground Does Not Adversely Impact Prosecutorial Discretion

If a DACA requestor has been placed in proceedings on a ground that does not adversely impact the exercise of prosecutorial discretion, review the results of all routine systems, background, and fingerprint checks. If those routine checks did not reveal any additional derogatory information that impacts the exercise of prosecutorial discretion, the case may proceed for adjudication.

Do not rely solely on the grounds listed in the charging document and/or EARM, as not all issues may have necessarily been captured, or new issues may have arisen since the charging document was issued. It is necessary to review all derogatory information in its totality and then make an informed assessment regarding the appropriate exercise of prosecutorial discretion for DACA.

Continued on next page

E. Removal Proceedings, Continued

**Removal
During
Continuous
Residence
Period**

A departure from the United States pursuant to an order of deportation, exclusion, or removal that occurred during the required continuous residence period is not “brief, casual, and innocent.” Therefore any absence caused by such a departure meaningfully interrupts such continuous residence. This also includes a departure made “voluntarily,” for example, the individual leaves the United States on his/her own volition while under an order of deportation, exclusion, or removal.

In these instances, issue a NOID.

F. Fingerprints and RAP Sheets

Fingerprint Requirements

Fingerprints (ten print) are required for every DACA requestor 14 years of age and older to determine if they have a criminal history. Submissions of prior fingerprint results will not be accepted.

FBI Fingerprint Response

At the time of adjudication, the file should contain a (b) (7)(E)

(b) (7)(E)

A definitive response from the FBI regarding fingerprint clearances is required before any DACA request for an individual 14 years of age and older may be approved.

Fingerprint results for the requestor obtained as a result of a previous filing with USCIS within the last 15 months are not valid for DACA purposes. Each DACA requestor must obtain a new fingerprint check upon the filing of a DACA request. Officers should utilize FD-258 to verify that the fingerprint check was completed for the DACA request.

Performing an FBI Query

The fingerprint clearance should be complete before the case is sent for adjudication. If there is no fingerprint result printout in the file, officers must perform a query of FBI Fingerprint Tracking in CLAIMS Mainframe and also check SNAP to see if the requestor has been scheduled for an appointment at an ASC.

(b) (7)(E)

Continued on next page

F. Fingerprints and RAP Sheets, Continued

Introduction

There are four possible results of a fingerprint query:

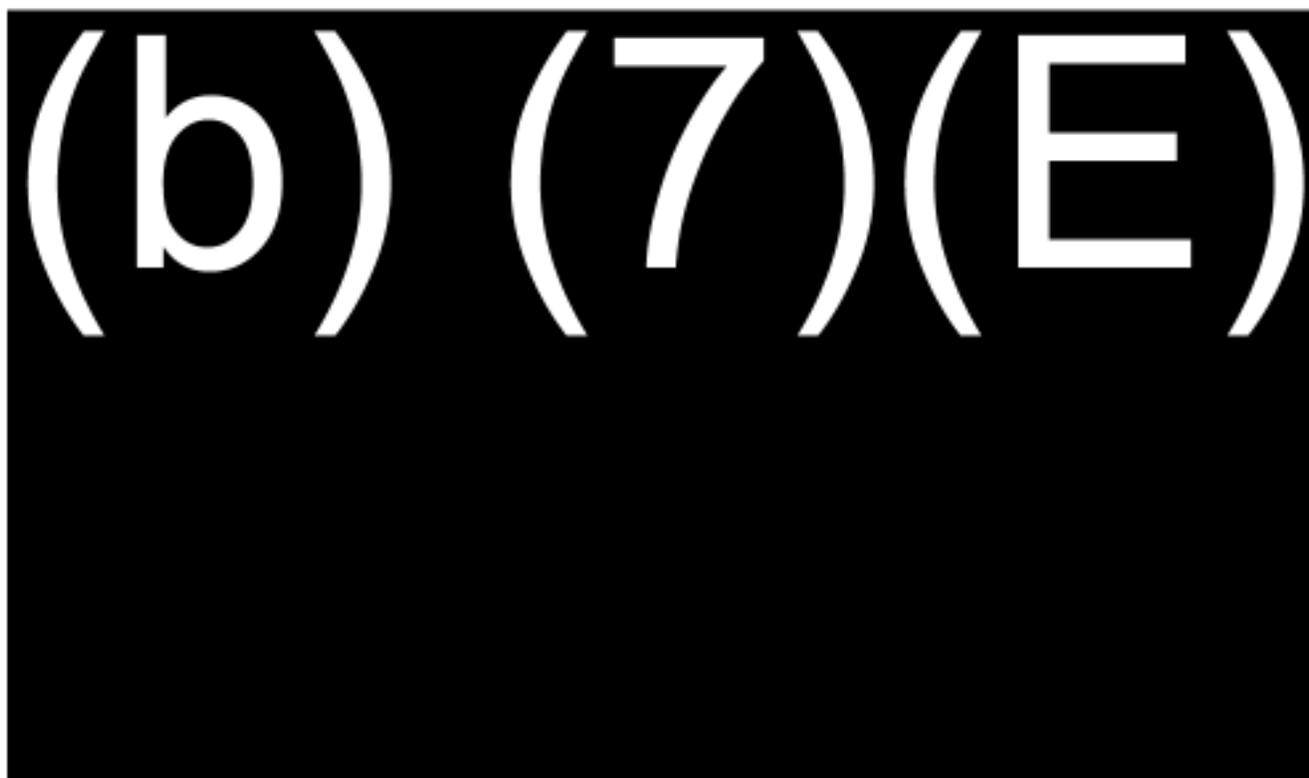
(b) (7)(E)

This section instructs officers on how to proceed based on the fingerprint results.

(b) (7)(E)

Continued on next page

F. Fingerprints and RAP Sheets, Continued



**A-numbers
Found on the
RAP Sheet**

If any other A-numbers are found on the RAP sheet, the files must be requested, reviewed, and consolidated prior to any final action.

**Updated RAP
Sheets**

Although biometrics will not be cloned from other filings, if the requestor has a criminal history [REDACTED] (b) (7)(E) the file, request updated (b) (7)(E) sheets through the [REDACTED] (b) (7)(E) [REDACTED]

G. Evaluating Issues of Criminality, Public Safety, and National Security

Criminal Ineligibilities

The Secretary's memorandum provides as one of the guidelines that should be met before an individual is considered for DACA that the individual not have been convicted of a felony offense, a significant misdemeanor offense, three or more non-significant misdemeanor offenses, or otherwise pose a threat to national security or public safety. If the evidence establishes that an individual has a conviction for one of the above or may be a national security or public safety threat, USCIS will deny the request for deferred action, unless exceptional circumstances are found. The requestor must specifically ask to be evaluated under this exception and must fully document the exceptional circumstances.

The decision whether to defer action in a particular case is individualized and discretionary, taking into account the nature and severity of the underlying criminal, national security, or public safety concerns. By their very nature, felonies, significant misdemeanors, a history of other misdemeanors, and activities compromising national security and public safety are particularly serious and carry considerable weight in the totality of the circumstances analysis. As a result, it would take a truly exceptional circumstance to overcome the underlying criminal, national security, and public safety grounds that would otherwise result in not considering an individual for DACA, which would be rare. Deferring removal under DACA shall not be considered under this very limited exception without concurrence from HQSCOPS. In these instances the case shall come to HQSCOPS from the Service Center Director, through the appropriate chain of command.

Felony

A felony is a federal, state, or local criminal offense punishable by imprisonment for a term exceeding one year.

Continued on next page

G. Evaluating Issues of Criminality, Public Safety, and National Security, Continued

Misdemeanors	<p><u>Significant Misdemeanor:</u></p> <p>For DACA only, a significant misdemeanor is a misdemeanor as defined by federal law (specifically, one for which the maximum term of imprisonment authorized is one year or less but greater than five days) and that meets the following criteria:</p> <ol style="list-style-type: none">1. Regardless of the sentence imposed, is an offense of domestic violence; sexual abuse or exploitation; burglary; unlawful possession or use of a firearm; drug distribution or trafficking; or, driving under the influence; or,2. If not an offense listed above, is one for which the individual was sentenced to time in custody of more than 90 days. <p>The sentence must involve time to be served in custody, and therefore does not include a suspended sentence. The time to be served in custody does not include any time served beyond the sentence for the criminal offense based on a state or local law enforcement agency honoring a detainer issued by U.S. Immigration and Customs Enforcement (ICE). Notwithstanding whether the offense is categorized as a significant or non-significant misdemeanor, the decision whether to defer action in a particular case is an individualized, discretionary one that is made taking into account the totality of the circumstances. Therefore, the absence or presence of a criminal history, is not necessarily determinative, but is a factor to be considered in the unreviewable exercise of discretion. DHS retains the discretion to determine that an individual does not warrant deferred action on the basis of a single criminal offense for which the individual was sentenced to time in custody of 90 days or less.</p>
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Misdemeanors
(continued)

Non-Significant Misdemeanor:

For DACA only, a non-significant misdemeanor is any misdemeanor as defined by federal law (specifically, one for which the maximum term of imprisonment authorized is one year or less but greater than five days) and that meets the following criteria:

1. Is not an offense of domestic violence; sexual abuse or exploitation; burglary; unlawful possession or use of a firearm; drug distribution or trafficking; or, driving under the influence; and
2. Is one for which the individual was sentenced to time in custody of 90 days or less.

The time in custody does not include any time served beyond the sentence for the criminal offense based on a state or local law enforcement agency honoring a detainer issued by ICE. Notwithstanding whether the offense is categorized as a significant or non-significant misdemeanor, the decision whether to defer action in a particular case is an individualized, discretionary one that is made taking into account the totality of the circumstances. Therefore, the absence of the criminal history outlined above, or its presence, is not necessarily determinative, but is a factor to be considered in the unreviewable exercise of discretion.

G. Evaluating Issues of Criminality, Public Safety, and National Security, Continued

Misdemeanors (continued)

Multiple Misdemeanors:

Absent exceptional circumstances, a person is not eligible for consideration of DACA if he/she has been convicted of three or more non-significant misdemeanors that did not occur on the same day and did not arise out of the same act, omission, or scheme of misconduct.

When evaluating a request for consideration for deferred action for childhood arrivals, a minor traffic offense, such as driving without a license, will not be considered a misdemeanor that counts towards the “three or more non-significant misdemeanors.” However, the requestor’s entire offense history can be considered along with other facts to determine whether, under the totality of the circumstances, he/she warrants an exercise of prosecutorial discretion.

State Law Immigration Offenses

Immigration-related offenses characterized as felonies or misdemeanors by state immigration laws will not be treated as disqualifying felonies or misdemeanors for the purpose of considering a request for consideration of deferred action pursuant to this process.

Foreign Convictions

When evaluating a request for consideration of deferred action for childhood arrival, a foreign conviction, standing alone, will generally not be treated as a disqualifying felony or misdemeanor. Such convictions, however, may be considered when addressing whether the person poses a threat to public safety and whether, under the particular circumstances, the exercise of prosecutorial discretion is warranted. Cases involving foreign convictions should be elevated for supervisory review.

Court Dispositions

Requesting Certified Court Dispositions

Using RFE DACA 151 call up from Appendix D, request a certified court disposition a certified court disposition, arrest record, charging document, sentencing record, etc. for each arrest, unless disclosure is prohibited under state law.

If the requestor is unable to provide such records because the case was expunged or sealed, RFE DACA 151 informs the requestor that he or she must provide information about his or her arrest and evidence demonstrating that such records are unavailable under the law of the particular jurisdiction. It is not necessary for the officer to issue an RFE if he/she is able to readily obtain the dispositions on line.

Free Online Court Dispositions

There are many online sites that can be searched and the disposition printed for a file copy. These sites are open to the public; therefore, USCIS can gain the final disposition without doing an RFE or ITD if all the charges in question are found, or if enough evidence can be gathered to deny without the remaining charges.

The AAO has upheld prior decisions made using these court dispositions, even though these dispositions are not “certified” by the court, since the information is made available to the public.

Reading Court Dispositions

Court dispositions take as many different forms as there are courts in the United States. There is no way to give specific instructions on how to read such dispositions. Usually the state criminal statutes cite is used to indicate which charge the applicant was actually convicted of. Adjudicators should consult with their supervisor if they have any questions about how to read a court disposition.

Convictions

Pursuant to INA § 101(a)(48)(A), a conviction is a formal judgment of guilt entered by a court or, if adjudication of guilt has been withheld, where:

- 1) a judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt; and
- 2) the judge has ordered some form of punishment, penalty, or restraint on the alien's liberty to be imposed.

Nolo contendere means the individual is unwilling to contend. This subjects the individual to some form of punishment, penalty, or restraint as if he/she was found guilty.

An adjudication of juvenile delinquency is not a conviction.

**Formal
Adjudication of
Guilt Withheld**

Court orders in criminal proceedings sometimes include, as part of the disposition, terms such as: Continued without a finding (CWOFF); adjudication withheld; deferred adjudication, etc. Different jurisdictions use different terminology.

Where there is no formal adjudication of guilt, officers must determine whether:

1. A judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt; AND
2. the judge has ordered some form of punishment, penalty, or restraint on the alien's liberty, such as jail, a fine, parole, probation, community service, etc.

The officer must dissect the law, the statute, court order, and conviction, and put all the pieces together to determine whether these requirements for a conviction are met in the absence of a formal adjudication of guilt.

**Imposition of
Costs as
Punishment**

Imposition of costs (such as fines, court costs, etc.) in a criminal case constitutes a form of punishment, and therefore satisfies the second prong of the conviction definition.

Continued on next page

Court Dispositions, Continued

Deferred Prosecution

Deferred prosecution or pretrial diversion programs that do not require the defendant to plead guilty or nolo contendere or require the court to make any finding of guilt do not constitute a conviction for immigration purposes.

Dismissals, Dropped, Set Aside

In many cases, the charges may be dropped or set aside in exchange for the DACA requestor agreeing to attend various self-help courses and programs, or if the person who filed the complaint against him/her fails to appear or chooses to drop the case.

These are not considered convictions for immigration purposes.

Nolle Prosequi

A decision of “nolle prosequi” is a Latin legal term for “declined to prosecute”.

This is not considered a conviction for immigration purposes.

Convictions on Appeal

A conviction is effective for immigration purposes, including DACA, while it is on direct appeal. See *Plane v. Holder*, 652 F.3d 991 (9th Cir. 2011), rehearing en banc denied, 2012 WL 1994862 (2012). If the conviction is ultimately reversed on appeal, the DACA requestor is free to file a new request for DACA if otherwise eligible.

Expunged or Vacated Convictions

For DACA purposes only, expunged convictions will not be treated as disqualifying felonies or misdemeanors. Expunged convictions, however, will be assessed on a case-by-case basis to determine whether the person poses a threat to public safety and whether, under the particular circumstances, the exercise of prosecutorial discretion is warranted. Cases involving expunged convictions should be elevated for supervisory review.

Sealed and expunged records will be evaluated according to the nature and severity of the criminal offense.

STET

The entry of “STET” in a criminal case simply means that the state (Maryland and West Virginia) will NOT proceed against an accused on that indictment at that time. As long as the STET order is still in place and the individual is in compliance, the STET is not a conviction for immigration purposes.

NOTE: Carefully review the file for J&Cs, orders, etc., to determine if a subsequent decision on the offense has been made.

Arrests and Convictions

Criminal Arrests

When a DACA requestor's RAP sheet indicates an arrest, it is necessary to determine whether the DACA requestor has been convicted of the crime.

The only way to know if the DACA requestor has been convicted of the charge for which he/she was arrested is to obtain the certified court disposition. Occasionally the disposition of the arrest is shown on the RAP sheet. **However, in all cases, the officer must review the court disposition. This may be done by obtaining the disposition online or by issuing an RFE.**

Juvenile Delinquency

Juvenile delinquency will not automatically disqualify a DACA requestor. Such criminal history will be evaluated on a case-by-case basis to determine whether, under the particular circumstances, discretion is warranted to defer removal under DACA.

If a requestor was a juvenile, but tried and convicted as an adult he/she will be treated as an adult for purposes of the DACA process. Individuals must provide a certified court disposition, arrest record, charging document, sentencing record, etc. for each arrest, unless disclosure is prohibited under state law.

Sealed and expunged records will be evaluated according to the nature and severity of the criminal offense.

Pardons

A full and unconditional pardon by the President of the United States or by the Governor of a U.S. State eliminates a conviction for purposes of DACA.

Public Safety Concerns

Evaluating Public Safety Concerns

The scope of criminal offenses deemed to be EPS are described in the November 7, 2011, NTA memorandum and the accompanying MOA between USCIS and ICE.

A DACA requestor's criminal record may give rise to significant public safety concerns even where there is not a disposition of conviction. Therefore, when the disposition is pending, it is not necessary to hold the case. For example, an individual with multiple DUI arrests, but no convictions, could pose a significant public safety concern. Similarly, an individual arrested for multiple assaults or other violent crimes could be deemed a public safety risk even if he/she was never convicted for those crimes. Arrests and/or convictions that took place outside of the United States are also significant unfavorable factors in evaluating public safety concerns, under the totality of the circumstances.

National Security Concerns

Evaluating National Security Concerns

A case posing national security concerns is handled through the CARRP process according to existing protocols.

DACA Requestors in Immigration Detention

DACA Requestors in Immigration Detention

USCIS lacks the authority to consider requests from individuals who are in immigration detention under the custody of ICE at the time of filing Form I-821D and remain in immigration detention as of the date Form I-821D is adjudicated. If upon receipt of Form I-821D, a review of DHS electronic systems or information received from ICE identifies the requestor as detained, the Center should follow the below procedures.

The BCU will contact local ICE operations having jurisdiction over the requestor to determine if the requestor is an ICE enforcement priority or if ICE intends on administratively closing the proceedings and/or physically releasing the requestor within 30 days.

1. If ICE indicates that it does not intend to physically release the requestor within 30 days, USCIS will deny the DACA request using the checkbox within Appendix F (Denial Template) that states "USCIS lacks the authority to consider your request because you were in immigration detention at the time you filed your Form I-821D and

Continued on next page

you remain in immigration detention as of the date of this notice.” USCIS will notify ICE once the denial notice is issued.

2. If ICE indicates that the requestor is an ICE enforcement priority but ICE intends on physically releasing the requestor, USCIS will deny the DACA request using the checkbox within Appendix F (Denial Template) that states “...exercising prosecutorial discretion in your case would not be consistent with the Department of Homeland Security’s enforcement priorities.” USCIS will notify ICE once the denial notice is issued
3. If ICE indicates that the case is not an ICE enforcement priority and ICE intends to physically release the requestor, the case will be adjudicated on its merits. **A review of DHS electronic systems must be performed to ensure the requestor is physically released before the case is adjudicated on its merits.**

If a BCU supervisor disagrees with ICE’s determination of whether or not the requestor is an enforcement priority, the BCU should ask local counsel for assistance in contacting local ICE operations to discuss the reasons why USCIS believes this individual is an enforcement priority. The Service Center’s local counsel can seek assistance from USCIS Headquarters’ Office of the Chief Counsel to contact ICE, if necessary.

Handling Procedures

General

The evaluation of criminal issues with respect to a DACA request is done after BCU vetting of the (b) (7)(E) check and the (b) (7)(E) results from the FBI. If the up-front (b) (7)(E) check reveals a hit, the DACA request goes to BCU/Triage. If the hit relates, BCU triage routes the DACA request to the BCU. BCU documents the (b) (7)(E) hit and the resolution in the ROIQ. While the DACA request is undergoing the up-front (b) (7)(E) check, the DACA requestor is placed in the scheduling queue for an ASC appointment to have his/her biometrics captured. If the (b) (7)(E) results return an IDENT, the BCU reviews the results to determine whether they are germane to the DACA request and the exercise of prosecutorial discretion. The officer may issue an RFE at any point along the way, if necessary to establish whether the issues of criminality relate to a misdemeanor, a significant misdemeanor, a felony, or whether the criminal issues pose a public safety threat. When a DACA request is denied, the denial shall be issued using the standard denial template, which provides a list of checkboxes. The standard denial template is found at Appendix F. Select the box or boxes that apply. For guidance on when to seek supervisory review of a denial involving issues of criminality, see Chapter 9, Section D.

Categorization

If the BCU determines that the case presents issues of criminality, processing of the DACA request must be categorized as either EPS or non-EPS, as defined in the November 7, 2011 NTA memorandum.

**Non-EPS
Cases**

A DACA request posing issues of criminality that are based on (b) (7)(E) non-EPS, as per the NTA policy memorandum, is handled by the BCU DACA Team as follows:

- The BCU DACA Team will adjudicate Form I-821D, taking into account all issues of criminality.
- If the case is approvable, the BCU DACA Team will approve the I-821D for DACA and adjudicate the I-765 for employment authorization.
- If an approval is not warranted, a denial for Form I-821D and Form I-765 will be issued, pending supervisory review.
- After the decisions have been rendered on Forms I-821D and I-765, the A-file shall be routed to the NRC.

In non-EPS cases where the requestor has been arrested for a potentially disqualifying criminal offense, but the court disposition is currently unavailable because the criminal proceedings are pending, the BCU DACA Team will issue RFE DACA 151 call up from Appendix D. The BCU DACA Team will withhold adjudication until the requestor submits the court disposition or receives SCOPS authorization to deny the case absent the court disposition. The BCU DACA Team will initially provide 87 days for the requestor to respond, but may issue a second RFE DACA 151 call up if the requestor fails to provide the final court disposition within 87 days because the criminal proceedings have not concluded.

Continued on next page

Handling Procedures, Continued

EPS Cases

A DACA request presenting issues of criminality that are deemed to be EPS, as per the NTA policy memorandum, is handled by the BCU DACA Team. The BCU DACA Team shall refer the case to ICE prior to adjudicating the case, even if USCIS can deny the DACA request on its merits. The BCU DACA Team will refer the DACA request to ICE using the RTI process. The BCU DACA Team will suspend adjudication of the DACA request for 60 days, or until ICE provides notification of its action on the case, whichever is earlier.

- **ICE Takes No Action or Does Not Respond:** If ICE does not accept the referral request or otherwise provide any notification of its action within 60 days of the RTI:
 - The BCU DACA Team will adjudicate Form I-821D, taking into account all issues of criminality, and in particular, the issues presenting an EPS concern.
 - If the disposition of the criminal charges against the DACA requestor is **pending**, the BCU DACA Team will deny the DACA request on public safety grounds, because the underlying issues of criminality are deemed to pose an EPS concern, pursuant to the November 7, 2011 NTA memorandum. The BCU DACA Team will also deny Form I-765, requesting employment authorization.
 - If the disposition of the criminal charges against the DACA requestor are **final**, the BCU DACA Team will deny Form I-821D based on the issues of criminality and the conviction. The BCU DACA Team will also deny Form I-765, requesting employment authorization.
 - Upon denial, the BCU DACA Team shall refer the DACA request to ERO, in accordance with the agreed upon method, and update FDNS-DS.

Continued on next page

Handling Procedures, Continued

EPS Cases
(continued)

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- **ICE Accepts the Referral:** If ICE accepts the case, the BCU DACA Team will follow the standard protocols outlined in the November 7, 2011 NTA memorandum.

Note: Requests involving issues of criminality that normally would not meet the guidelines for consideration of deferred action will be denied, unless the requestor is claiming that consideration is warranted due to exceptional circumstances and fully documents such claim. Removal shall not be deferred under DACA pursuant to this very limited exception without concurrence from HQSCOPS. In these instances the case shall come to HQSCOPS from the Service Center Director, through the appropriate chain of command.

H. Adjudicating Form I-821D, Part 3, Criminal, National Security, and Public Safety Information

Introduction

When adjudicating Part 3 of Form I-821D, it is necessary to ensure that clear information and evidence are present to make a final determination. Refer to Chapter 6 for Background and Security Checks and Chapter 8, Section H, for evaluating and handling criminality, public safety, and national security issues.

Questions 1 and 2: Arrested for, charged with, or convicted of a felony or misdemeanor, or significant misdemeanor in the United States (includes drug offenses and driving under the influence of drugs or alcohol)

OR

arrested for, charged with, or convicted of a crime in any country other than the United States

If the requestor answers “No”:

If...	And...	Then...
There is no derogatory information in the A-File(s), (b) (7)(E) etc.,		Case stays in regular workflow. Continue to adjudicate.
There is derogatory information in the A-File(s), (b) (7)(E) etc.,	The derogatory information clearly shows that the requestor does not meet the DACA guidelines,	Case is handled by the BCU DACA Team.
There is derogatory information in the A-File(s), (b) (7)(E) etc.,	The derogatory information is unclear,	
There is derogatory information in the A-File(s), (b) (7)(E) etc.,	There are clear charges or clear derogatory information, but no clear judgment or conviction,	

If the requestor answers “Yes”:

If...	Then...
There is clear derogatory information provided by the requestor and/or in our records,	Case is handled by the BCU DACA Team.
No derogatory information can be found in our records or it is unclear, and the requestor did not provide any additional information or documentation,	

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H. Adjudicating Form I-821D, Part 3, Criminal, National Security, and Public Safety Information, Continued

Questions 3 and 5: Security and Related Issues – Engaging in Terrorist Activities; or Engaging in Ordering, Inciting, Assisting, or Otherwise Participating in Genocide, Human Trafficking, and Other Violent Crimes Involving the persecution of Others

If the requestor answers “No”:

If...	And...	Then...
There is no derogatory information in the A-File(s), (b) (7)(E) etc.,		Case stays in regular workflow. Continue to adjudicate.
There is derogatory information in the A-File(s), (b) (7)(E) etc.,	The derogatory information clearly shows that the requestor did or may have engaged in terrorist activities or human rights violations,	Put the case through the CARRP process per standard protocols.
There is derogatory information in the A-File(s), (b) (7)(E) etc.,	The derogatory information is unclear,	(b) (5)

If the requestor answers “Yes”:

If...	Then...
There is clear derogatory information provided by the requestor and/or in our records,	Put the case through the CARRP process per standard protocols.
No derogatory information can be found in our records or it is unclear and the requestor did not provide information,	

Continued on next page

H. Adjudicating Form I-821D, Part 3, Criminal, National Security, and Public Safety Information, Continued

**Question 4:
Current and
Past Gang
Membership**

If the requestor answers “No”:

If...	And...	Then...
There is no derogatory information in the A-File(s), (b) (7)(E) [redacted] etc.,		Case stays in regular workflow. Continue to adjudicate.
There is derogatory information in the A-File(s), (b) (7)(E) [redacted] etc.,	The derogatory information clearly shows that the requestor is or may be a gang member,	Case is handled by the BCU DACA Team.
There is derogatory information in the A-File(s), (b) (7)(E) [redacted] etc.,	The derogatory information is unclear,	

If the requestor answers “Yes”:

If...	Then...
There is clear derogatory information provided by the requestor and/or in our records,	Case is handled by the BCU DACA Team.
No derogatory information can be found in our records or it is unclear and the requestor did not provide information,	

I. Fraud Review and Fraud Referrals

Immigration Fraud

In the normal course of adjudication, officers should be aware of fraud indicators. Fraud related concerns that arise during the course of background and security checks should be addressed according to the March 2011 Fraud Detection SOP and the 2008 ICE/USCIS Investigation of Immigration Benefit Fraud MOA.

Fraud encompasses any material representation or omission, accompanied by an intent to deceive. Establishing the elements of fraud is at the core of the work performed during a fraud investigation. In the immigration context, fraud is a willful misrepresentation of a material fact. An omission of a material fact can also constitute a willful misrepresentation, rising to the level of fraud. When reviewing an immigration request, a finding of fraud is generally supported by the presence of the following three elements.

- There must have been a **misrepresentation** or concealment of a fact;
- The misrepresentation or concealment must have been **willful**; and
- The fact must be **material**. See *Kungys v. U.S.*, 485 U.S. 759 (1988) which indicates that a fact is considered material if it had a tendency to influence the decision for the application or petition or shut off a relevant line of inquiry.

A finding of fraud is also supported when the immigration filing contains fraudulent documents that are germane.

The Fraud Detection and National Security (FDNS) Directorate administratively investigates allegations of immigration benefit fraud and produces a Statement of Findings (SOF) that adjudicators use to render their decisions. Most fraud investigations are conducted under the authority of § 212(a)(6)(C)(i) of the Act. In the DACA context, the SOF will document all fraud findings and underlying issues impacting the favorable exercise of prosecutorial discretion.

Continued on next page

I. Fraud Review and Fraud Referrals, Continued

**Immigration
Fraud**
(continued)

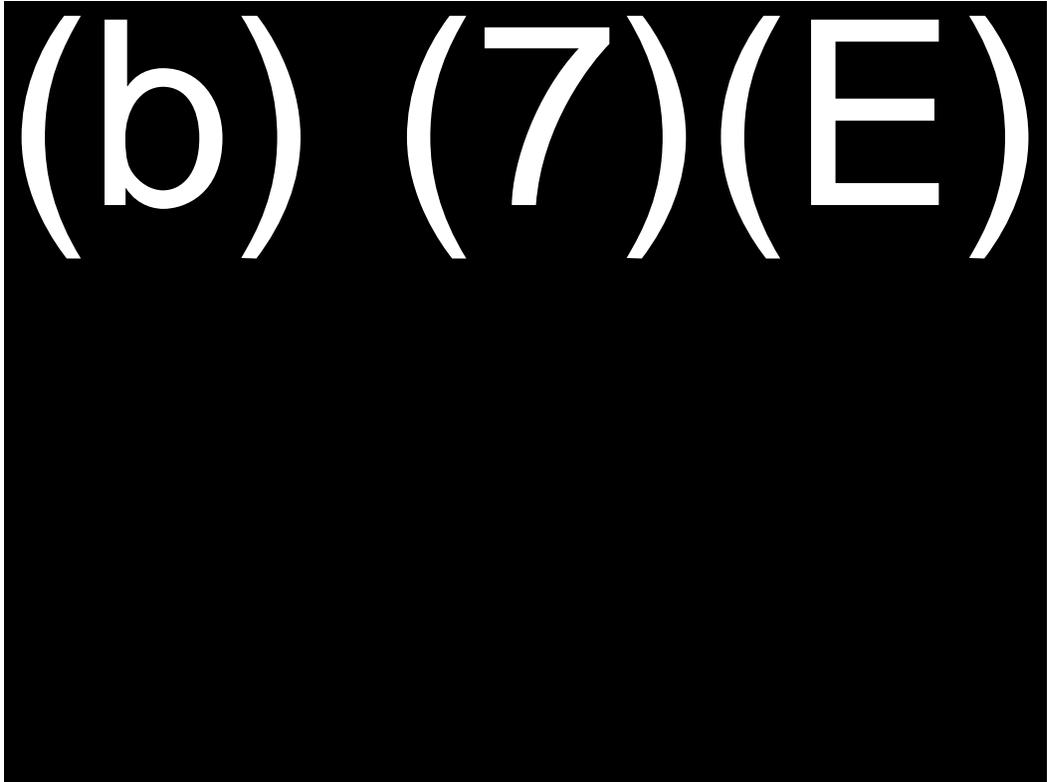
Individuals requesting DACA are not subject to the 212 inadmissibility grounds, because they are neither applying for a visa nor seeking admission to the United States. They are, instead, seeking the administrative exercise of prosecutorial discretion. Nevertheless, the presence of confirmed or suspected fraud issues are germane in deciding whether the DACA requestor merits the exercise of prosecutorial discretion. As a result, when an individual is found to have committed fraud in connection with a DACA request, the DACA request is denied not because the individual is inadmissible due to fraud, but rather, because the fraud negates the exercise of prosecutorial discretion to defer removal. Denials based on confirmed fraud findings will be supported by a properly documented SOF generated by CFDO. FDNS-DS must be updated to show that the DACA request was actually denied for confirmed fraud. The officer must provide information on the final outcome of a DACA request (e.g., approved, denied, NTA) to the BCU/CFDO so they may update FDNS-DS, accordingly.

When adjudicating Forms I-821D and I-765 for DACA, officers will complete a fraud referral sheet when there are articulable elements of fraud found within the filing. When articulable fraud indicators exist, the officer should refer the filing with a fraud referral sheet prior to taking any adjudication action even if there are other issues which negate the exercise of prosecutorial discretion to defer removal.

Continued on next page

I. Fraud Review and Fraud Referrals, Continued

**Immigration
Fraud**
(continued)



If the CFDO is to resolve the articulated fraud after exhausting all reasonable efforts and resources, the CFDO may refer the cases to appropriate field office for interview, if an interview may resolve outstanding concerns.

The findings of the administrative or criminal investigation will be recorded in FDNS-DS and reported in an SOF and placed in the A-file to enable officers to make accurate and informed decisions on the DACA requests.

The CFDO will adhere to the Fraud Detection Standard Operating Procedures for referring fraud cases filed under the DACA program to ICE.

DACA cases denied due to a confirmed finding of fraud shall be updated in C3 as "Denial Notice with a Finding of Fraud Ordered" [EC] for tracking purposes. In addition, DACA cases denied due to a confirmed finding of fraud shall be referred for NTA issuance in accordance with the NTA memorandum dated November 7, 2011. The appropriate NTA charge will be determined on a case-by-case basis in consultation with local counsel.

Continued on next page

I. Fraud Review and Fraud Referrals, Continued

System Updates for DACA File Movement Into and Out of CFDO

For reporting purposes, DACA file movement into and out of the CFDO will require the following updates in C3:

- “Sent to the Fraud Detection Unit (FDU) for Analysis” (b) (7)(E) when sending a DACA request to the CFDO; and
 - “Return from Fraud Detection Unit (FDU) with Results” (b) (7)(E) when receiving a DACA request from CFDO for final processing.
-

Chapter 9: Decisions

A. Requests for Evidence

Request for Evidence (RFE) For DACA requests, when requesting additional evidence, an RFE will be used. A NOID will rarely be used. Appendix D has a list of DACA RFE call ups to be used when processing a DACA request.

Follow the steps below to process an RFE.

Step	Action
1	
2	
3	
4	
5	
6	
7	
8	

B. Notice of Intent to Deny

Notice of
Intent to
Deny (NOID)

Follow the steps below to process a NOID:

Step	Action
1	A large black rectangular redaction box covers the content of the table. The text "(b) (7) (E)" is visible in white, centered within the redacted area.
2	
3	
4	
5	
6	
7	
8	

Notice of Intent
to Deny (NOID)
–Local Counsel
and HQ
SCOPS Review

See Appendix J for current Notice of Intent to Deny review policy.

C. Approvals

**Approvals:
CLAIMS
Verification**

Follow the steps below to verify information in C3 prior to processing an approval.

Step	Action
1	(b) (7) (E)
2	
4	
5	
6	
7	
8	
9	
10	(b) (7) (E)

Continued on next page

C. Approvals, Continued

Approval Processing for Initial I-821D

Follow the steps below to process an approval for a DACA request.

Step	Action
1	<div style="font-size: 4em; font-weight: bold;">(b) (7) (E)</div>
2	
3	
4	
5	
6	
7	
8	
9	

D. Denials –

Denials – After RFE or NOID

In general, the officer shall issue a denial whenever the requestor's response to a Request for Evidence (RFE) or Notice of Intent to Deny (NOID) is insufficient to establish eligibility. There may be exceptions when a NOID or second RFE is appropriate after an initial RFE.

**Denials –
Supervisory
Review**

When the denial involves one of the grounds listed below, obtain supervisory review before issuing the denial when the requestor:

- Has a conviction for any crime committed before reaching age 18, and was tried as an adult; or
- Has been convicted of a “significant misdemeanor;” or
- Has no criminal convictions and outwardly appears to meet the guidelines in the Secretary’s June 15, 2012 memorandum; however, based on other derogatory information obtained through routine systems and background/security checks, there are credible reasons to believe that the requestor poses a threat to national security or public safety. If the requestor poses a threat to national security, the officer should refer the proposed denial for supervisory review after the case has been processed through the CARRP process; or
- Has one or more departures which he/she claims were “brief, casual, and innocent” and therefore are not disruptive of the continuous residence requirement; or
- Has not met the educational guideline; or
- Is in immigration detention at the time of filing Form I-821D and remains in immigration detention; or
- Cannot receive prosecutorial discretion because it is not consistent with the Department of Homeland Security’s enforcement priorities.

If the convictions and/or arrests occurred before the requestor filed the Form I-821D and the requestor did not disclose this derogatory information, include the withholding of the material fact(s) as one of the reasons for not exercising prosecutorial discretion in the case.

When a DACA request is denied, the denial shall be issued using the Appendix F. In instances where an individual is unable to establish he or she warrants a favorable exercise of prosecutorial discretion under this process, and no other checkbox applies except “You have not established that you warrant a favorable exercise of prosecutorial discretion,” supervisors must refer the case to HQSCOPS through the normal chain of command.

Before routing the A-file to a supervisor, the officer should place a supervisory hold on the case in C3. After the supervisor concurs with the issuance of a denial, the officer shall check the appropriate box on the denial template and process the cases in the system for denial. See Appendix F for the DACA Denial Template. If the supervisor determines that the case should be approved, process for approval and document the file as appropriate.

In novel, complex, or sensitive cases, or cases that require a paragraph denial, supervisors will refer the case to HQSCOPS, through the normal chain of command.

Continued on next page

Version April 4, 2013 106

D. Denials, Continued

Denial
(continued) When the denial falls under one of the categories that requires supervisory review, ensure that concurrence has been obtained before processing the DACA request for denial.

Step	Action
1	(b) (7) (E)
2	
3	
4	
5	
6	
7	
8	Prepare and send the denial.
9	Put in ROP order and place a pink coversheet on the left-hand side of the file over the denial letter.
10	Process Form I-765 for denial. See Chapter 12.

Continued on next page

D. Denials, Continued

Abandonment Denial Letters Abandonment denials do not require supervisory review. Abandonment denials are initiated on Form I-821D in the following:

- The requestor fails to respond to an RFE or NOID;
 - The requestor fails to appear at an ASC for biometrics collection within the specified time frame, after failure to respond to an RFE, Refer to Chapter 5 of this SOP.
-

Abandonment Denials After **ALL** A-files have been retrieved when processing an I-821D (unless adjudicating in a T-file if unable to obtain the A-file), follow the steps below to process an abandonment denial.

Step	Action
1	Ensure that no other addresses exist: <ol style="list-style-type: none"> 1. Review the file for any correspondence received; 2. Review the returned envelope for any changes from the post office; 3. Check C3, National Claims, and AR11 for an alternate address or an address change; 4. Check the systems to see if a more recent DACA request was submitted with updated address; and 5. Check Forms I-821D and I-765 to ensure that there is no different address provided between the two forms.
2	<div style="font-size: 4em; font-weight: bold; letter-spacing: 0.5em;">(b) (7) (E)</div>
3	
4	
5	
5	

Continued on next page

D. Denials, Continued

Abandonment Denials (continued)

Step	Action
6	(b) (7) (E)
7	
8	
9	Prepare and send the denial.
10	Put in ROP order and place a pink coversheet on the left-hand side of the file over the denial letter.
11	Process the Form I-765 for denial. See Chapter 12.

NOTE: If the RFE/NOID was not stamped as a “No Response,” the officer should write it on the document. A “No Response” will **ALWAYS** remain on top of the application for proper ROP and the officer will place the denial/withdrawal letter on top of the “No Response.”

Denial for NSF

When Form I-765 has been “rejected” for NSF, for the \$380 I-765 fee and/or the \$85 biometrics fee, Form I-821D shall be denied as the DACA filing did not include a concurrently filed I-765 and I-821D. The officer shall select the appropriate denial box on the denial template and update C3 to reflect the denial. After processing the case for denial and updating the system, hold the A-file for 45 days and then forward to the NRC, if a request to review is not received through SRMT.

Chapter 10: Post Denial Process

Determining Appropriate Action After Denial

1. Review the grounds for denial.
 2. If the denial grounds do not involve criminal, national security, or public safety issues, hold the A-file for 45 days and then forward to the NRC, if a request to review is not received through SRMT.
 3. If the denial involves criminal, national security, or public safety issues, refer to the November 7, 2011, memorandum entitled, Revised Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Removable Aliens. Confirmed fraud denials also warrant NTA issuance. See Appendix B.
 4. The NTA unit will determine whether NTA issuance is appropriate under the NTA memorandum referenced above.
-

Chapter 11: Returned Mail

Check for Address Changes

When notices are returned as undeliverable, the officer should:

1. Review the file for any correspondence received;
2. Review the returned envelope for any changes from the post office, Check C3, National Claims, and AR11 for an alternate address or an address change;
3. Check the systems to see if a more recent DACA request was submitted with an updated address; and
4. Check both Form I-821D and the I-765 to ensure that there is no different address provided between the two forms.

RFE, NOID, Intent to Terminate

When an RFE, NOID, or Intent to Terminate is returned to the Service Center as undeliverable, follow all procedures above to locate a new address and re-mail the RFE, NOIT or Intent to Terminate after updating C3.

If there is no other address to use and the response time indicated has not passed, the file should be placed on hold in accordance with local procedures for the remainder of the response time.

If there is no other address found and the response time has passed on the...	Then...
RFE	Deny as an abandonment denial.
NOID (with NO criminal content),	Deny for cause.
Intent to Terminate,	Terminate DACA.

Denial Notice

When a denial is returned to the Service Center as undeliverable, follow all procedures above to locate a new address and re-mail the denial.

If there is no new address and the 45 days...	Then...
Have NOT passed,	Hold file
Have passed,	Send to the NRC if no further communication is received

Chapter 12: Employment Authorization

A. General Information

(c)(33) Eligibility Category	<p>The eligibility category for employment authorization based on a grant of deferred action is 8 C.F.R. § 274a.12(c)(14). To distinguish DACA-related EADs from other deferred action EADs, the (c)(33) code will be used.</p>
Evidentiary Requirements	<p>For a (c)(33) EAD, the individual must be approved for DACA.</p> <p>The information needed to assess economic necessity is collected on the Form I-765WS. This worksheet should have been reviewed during the adjudication of Form I-821D.</p> <p>Before proceeding with the adjudication of the Form I-765, review C3 to ensure that there is no outstanding RFE, as the RFE would have been issued during the adjudication of Form I-821D.</p>
Validity Period of (c)(33) EAD	<p>The “valid from” date is the date of approval and the “valid to” date is 2 years minus one day from the date of approval or to the end date of the deferred removal date under DACA, whichever is earlier.</p>
8 C.F.R. § 274a.13(d) – 90 Day Time Period to Issue an EAD	<p>Pursuant to 8 C.F.R. § 274.12(c)(14), the EAD is predicated on a grant of deferred action. Since Forms I-821D and I-765 are filed concurrently for DACA, Form I-821D will be adjudicated first. If Form I-821D is approved, then Form I-765 would be approved under the (c)(33) code to distinguish the DACA related EADs from other deferred action EADs. Since approval of the Form I-821D is a prerequisite, and since the EAD is based upon a grant of DACA, the 90-day EAD clock begins after Form I-821D is approved for DACA.</p>

Continued on next page

A. General Information, Continued

Reasons for Filing

The DACA requestor should indicate one of the following reasons for filing:

- Permission to accept employment: The initial request for employment authorization under an eligibility category; or
- Replacement (of lost or stolen employment authorization document): A request to replace a lost, stolen, mutilated, or incorrect EAD.

If neither of these boxes is checked, verify the Form I-821D approval in C3 to ensure that removal has been deferred under DACA and then check the Form I-765 history in C3 to see if a prior EAD has been issued under the (c)(33) eligibility category. If yes, process the Form I-765 EAD as a replacement. If no, process the Form I-765 EAD as an initial EAD. If a prior replacement EAD under the (c)(33) eligibility category has been issued, refer the case to CFDO.

B. Adjudication

Verification of Forms I-821D and I-765

Access C3 and follow the steps below to verify the information:

Step	Action
1	Verify that the requestor has a pending or an approved initial I-821D on file. (If no, see the denial section for processing instructions.)
3	<ul style="list-style-type: none"> • Check the signatures on Form I-765. • Verify that the biometrics are present.

Biometrics

Officers must check the (b) (7)(E) to determine if the requestor's biometrics (photograph, fingerprints, signature) have been received. (b) (7)(E)

If ...	Then ...
(b) (7)(E)	the biometrics have been received.
	the biometric(s) have been waived.
	then the data was not captured and a card will not print.

If the requestor is a child less than 14 years of age, there should be a **Waiver (W)** for fingerprint and signature.

Continued on next page

B. Adjudication, Continued

Approvals

All corrections made to the information contained on Form I-765 must be made on the face of the application in **red**.

Application Annotations

When approving Form I-765, follow the steps below for proper annotation of the form:

Step	Action
1	
2	
3	
4	
5	

Continued on next page

B. Adjudication, Continued

**CLAIMS
Updating for
Approvals**

Follow the steps below to update C3 for I-765 approval.

Step	Action
1	(b) (7) (E)
2	
3	
4	
5	
6	
7	
8	
9	
10	In the alternative, the approval may be updated using I-765 Express per existing protocols.

NOTE: If you go back into the approval screen to view the data before exiting the form after approving, then you must press the “save” button again to retain the approval. If the information is not saved, then a card will not be generated.

Continued on next page

B. Adjudication, Continued

Notice of Intent to Deny (NOID) Officers will prepare the intent to deny letter, annotate the worksheet, and update CLAIMS as follows:

Step	Action
1	<div data-bbox="553 439 1414 782" data-label="Text"> <p>(b) (7) (E)</p> </div>
2	
3	
4	
5	
6	

Continued on next page

B. Adjudication, Continued

Denials

Follow the steps below when denying a case.

Step	Action
1	(b) (7) (E)
2	
3	
4	
5	
6	
7	
8	
9	
	NOTE: The date on the denial stamp should be date of adjudication.

Continued on next page

B. Adjudication, Continued

Denials (continued)

Step	Action
10	For cases NOT going to the NTA team: <ul style="list-style-type: none"><li data-bbox="570 506 1425 580">• The denial for the Form I-765 is included in the DACA Denial Template. <u>See</u> Appendix F.<li data-bbox="570 580 1425 655">• Place a pink coversheet on the left-hand side of the file over the denial letter. <p data-bbox="532 691 1382 762">NOTE: When denying only the Form I-765 for abandonment, an officer should use the DACA Form I-765 Abandonment Denial.</p>
11	Charge out the file using local procedure.

C. Replacement Cards

Evidence Required

The following evidence is required for replacement cards:

- Biometrics from the applicant's most recent ASC visit.
 - Original signature. All applicants age 14 and over must sign their own application. The contractor can obtain the signature from Form I-765 and waive the fingerprint when scanning and producing an EAD.
 - Current card issued with validity dates that have NOT expired.
 - Valid fingerprints are not required in order to issue a replacement EAD.
-

Validity Dates

When issuing a replacement card the validity period should mirror the dates authorized under the previous card.

Biometrics

Upon receipt, the contractor will clone from biometrics from the applicant's most recent ASC visit.

Chapter 13: Use of Service Request Management Tool (SRMT) to

Introduction

USCIS will accept SRMTs from DACA denials based on a claim that the denial is incorrect and the denial is based on an administrative error. Specifically, USCIS will accept SRMTs where the requestor believes that USCIS incorrectly denied his/her DACA request for one or more of the reasons listed in this chapter of the DACA SOP.

History Action Codes (HAC)

When responding to a request to review a denied DACA request, C3 must be updated with the appropriate History Action Code (HAC) created to track the specific action taken and to denote that the SRMT involved a denied DACA request. The following HACs will be used:



Templates

When providing an interim response to review a denied DACA request, standard response templates must be used for the interim response and when the denial is affirmed. When the denied DACA request is approved on Service Motion, the standard approval notice will be generated from C3. Appendix G contains the following templates:

- DACA SRMT call-ups for interim SRMT responses.
- DACA SRMT call-ups to respond that the denial was correct and is affirmed.

Continued on next page

Use of SRMT to Respond to Request to Review Certain Denials

Administrative Errors related to Material Facts

Follow the steps below when an SRMT is filed due to a **claimed** administrative error related to:

- The denial of the DACA request on the grounds that the requestor did not come to the United States prior to reaching his/her 16th birthday, but the evidence submitted at the time of filing shows that the requestor did, in fact, arrive before the required age; or
- The denial of the DACA request on the grounds that the requestor was under age 15 at the time of filing, but not in removal proceedings, but the evidence submitted at the time of filing and/or systems checks show that the requestor was, in fact, in removal proceedings when the DACA request was filed; or
- The denial of the DACA request on the grounds that the requestor was not under the age of 31 on June 15, 2012, but the evidence submitted at the time of filing shows that the requestor did not exceed the upper age limit on June 15, 2012; or
- The denial of the DACA request on the grounds that the requestor was not in an unlawful immigration status on June 15, 2012, but the evidence submitted at the time of filing shows that the requestor was, in fact, in a lawful status on June 15, 2012; or
- The denial of the DACA request on the grounds that the requestor was not physically present in the United States on June 15, 2012, up through the date of filing, but the evidence submitted at the time of filing establishes that the requestor was, in fact, present.

Step	Action
1	Request the file.
2	Respond to the SRMT with an interim response.
3	Update C3 (with HAC code), (b) (7)(E)
4	(b) (7)(E)
5	Route the file to the reviewing ISO.

Continued on next page

Use of SRMT to Respond to Request to Review Certain Denials, Continued

Administrative Errors Related to Material Facts
(continued)

Step	Action								
6	<p>The ISO will review the claimed administrative error.</p> <table border="1" style="width: 100%;"> <thead> <tr> <th style="text-align: center;">If the denial...</th> <th style="text-align: center;">Then...</th> </tr> </thead> <tbody> <tr> <td style="vertical-align: top;">Was correct,</td> <td> <ul style="list-style-type: none"> • The ISO will route the filing to the SISO for concurrence. • The SISO will concur or not concur and route back to the ISO for appropriate systems updating. • If SISO concurs, the ISO updates C3 with HAC code <i>SRMT DACA Denial Affirmed</i> and respond to the DACA requestor using the appropriate DACA SRMT call-up found in Appendix G. • If SISO does not concur, follow the instructions below (Was Not Correct). </td> </tr> <tr> <td style="vertical-align: top;"><u>Was not</u> correct,</td> <td> <ul style="list-style-type: none"> • The SISO routes the filing to the ISO for review. • The ISO approves Forms I-821D and I-765. • The ISO updates C3 with the HAC code (b) (7)(E) [REDACTED] for <u>each</u> form to show that the case to show that the case was approved on Service Motion. </td> </tr> <tr> <td style="vertical-align: top;">Was not correct, but other reasons for denial still exist,</td> <td> <ul style="list-style-type: none"> • The ISO will route the filing to the SISO for concurrence. • If the SISO concurs, the ISO will re-deny the case. • The ISO updates C3 with the HAC code (b) (7)(E) [REDACTED] DACA Denial Affirmed for each form. • The ISO produces a new denial using the (b) (7)(E) [REDACTED] denial template found in Appendix H. </td> </tr> </tbody> </table>	If the denial...	Then...	Was correct,	<ul style="list-style-type: none"> • The ISO will route the filing to the SISO for concurrence. • The SISO will concur or not concur and route back to the ISO for appropriate systems updating. • If SISO concurs, the ISO updates C3 with HAC code <i>SRMT DACA Denial Affirmed</i> and respond to the DACA requestor using the appropriate DACA SRMT call-up found in Appendix G. • If SISO does not concur, follow the instructions below (Was Not Correct). 	<u>Was not</u> correct,	<ul style="list-style-type: none"> • The SISO routes the filing to the ISO for review. • The ISO approves Forms I-821D and I-765. • The ISO updates C3 with the HAC code (b) (7)(E) [REDACTED] for <u>each</u> form to show that the case to show that the case was approved on Service Motion. 	Was not correct, but other reasons for denial still exist,	<ul style="list-style-type: none"> • The ISO will route the filing to the SISO for concurrence. • If the SISO concurs, the ISO will re-deny the case. • The ISO updates C3 with the HAC code (b) (7)(E) [REDACTED] DACA Denial Affirmed for each form. • The ISO produces a new denial using the (b) (7)(E) [REDACTED] denial template found in Appendix H.
If the denial...	Then...								
Was correct,	<ul style="list-style-type: none"> • The ISO will route the filing to the SISO for concurrence. • The SISO will concur or not concur and route back to the ISO for appropriate systems updating. • If SISO concurs, the ISO updates C3 with HAC code <i>SRMT DACA Denial Affirmed</i> and respond to the DACA requestor using the appropriate DACA SRMT call-up found in Appendix G. • If SISO does not concur, follow the instructions below (Was Not Correct). 								
<u>Was not</u> correct,	<ul style="list-style-type: none"> • The SISO routes the filing to the ISO for review. • The ISO approves Forms I-821D and I-765. • The ISO updates C3 with the HAC code (b) (7)(E) [REDACTED] for <u>each</u> form to show that the case to show that the case was approved on Service Motion. 								
Was not correct, but other reasons for denial still exist,	<ul style="list-style-type: none"> • The ISO will route the filing to the SISO for concurrence. • If the SISO concurs, the ISO will re-deny the case. • The ISO updates C3 with the HAC code (b) (7)(E) [REDACTED] DACA Denial Affirmed for each form. • The ISO produces a new denial using the (b) (7)(E) [REDACTED] denial template found in Appendix H. 								

Continued on next page

Use of SRMT to Respond to Request to Review Certain Denials, Continued

**Requestor did
Appear to Have
Biometrics
Collected at a
USCIS ASC**

Follow the steps below when an SRMT is filed due to a claimed administrative error related to the requestor's biometrics collection.

Step	Action
1	Review the electronic systems to see whether the requestor had his/her biometrics taken. Request the A-file (if needed).
2	Reopen Forms I-821D and I-765 on Service Motion.
3	Update C3 with HAC codes (b) (7)(E), for both forms.
4	Send an interim (b) (7)(E) response using (b) (7)(E).

Continued on next page

Use of SRMT to Respond to Request to Review Certain Denials, Continued

Requestor did Appear to Have Biometrics Collected at a USCIS ASC (continued)

If the requestor...	Then...						
Did not have his/her biometrics taken,	The reviewing officer should check: <ul style="list-style-type: none"> • Returned Mail • Address Changes • Rescheduling Requests • The BPU ASC Reschedule Spreadsheet 						
	<table border="1"> <thead> <tr> <th data-bbox="646 616 943 643">If you...</th> <th data-bbox="951 616 1406 643">Then...</th> </tr> </thead> <tbody> <tr> <td data-bbox="646 651 943 1082">Locate returned mail, an address change, or a rescheduling request,</td> <td data-bbox="951 651 1406 1082"> <ul style="list-style-type: none"> • Initiate ASC appointment rescheduling. • After the biometrics results are received, adjudicate the case. • If Form I-821D is approved, approve Form I-765. • Update C3 with HAC^{(b) (7)(E)} [REDACTED] for each form. • If denied, issue a denial using the^{(b) (7)(E)} denial template. • Update C3 with HAC^{(b) (7)(E)} Denial Affirmed for each form. </td> </tr> <tr> <td data-bbox="646 1098 943 1243">Do not locate any returned mail, address change, or rescheduling request,</td> <td data-bbox="951 1098 1406 1243"> <ul style="list-style-type: none"> • Respond to the SRMT that the denial stands, using the SRMT denial template. </td> </tr> </tbody> </table>	If you...	Then...	Locate returned mail, an address change, or a rescheduling request,	<ul style="list-style-type: none"> • Initiate ASC appointment rescheduling. • After the biometrics results are received, adjudicate the case. • If Form I-821D is approved, approve Form I-765. • Update C3 with HAC^{(b) (7)(E)} [REDACTED] for each form. • If denied, issue a denial using the^{(b) (7)(E)} denial template. • Update C3 with HAC^{(b) (7)(E)} Denial Affirmed for each form. 	Do not locate any returned mail, address change, or rescheduling request,	<ul style="list-style-type: none"> • Respond to the SRMT that the denial stands, using the SRMT denial template.
	If you...	Then...					
Locate returned mail, an address change, or a rescheduling request,	<ul style="list-style-type: none"> • Initiate ASC appointment rescheduling. • After the biometrics results are received, adjudicate the case. • If Form I-821D is approved, approve Form I-765. • Update C3 with HAC^{(b) (7)(E)} [REDACTED] for each form. • If denied, issue a denial using the^{(b) (7)(E)} denial template. • Update C3 with HAC^{(b) (7)(E)} Denial Affirmed for each form. 						
Do not locate any returned mail, address change, or rescheduling request,	<ul style="list-style-type: none"> • Respond to the SRMT that the denial stands, using the SRMT denial template. 						
Do not locate any returned mail, address change, or rescheduling request,	<ul style="list-style-type: none"> • Respond to the SRMT that the denial stands, using the SRMT denial template. 						

Continued on next page

Use of SRMT to Respond to Request to Review Certain Denials, Continued

Requestor did Appear to Have Biometrics Collected at a USCIS ASC (continued)

If the requestor...	Then...
Did have his/her biometrics taken,	<ul style="list-style-type: none"> • The ISO will adjudicate Forms I-821D and I-765. • If Form I-821D is approved, ISO approves Form I-765. • ISO updates C3 with HAC [REDACTED] (b) (7)(E) for each form. • If denied, ISO issues a denial using the [REDACTED] (b) (7)(E) denial template. • ISO updates C3 with HAC [REDACTED] (b) (7)(E) for each form.

Requestor requested that His/Her Biometrics Appointment at a USCIS ASC be Rescheduled Prior to the Scheduled Date

Follow the steps below when an SRMT is filed due to a claimed administrative error related to the request to reschedule the ASC appointment.

Step	Action
1	Request the A-file.
2	Reopen Forms I-821D and I-765 on Service Motion.
3	Update C3 with HAC code [REDACTED] (b) (7)(E) DACA Reopened on Service Motion for both forms.
4	Send an interim [REDACTED] (b) (7)(E) response using [REDACTED] (b) (7)(E)

Continued on next page

Use of SRMT to Respond to Request to Review Certain Denials, Continued

Requestor requested that His/Her Biometrics Appointment at a USCIS ASC be Rescheduled Prior to the Scheduled Date (continued)

Step	Action						
5	Review the filing and SRMT to determine if a request was received to reschedule the ASC Appointment.						
	<table border="1"> <thead> <tr> <th>If the requestor...</th> <th>Then...</th> </tr> </thead> <tbody> <tr> <td>Requested to have his/her biometrics appointment rescheduled, prior to the scheduled date,</td> <td> <ul style="list-style-type: none"> The ISO will schedule a new ASC appointment and route the A-file to the appropriate holding shelf to await the biometrics results. Adjudicate the case after the biometrics results are received. If Form I-821D is approved, approve Form I-765. Update C3 with HAC (b) (7)(E) Approved on Service Motion for each form. If denied, issue a denial using the (b) (7)(E) denial template. Update C3 with HAC (b) (7)(E) </td> </tr> <tr> <td>Did not request to have his/ her biometrics appointment rescheduled, prior to the scheduled date,</td> <td> <ul style="list-style-type: none"> Respond to the SRMT that the denial stands, using the SRMT denial template. </td> </tr> </tbody> </table>	If the requestor...	Then...	Requested to have his/her biometrics appointment rescheduled, prior to the scheduled date,	<ul style="list-style-type: none"> The ISO will schedule a new ASC appointment and route the A-file to the appropriate holding shelf to await the biometrics results. Adjudicate the case after the biometrics results are received. If Form I-821D is approved, approve Form I-765. Update C3 with HAC (b) (7)(E) Approved on Service Motion for each form. If denied, issue a denial using the (b) (7)(E) denial template. Update C3 with HAC (b) (7)(E) 	Did not request to have his/ her biometrics appointment rescheduled, prior to the scheduled date,	<ul style="list-style-type: none"> Respond to the SRMT that the denial stands, using the SRMT denial template.
If the requestor...	Then...						
Requested to have his/her biometrics appointment rescheduled, prior to the scheduled date,	<ul style="list-style-type: none"> The ISO will schedule a new ASC appointment and route the A-file to the appropriate holding shelf to await the biometrics results. Adjudicate the case after the biometrics results are received. If Form I-821D is approved, approve Form I-765. Update C3 with HAC (b) (7)(E) Approved on Service Motion for each form. If denied, issue a denial using the (b) (7)(E) denial template. Update C3 with HAC (b) (7)(E) 						
Did not request to have his/ her biometrics appointment rescheduled, prior to the scheduled date,	<ul style="list-style-type: none"> Respond to the SRMT that the denial stands, using the SRMT denial template. 						

Continued on next page

Use of SRMT to Respond to Request to Review Certain Denials, Continued

Requestor Paid the Filing and Biometric fees for the I-765

Follow the steps below when an SRMT is filed due to a claimed administrative error related to Non-Sufficient Funds.

Review the electronic systems to see whether the requestor paid the associated fees with the filing.

Step	Action
1	Records Division reviews electronic systems to determine if the fee was paid timely and properly (if necessary, Request the A-file)
2	Reopen Forms I-821D and I-765 on Service motion.
3	Update C3 with HAC code [REDACTED] (b) (7)(E) [REDACTED], for both forms.
4	Send an interim (b) (7)(E) response using [REDACTED] (b) (7)(E) [REDACTED]

If the Records Division determines...	Then...
The appropriate fees were not paid,	<ul style="list-style-type: none"> Respond to the SRMT that the denial stands, using the SRMT denial template.
The appropriate fees were paid,	<ul style="list-style-type: none"> The ISO obtains the file and schedules a new ASC appointment and routes the A-file to the appropriate holding shelf to await the biometrics results. Adjudicate the case after the biometrics results are received. If Form I-821D is approved, approve Form I-765. Update C3 with HAC code [REDACTED] (b) (7)(E) [REDACTED] for each form. If denied, issue a denial using the (b) (7)(E) denial template. Update C3 with HAC code [REDACTED] (b) (7)(E) [REDACTED] each form.

Continued on next page

Use of SRMT to Respond to Request to Review Certain Denials, Continued

USCIS Denied the Request for DACA Based on Abandonment and the Requestor Claims He/She did Respond to a RFE Within the Prescribed Time

Follow the steps below when an SRMT is filed due to a claimed administrative error related to the requestor's response to a RFE.

Step	Action						
1	Request the A-file.						
2	Reopen Forms I-821D and I-765 on Service motion.						
3	Update C3 with HAC code (b) (7)(E) for both forms.						
4	Send an interim (b) (7)(E) response using (b) (7)(E)						
5	Review A-file and local systems to determine if a response to the RFE was received before the due date. <table border="1" data-bbox="565 701 1403 1366"> <thead> <tr> <th>If the requestor...</th> <th>Then...</th> </tr> </thead> <tbody> <tr> <td>Responded to the RFE within the prescribed time,</td> <td> <ul style="list-style-type: none"> Route the filing to the reviewing officer. Adjudicate based on the evidence submitted initially and the RFE response. If Form I-821D is approved, approve Form I-765. Update C3 with HAC code (b) (7)(E) for each form. If denied, issue a denial using the (b) (7)(E) denial template. Route to SISO for denial concurrence Update C3 with HAC code (b) (7)(E) for each form. </td> </tr> <tr> <td>Did not respond within the required time, or no response was received.</td> <td> <ul style="list-style-type: none"> Respond to the SRMT that the denial stands, using the SRMT denial template. </td> </tr> </tbody> </table>	If the requestor...	Then...	Responded to the RFE within the prescribed time,	<ul style="list-style-type: none"> Route the filing to the reviewing officer. Adjudicate based on the evidence submitted initially and the RFE response. If Form I-821D is approved, approve Form I-765. Update C3 with HAC code (b) (7)(E) for each form. If denied, issue a denial using the (b) (7)(E) denial template. Route to SISO for denial concurrence Update C3 with HAC code (b) (7)(E) for each form. 	Did not respond within the required time, or no response was received.	<ul style="list-style-type: none"> Respond to the SRMT that the denial stands, using the SRMT denial template.
If the requestor...	Then...						
Responded to the RFE within the prescribed time,	<ul style="list-style-type: none"> Route the filing to the reviewing officer. Adjudicate based on the evidence submitted initially and the RFE response. If Form I-821D is approved, approve Form I-765. Update C3 with HAC code (b) (7)(E) for each form. If denied, issue a denial using the (b) (7)(E) denial template. Route to SISO for denial concurrence Update C3 with HAC code (b) (7)(E) for each form. 						
Did not respond within the required time, or no response was received.	<ul style="list-style-type: none"> Respond to the SRMT that the denial stands, using the SRMT denial template. 						

Continued on next page

Use of SRMT to Respond to Request to Review Certain Denials, Continued

USCIS Mailed the RFE to the Wrong Address and the Requestor Submitted a COA Prior to the RFE Issuance

Follow the steps below when an SRMT is filed due to a claimed administrative error related to the requestor's change of address.

Step	Action
1	Request the A-file.
2	Reopen Forms I-821D and I-765 on Service Motion.
3	Update C3 with HAC code SRMT D (b) (7)(E) for both forms.
4	Send an interim (b) (7)(E) response using (b) (7)(E)
5	Verify the requestor's address.

If the requestor...	Then...
Filed a change of address, prior to the issuance of an RFE,	<ul style="list-style-type: none"> Re-issue the RFE with a new 87-day response time to the correct address and route the A-file to the RFE hold shelf. After the RFE response is received, adjudicate Forms I-821D and I-765 based on the evidence submitted initially and the RFE response. If Form I-821D is approved, approve Form I-765. Update C3 with HAC code (b) (7)(E) (b) (7)(E) for each form. If denied, issue a denial using the (b) (7)(E) denial template. Update C3 with HAC code (b) (7)(E) for each form.

Continued on next page

Use of SRMT to Respond to Request to Review Certain Denials, Continued

USCIS Mailed the RFE to the Wrong address and the Requestor Submitted a COA Prior to the RFE Issuance (continued)

If the requestor...	Then...	
Did not file a COA prior to the issuance of an RFE,	Review that the RFE was sent to the correct address.	
	If the RFE was sent to,	Then,
	The correct address,	<ul style="list-style-type: none"> Respond to the SRMT stating that the denial stands, using the SRMT denial template.
An incorrect address,	<ul style="list-style-type: none"> Route the filing to the SISO. The ISO shall re-issue the RFE with a new 87-day response time to the correct address and route the A-file to the RFE hold shelf. After the RFE response is received, adjudicate Forms I-821D and I-765 based on the evidence submitted initially and the RFE response. If Form I-821D is approved, approve Form I-765. Update C3 with HAC code (b) (7)(E) for each form. If denied, issue a denial using the SRMT denial template. Update C3 with HAC code (b) (7)(E) for each form. 	

Chapter 14: DACA Termination

Removal Deferred Under DACA in Error

If it comes to the attention of an officer that removal was deferred under DACA in error, the officer should reopen the case on Service motion and issue a Notice of Intent to Terminate, unless there are criminal, national security, or public safety concerns (see below). The individual should be allowed 33 days to file a brief or statement contesting the grounds cited in the Notice of Intent to Terminate. The Notice of Intent to Terminate should include a statement that if deferred action for childhood arrivals is terminated, any associated employment authorization granted during the period of deferred action will be terminated for cause.

If the adverse grounds are not overcome, or no response is received to the Notice of Intent to Terminate, the officer should prepare a Termination Notice and seek supervisory review of the draft Termination Notice, prior to issuance. The Termination Notice should indicate that the individual's employment authorization is terminated for cause as of the date of the notice.

Fraud

If it comes to the attention of an officer that an individual committed fraud in seeking deferral of removal under DACA, the officer should reopen the case on Service motion and issue a Notice of Intent to Terminate. The individual should be allowed 33 days to file a brief or statement contesting the grounds cited in the Notice of Intent to Terminate. The Notice of Intent to Terminate should include a statement that if deferred action for childhood arrivals is terminated, any associated employment authorization granted during the period of deferred action will be terminated for cause.

If the adverse grounds are not overcome, or no response is received to the Notice of Intent to Terminate, the officer should prepare a Termination Notice and seek supervisory review of the draft Termination Notice prior to issuance. The Termination Notice should indicate that the individual's employment authorization is terminated for cause as of the date of the notice.

The decision to issue a Notice of Intent to Terminate based on fraud should be supported by a fully documented SOF and any other relevant documents/information. The terminated DACA case must also be appropriately recorded in FDNS-DS.

Continued on next page

DACA Termination, Continued

**Criminal,
National
Security, or
Public Safety
Issues**

If disqualifying criminal offenses or public safety concerns, which are deemed to be EPS, arise after removal has been deferred under DACA, the officer should forward the case to the BCU DACA Team who, in turn, will refer the case to ICE and follow the handling procedures outlined in the November 7, 2011 NTA memorandum for EPS cases. If ICE accepts the case, the issuance of the NTA will result in the termination of DACA. Upon the filing of the NTA with EOIR, the individual's employment authorization terminates automatically.

If ICE does not accept the case or if the disqualifying criminal offense is non-EPS per the November 7, 2011 NTA memorandum, the BCU DACA Team should reopen the case on Service motion and issue a Notice of Intent to Terminate. The individual should be allowed 33 days to file a brief or statement contesting the grounds cited in the Notice of Intent to Terminate. The Notice of Intent to Terminate should include a statement that if deferred action for childhood arrivals is terminated, any associated employment authorization granted during the period of deferred action will be terminated for cause.

If the adverse grounds are not overcome, or no response is received to the Notice of Intent to Terminate, the officer should prepare a Termination Notice and seek supervisory review of the draft Termination Notice prior to issuance. The Termination Notice should indicate that the individual's employment authorization is terminated for cause as of the date of the notice. Consequently, the Class of Admission (COA) code in CIS should be changed to DAT (Deferred Action Terminated) for employment verification purposes. Additionally, the BCU DACA Team should forward the individual's name to ERO.

If national security concerns arise after removal has been deferred under DACA, the case should go through the CARRP process, per established CARRP protocols.

Continued on next page

DACA Termination, Continued

**System
Updates**

The following new HACs must be used as appropriate when updating a Notice of Intent to Terminate DACA and a DACA Termination Notice in C3:

(b) (7)(E)

After terminating DACA, the Class of Admission (COA) code in CIS should be changed to DAT (Deferred Action Terminated) for employment verification purposes.

See Appendix I for Notice of Intent to Terminate and Termination Notice.

Chapter 15: Processing Form I-131, Application for Travel Document for Individuals With Approved Form I-821D, Consideration of Deferred Action for Childhood Arrivals (DACA)

Introduction

Parole is the authorization to allow an otherwise inadmissible person to physically proceed into the United States under certain safeguards and controls. Parole is not an admission. The legal authority for parole is found in § 212(d)(5)(A) of the Act. Under this statutory authority, DHS may, as a matter of discretion, parole an individual into the United States under prescribed conditions. Parole is granted on a case-by-case basis for urgent humanitarian reasons or significant public benefit. Advance parole is generally granted prior to the individual's departure from the United States. Form I-512L evidencing such a grant is generally the document accepted by a transportation company to allow individuals travelling without a visa to return to the United States.

Prescribed Conditions for Advance Parole

In accordance with the discretionary authority provided in § 212(d)(5)(A) of the Act, USCIS will determine whether a DACA recipient's purpose for international travel is justifiable based on the circumstances he or she describes in his or her request. Generally, USCIS will only grant advance parole if the applicant's travel abroad will be in furtherance of:

- humanitarian purposes, including travel to obtain medical treatment, attending funeral services for a family member, or visiting an ailing relative;
- educational purposes, such as semester-abroad programs and academic research, or;
- employment purposes such as overseas assignments, interviews, conferences or, training, or meetings with clients overseas.

Travel for vacation is not a valid basis for advance parole.

Continued on next page

**Advance
Parole
Requested for
Humanitarian
Purposes**

For humanitarian purposes the applicant must show that the travel is for the purpose of:

- Obtaining medical treatment;
- Attending funeral services for a family member; or
- Visiting an ailing relative.

Evidence to demonstrate this purpose includes, but is not limited to:

- A letter from the applicant's physician explaining the nature of his or her medical condition, the specific medical treatment to be sought outside of the United States, and a brief explanation why travel outside the U.S. is medically necessary; or
- Documentation of a family member's serious illness or death.

Continued on next page

Processing Form I-131, Application for Travel Document for Individuals With Approved Form I-821D, Continued

Advance Parole Requested for Educational Purposes

For educational purposes the applicant must show that the travel will be undertaken for educational pursuits.

- Examples include semester abroad programs or travel necessary to conduct academic research.
 - Travel during an academic year unrelated to academics (e.g., a vacation) is insufficient to qualify as an educational purpose.
 - Evidence to demonstrate this purpose includes, but is not limited to:
 - A letter from a school employee acting in an official capacity describing the purpose of the travel and explaining why travel is required or beneficial; or
 - A document showing enrollment in an educational program requiring travel.
-

Advance Parole Requested for Employment Purposes

For employment purposes the applicant must show that the travel relates to fulfilling job requirements.

- These purposes will also include the pursuit of a position in the United States with a foreign employer.
 - Examples include an overseas assignment, an interview, a conference, training, or a meeting with overseas clients.
 - Evidence to demonstrate employment purposes includes, but is not limited to:
 - A letter from the applicant's employer or conference host describing the need for travel; or
 - A document showing a specific employment need, such as a conference program, that also shows the applicant's participation.
-

Expedites

As a general matter of course, expedite requests will not be granted, because USCIS will make every effort to process the advance parole request quickly; however, in a dire emergency, and if properly documented, if an individual were to appear at a local office and the local office were to deem the need for an expedite to be compelling such that an expedite would be warranted, the local office has the option of processing the advance parole or working through established POCs at the Service Center under normal protocols.

Continued on next page

Processing Form I-131, Application for Travel Document for Individuals With Approved Form I-821D, Continued

Filing Location A DACA recipient seeking advance parole files Form I-131 with the USICS Lockbox Facility according to the instruction on the form. The Lockbox Facility will forward the application to the appropriate Service Center according to the agreed upon routing.

DACA Recipients in Removal Proceedings Individuals in removal proceedings, including those with a final removal order, may seek advance parole if the request meets the guidelines for advance parole consideration under DACA. Notwithstanding the advance parole, a departure made while under a final order of removal (including a voluntary departure that converted automatically to a final removal order) renders that individual inadmissible under § 212(a)(9)(A) of the Act.

- Processing Steps**
- Step 1:** Determine whether the applicant is in removal proceedings and/or has a final removal order.
- Step 2:** Captured digital photos from the recent ASC visit should be used in creating the travel document within the I-512L program.
- Step 3:** Review the results of the initial (b) (7)(E) checks.
- If there is no (b) (7)(E), or the (b) (7)(E) shows the hit does not relate (DNR), or the hit has already been resolved, go to step 4.
 - If there is an unresolved (b) (7)(E) hit, follow the instructions in the NaBISCOP.
- Step 4:** Adjudicate the I-131.
- If the criteria have been met, issue the advance parole valid for the duration of the event, as documented in the advance parole application. For multiple events, issue the advance parole valid for the duration of all the documented events, not to exceed the duration of the deferral of removal under DACA.
 - Update the I-131 in C3 for approval and issuance of an I-512L Advance Parole Document.
 - If the criteria have not been met, issue a denial and update C3.

Update RFEs, approvals and denials in C3 using current procedures.

Appendix A

Secretary
U.S. Department of Homeland Security
Washington, DC 20528



Homeland Security

June 15, 2012

MEMORANDUM FOR: David V. Aguilar
Acting Commissioner, U.S. Customs and Border Protection

Alejandro Mayorkas
Director, U.S. Citizenship and Immigration Services

John Morton
Director, U.S. Immigration and Customs Enforcement

FROM:

Janet Napolitano
Secretary of Homeland Security

A handwritten signature in black ink, appearing to read "Janet Napolitano", written over the printed name and title.

SUBJECT:

Exercising Prosecutorial Discretion with Respect to Individuals
Who Came to the United States as Children

By this memorandum, I am setting forth how, in the exercise of our prosecutorial discretion, the Department of Homeland Security (DHS) should enforce the Nation's immigration laws against certain young people who were brought to this country as children and know only this country as home. As a general matter, these individuals lacked the intent to violate the law and our ongoing review of pending removal cases is already offering administrative closure to many of them. However, additional measures are necessary to ensure that our enforcement resources are not expended on these low priority cases but are instead appropriately focused on people who meet our enforcement priorities.

The following criteria should be satisfied before an individual is considered for an exercise of prosecutorial discretion pursuant to this memorandum:

- came to the United States under the age of sixteen;
- has continuously resided in the United States for a least five years preceding the date of this memorandum and is present in the United States on the date of this memorandum;
- is currently in school, has graduated from high school, has obtained a general education development certificate, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States;
- has not been convicted of a felony offense, a significant misdemeanor offense, multiple misdemeanor offenses, or otherwise poses a threat to national security or public safety; and
- is not above the age of thirty.

Our Nation's immigration laws must be enforced in a strong and sensible manner. They are not designed to be blindly enforced without consideration given to the individual circumstances of each case. Nor are they designed to remove productive young people to countries where they may not have lived or even speak the language. Indeed, many of these young people have already contributed to our country in significant ways. Prosecutorial discretion, which is used in so many other areas, is especially justified here.

As part of this exercise of prosecutorial discretion, the above criteria are to be considered whether or not an individual is already in removal proceedings or subject to a final order of removal. No individual should receive deferred action under this memorandum unless they first pass a background check and requests for relief pursuant to this memorandum are to be decided on a case by case basis. DHS cannot provide any assurance that relief will be granted in all cases.

1. With respect to individuals who are encountered by U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), or U.S. Citizenship and Immigration Services (USCIS):

- With respect to individuals who meet the above criteria, ICE and CBP should immediately exercise their discretion, on an individual basis, in order to prevent low priority individuals from being placed into removal proceedings or removed from the United States.
- USCIS is instructed to implement this memorandum consistent with its existing guidance regarding the issuance of notices to appear.

2. With respect to individuals who are in removal proceedings but not yet subject to a final order of removal, and who meet the above criteria:

- ICE should exercise prosecutorial discretion, on an individual basis, for individuals who meet the above criteria by deferring action for a period of two years, subject to renewal, in order to prevent low priority individuals from being removed from the United States.
- ICE is instructed to use its Office of the Public Advocate to permit individuals who believe they meet the above criteria to identify themselves through a clear and efficient process.
- ICE is directed to begin implementing this process within 60 days of the date of this memorandum.
- ICE is also instructed to immediately begin the process of deferring action against individuals who meet the above criteria whose cases have already been identified through the ongoing review of pending cases before the Executive Office for Immigration Review.

3. With respect to the individuals who are not currently in removal proceedings and meet the above criteria, and pass a background check:

- USCIS should establish a clear and efficient process for exercising prosecutorial discretion, on an individual basis, by deferring action against individuals who meet the

above criteria and are at least 15 years old, for a period of two years, subject to renewal, in order to prevent low priority individuals from being placed into removal proceedings or removed from the United States.

- The USCIS process shall also be available to individuals subject to a final order of removal regardless of their age.
- USCIS is directed to begin implementing this process within 60 days of the date of this memorandum.

For individuals who are granted deferred action by either ICE or USCIS, USCIS shall accept applications to determine whether these individuals qualify for work authorization during this period of deferred action.

This memorandum confers no substantive right, immigration status or pathway to citizenship. Only the Congress, acting through its legislative authority, can confer these rights. It remains for the executive branch, however, to set forth policy for the exercise of discretion within the framework of the existing law. I have done so here.



Janet Napolitano

Appendix B

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director (MS 2000)
Washington, DC 20529-2000



U.S. Citizenship
and Immigration
Services

November 7, 2011

PM-602-0050

Policy Memorandum

SUBJECT: Revised Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Removable Aliens

Purpose

This Policy Memorandum (PM) establishes new USCIS guidelines for referring cases and issuing Notices to Appear (NTAs) in a manner that promotes the sound use of the resources of the Department of Homeland Security and the Department of Justice to enhance national security, public safety, and the integrity of the immigration system. This PM supersedes Policy Memorandum No. 110, *Disposition of Cases Involving Removable Aliens*, dated July 11, 2006.

Scope

This PM applies to and is binding on all USCIS employees unless otherwise specifically provided in this PM.

Authority

Immigration and Nationality Act (INA) sections 101(a)(43), 103(a), 239, 240 and 318; Title 8, Code of Federal Regulations (8 CFR) parts/sections 2.1, 103, 204, 207.9, 208, 216.3(a), 216.6(a)(5), 236.14(c), and 239; Adjudicator's Field Manual Chapter 10.11(a).

Background

U.S. Citizenship and Immigration Services (USCIS) has authority, under the immigration laws, *see, e.g.*, INA §§ 103(a), 239; 8 CFR §§ 2.1, 239.1, to issue Form I-862, Notice to Appear, to initiate removal proceedings.¹ U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) also have authority to issue NTAs. Accordingly, USCIS must ensure that its issuance of NTAs fits within and supports the Government's overall removal priorities, while also ensuring that its NTA policies promote national security and the integrity of the nation's immigration system.

To those ends, this PM identifies the circumstances under which USCIS will issue an NTA, or will refer the case to ICE for NTA issuance, in order to effectively handle cases that involve public safety threats, criminals, and aliens engaged in fraud.

¹ *Delegation by the Secretary of the Department of Homeland Security to the Bureau of Citizenship and Immigration Services*, Delegation Number 0150.1; Paragraph 2(N). However, international District Directors and officers are not authorized to issue NTAs.

PM-602-0050: Revised Guidance for the Referral of Cases and Issuance of NTAs in Cases Involving Inadmissible and Removable Aliens

Page 2

Policy

I. National Security Cases

This PM does not affect the handling of cases involving national security concerns.² Guidance from the Fraud Detection and National Security Directorate (FDNS)³ will continue to govern the definition of these cases and the procedures for resolution and NTA issuance.

II. NTA Issuance Required by Statute or Regulation

USCIS will issue an NTA in the following circumstances:⁴

- A. Termination of Conditional Permanent Resident Status and Denials of Form I-751, Petition to Remove the Conditions of Residence (8 CFR 216.3, 216.4, 216.5)⁵
- B. Denials of Form I-829, Petition by Entrepreneur to Remove Conditions (8 CFR 216.6)
- C. Termination of refugee status by the District Director (8 CFR 207.9)
- D. Denials of NACARA 202 and HRIFA adjustments
 - 1. NACARA 202 adjustment denials (8 CFR 245.13(m));
 - 2. HRIFA adjustment denials (8 CFR 245.15(r)(2)(i)).
- E. Asylum⁶, NACARA 203, and Credible Fear cases:⁷
 - 1. Asylum referrals (8 CFR 208.14(c)(1));
 - 2. Termination of asylum or termination of withholding of removal or deportation (8 CFR 208.24(e));⁸
 - 3. Positive credible fear findings (8 CFR 208.30(f));
 - 4. NACARA 203 cases where suspension of deportation or cancellation of removal is not granted, and the applicant does not have asylum status, or lawful immigrant or non-immigrant status (8 CFR 240.70(d)).

This PM does not apply to, or change, NTA or notification procedures for Temporary Protected Status cases.⁹ Further, Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, processed under the Violence Against Women Act (VAWA), should continue to

² National Security Cases include cases involving Terrorist Related Grounds of Inadmissibility (TRIG) pursuant to sections 212(a)(3)(B) and 212(a)(3)(F) of the INA.

³ See, e.g., *Policy for Vetting and Adjudicating Cases with National Security Concerns* (April 11, 2008).

⁴ If any Form I-751 or I-829 cases are also Egregious Public Safety cases, they will be referred to ICE in accordance with Section IV.A.1 of this PM.

⁵ See the October 9, 2009 internal memo, *Adjudication of Form I-751, Petition to Remove Conditions on Residence Where the CPR Has a Final Order of Removal, Is in Removal Proceedings, or Has Filed an Unexcused Untimely Petition or Multiple Petitions*. See also the April 3, 2009 memo, *I-751 Filed Prior to Termination of Marriage*.

⁶ USCIS may issue an NTA when an asylum applicant withdraws his or her asylum application.

⁷ This memo does not apply to the Asylum Division's issuance of Form I-863, Notice of Referral to Immigration Judge, to certain stowaways, crewmembers, and VWP individuals who are requesting asylum or withholding of removal; reasonable fear screenings and negative credible fear screenings.

⁸ See also section 208(c)(3) of the INA describing removal when asylum is terminated.

⁹ See the September 12, 2003 internal memo, *Service Center Issuance of Notice to Appear (Form I-862)*.

PM-602-0050: Revised Guidance for the Referral of Cases and Issuance of NTAs in Cases Involving Inadmissible and Removable Aliens

Page 3

be processed under existing protocols. If the VAWA applicant's Form I-485 is denied, this memorandum is applicable in terms of NTA issuance.¹⁰

III. Fraud Cases with a Statement of Findings Substantiating Fraud

To protect the integrity of the immigration system and address fraud, USCIS will issue NTAs when a Statement of Findings (SOF) substantiating fraud is part of the record.¹¹ An NTA will be issued upon final adjudicative action on the petition and/or application or other appropriate eligibility determination.¹² NTAs will be issued even if the petition and/or application is denied for a ground other than fraud, such as lack of prosecution or abandonment, is terminated based on a withdrawal by the petitioner/applicant, or where an approval is revoked, so long as an SOF substantiating fraud is in the record.

The NTA should include the charge of fraud or misrepresentation, if possible. The appropriate charge(s) will be determined on a case-by-case basis. Consultation with local USCIS counsel to determine the appropriate charge(s) is recommended.

IV. Cases to be Referred to ICE for a Decision on NTA Issuance

A. **Criminal Cases:** Criminal aliens are a top immigration enforcement priority for the government. The following guidance recognizes the prioritization and requires USCIS to refer criminals to ICE for action or issue an NTA in accordance with this PM.

1. Egregious Public Safety (EPS) Cases

USCIS will refer all EPS cases, including cases with pending N-400s, to ICE prior to adjudicating the case even if USCIS can deny the petition and/or application on its merits. An EPS case is defined by USCIS and ICE as a case where information indicates the alien is under investigation for, has been arrested for (without disposition), or has been convicted of, any of the following:

- a. Murder, rape, or sexual abuse of a minor as defined in section 101(a)(43)(A) of the INA.
- b. Illicit trafficking in firearms or destructive devices as defined in section 101(a)(43)(C) of the INA.
- c. Offenses relating to explosive materials or firearms as defined in section 101(a)(43)(E) of the INA.

¹⁰ When making determinations, employees must keep in mind USCIS's obligations under 8 USC § 1367, which prohibits the release of any information, outside of DHS, relating to aliens who are seeking or have been approved for immigration benefit(s) under the provisions for battered spouses, children, and parents in the Violence Against Women Act.

¹¹ Alternatively, ICE will determine whether to issue the NTA if a criminal investigation is conducted, fraud is found, and the investigation results in criminal prosecution.

¹² This includes, but is not limited to, aliens that were granted asylum status by USCIS, adjusted to Lawful Permanent Resident status, presented fraud indicators, were subject to the Post Adjustment Eligibility Review (PAER) process in an Asylum Office, and met the PAER criteria for NTA issuance.

PM-602-0050: Revised Guidance for the Referral of Cases and Issuance of NTAs in Cases Involving Inadmissible and Removable Aliens

Page 4

- d. Crimes of violence for which the term of imprisonment imposed, or where the penalty for a pending case, is at least one year as defined in section 101(a)(43)(F) of the INA.
- e. An offense relating to the demand for, or receipt of, ransom as defined in section 101(a)(43)(H) of the INA.
- f. An offense relating to child pornography as defined in section 101(a)(43)(I) of the INA.
- g. An offense relating to peonage, slavery, involuntary servitude, and trafficking in persons as defined in section 101(a)(43)(K)(iii) of the INA.
- h. An offense relating to alien smuggling as described in section 101(a)(43)(N) of the INA
- i. Human Rights Violators, known or suspected street gang members, or Interpol hits.
- j. Re-entry after an order of exclusion, deportation or removal subsequent to conviction for a felony where a Form I-212, Application for Permission to Reapply for Admission into the U.S. after Deportation or Removal, has not been approved.

All EPS cases must be referred to ICE using the procedures outlined below. The case will be referred as soon as it is identified. ICE will have an opportunity to decide if, when, and how to issue an NTA and/or detain the alien. USCIS will not issue an NTA in these cases if ICE declines to issue an NTA. If some other basis unrelated to the EPS concern becomes apparent during the course of adjudication, an NTA may be issued in accordance with this memo.

Referral Process

This referral process is utilized in order to give ICE the opportunity to determine the appropriate course of action before USCIS adjudicates the case. A decision to issue an NTA may directly affect the processing of the pending petition and/or application. Upon issuing the Referral to Immigration and Customs Enforcement (RTI), USCIS will suspend adjudication for 60 days, or until ICE provides notification of its action on the case, whichever is earlier.

In response to the RTI –

1. ICE may issue an NTA. ICE's issuance of an NTA allows USCIS to proceed with adjudication (unless jurisdiction transfers to EOIR or the pending application is an N-400), taking into account the basis for the NTA.
2. If ICE does not issue an NTA or otherwise provide notification of its action on the case within 60 days of the RTI, USCIS may resume its adjudication of the case, taking into account the referral grounds.

PM-602-0050: Revised Guidance for the Referral of Cases and Issuance of NTAs in Cases Involving Inadmissible and Removable Aliens

Page 5

- a. If the case is approvable, USCIS will consult with ICE prior to adjudication.
- b. Once adjudicated, regardless of the decision, USCIS will notify ICE of the result by sending a copy of the original RTI to ICE with a cover memorandum advising of the outcome of the case.

EPS cases referred to ICE prior to adjudication should be called up and reviewed no later than 60 days after referral. Normally, the case should be adjudicated by USCIS. However, USCIS retains discretion to place the case on hold for more than 60 days if ICE requests additional time to conduct an investigation.¹³

Office-Specific Processes

1. Cases to be adjudicated by Service Centers and the National Benefits Center. Adjudication will be suspended and the case will immediately be sent to the appropriate Service Center Background Check Unit (BCU). The BCU will refer the case to the ICE Benefit Fraud Unit (BFU) via an RTI. A hard copy of the RTI will be placed in the A-file and/or receipt file. The BCU will retain the file unless ICE requests it or the 60 days expire.
2. Cases to be adjudicated by Field Offices. The Immigration Services Officer (ISO) will suspend adjudication and the case will immediately be referred to the local ICE Special Agent in Charge (SAC) via an RTI. A hard copy of the RTI will be placed in the A-file and/or receipt file. A copy of the RTI must also be sent to the ICE BFU. USCIS will retain the file unless ICE requests the file for their review.

An RTI should include any relevant attachments that USCIS has at the time, such as a copy of the RAP sheet and a copy of the petition and/or application.

2. Non-Egregious Public Safety Criminal Cases

If it appears that the alien is inadmissible or removable for a criminal offense not included on the EPS list, USCIS will complete the adjudication and then refer the case to ICE. This section applies to N-400 cases if the N-400 has been denied on good moral character (GMC) grounds based on the criminal offense.¹⁴ ICE will decide if, and how, it will institute removal proceedings and whether or not it will detain the alien. USCIS will not issue an NTA if ICE declines to issue an NTA.

¹³ Pursuant to 8 CFR 274a.13(d), USCIS must complete processing of an Employment Authorization Document (EAD) within 90 days or issue an interim EAD card valid up to 240 days. Officers should be mindful of this regulatory timeframe when cases with a pending Form I-765, Application for Employment Authorization, are referred to ICE.

¹⁴ See Section V of this memo addressing N-400 cases.

PM-602-0050: Revised Guidance for the Referral of Cases and Issuance of NTAs in Cases Involving Inadmissible and Removable Aliens

Page 6

If some other basis unrelated to the criminal offense becomes apparent upon return of the case to USCIS, an NTA may be issued in accordance with this memo.

Referral Process

The referral process is used to allow ICE to make a determination whether to issue an NTA, based on the totality of circumstances and its priorities. ICE will determine the appropriate grounds for removal if an NTA is issued.

Once adjudication is complete, USCIS will send an RTI to ICE. USCIS will concurrently transmit a copy of the RTI to ICE Headquarters (HQ) Enforcement and Removal Operations (ERO) Criminal Alien Division for statistical monitoring purposes. If there is any confusion or uncertainty about classifying a case as egregious versus non-egregious, the USCIS ISO should refer the matter as an EPS case using the process described above.

The accompanying A-file will be referred to ICE with the RTI, if the file is in the possession of the referring USCIS office or center. If the file is not at the referring USCIS office or center, the RTI should include any relevant attachments that USCIS has, such as a copy of the RAP sheet and a copy of the petition and/or application. Where USCIS obtained certified conviction records through normal processing of the case, USCIS will include the records with the RTI, but it will not hold the RTI on a completed case solely to obtain disposition records. Instead ICE will decide whether, and how, it will obtain such records as part of its decision to issue an NTA.

Office-Specific Processes

1. Cases adjudicated by Service Centers and the National Benefits Center. Once adjudication is completed, if the alien is removable on a criminal charge, regardless of the reason for the denial, the file will be referred to the BCU. The BCU will refer the case, along with the A-file and/or receipt file, to the appropriate ERO Field Office Director (FOD) via an RTI.
2. Cases adjudicated by Field Offices. Once adjudication is completed, if the alien is removable on a criminal charge, regardless of the reason for the denial, USCIS will prepare an RTI and refer the case, along with the A-file and/or receipt file, to the local ERO FOD.

B. National Security Entry Exit Registration System (NSEERS) Violator Cases

USCIS will refer all cases in which an application is denied based on an NSEERS violation to ICE for possible NTA issuance.

PM-602-0050: Revised Guidance for the Referral of Cases and Issuance of NTAs in Cases Involving Inadmissible and Removable Aliens

Page 7

V. Cases Involving Form N-400, Application for Naturalization

The following guidance applies to the issuance of NTAs in cases in which applicants for naturalization are removable. There are two primary situations in which NTAs may be issued in connection with a filed Form N-400. If the N-400 case involves fraud (documented in the SOF) the procedures found in this section must be followed, rather than the procedures found in Section III (Fraud Cases with a Statement of Findings Substantiating Fraud).

However, the below guidance does not apply to EPS cases. EPS cases must be referred in accordance with Section IV.A.1 (Egregious Public Safety Cases) of this memo.

Additionally, the below guidance does not apply to non-EPS criminal cases when the N-400 can be denied on GMC grounds based on the criminal act. These cases must be denied and referred in accordance with Section IV.A.2 (Non-Egregious Public Safety Criminal Cases).

- A. The first situation occurs when the applicant may be eligible to naturalize but is also deportable under section 237 of the INA. Examples include applicants convicted of aggravated felonies prior to November 29, 1990, or applicants convicted of deportable offenses after obtaining Lawful Permanent Resident (LPR) status that do not fall within the GMC period. The ISO should:
1. Make a written recommendation on the issuance of an NTA through a review of the totality of the circumstances to include factors such as: severity of crime, time since crime committed, other criminal conduct, reformation, immigration history including method of entry, length of presence in the U.S., and prior immigration violations, and contributions to society to include the pursuit of education and military service.¹⁵
 2. Once the ISO has made a recommendation on whether or not to issue an NTA, the case should be forwarded to the N-400 NTA Review Panel (Review Panel), along with the written recommendation. A Review Panel must be formed in each Field Office and include a local Supervisory Immigration Services Officer (SISO), a local USCIS Office of Chief Counsel attorney, and a district representative. An attorney from ICE's local Office of Chief Counsel will be invited to participate and will have an advisory role on the panel. The Review Panel will make the final determination on NTA issuance. If consensus cannot be reached by the Review Panel, the case will be elevated to the District Director, through the district representative, for a final decision.
 3. If the Review Panel decides to issue an NTA, place the N-400 on hold until removal proceedings have concluded. Once proceedings have concluded, or if the Review Panel declines to issue an NTA, adjudicate the case appropriately.

¹⁵ Additional factors to be taken under consideration can be found in the June 17, 2011 ICE memo, *Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens*.

PM-602-0050: Revised Guidance for the Referral of Cases and Issuance of NTAs in Cases Involving Inadmissible and Removable Aliens

Page 8

- B. The second situation occurs when it is determined that the applicant was inadmissible at the time of adjustment or admission to the United States, thus deportable under section 237 of the INA and not eligible for naturalization under section 318 of the INA.¹⁶ The ISO should:
1. Make a written recommendation on the issuance of an NTA through a review of the totality of the circumstances to include factors such as: willfulness of actions, fraud factors, length of LPR status, criminal history, and officer error at time of adjustment.
 2. Once the ISO has made a recommendation on the issuance of the NTA, the case should be forwarded to the Review Panel (see Section V.A.2), along with the written recommendation. The Review Panel will make the final determination on NTA issuance. If consensus cannot be reached by the Review Panel, the case will be elevated to the District Director, through the district representative, for a final decision.
 3. If the Review Panel decides to issue an NTA, place the N-400 on hold until removal proceedings have concluded. Once removal proceedings have concluded, adjudicate the case appropriately. If the Review Panel declines to issue an NTA, deny the case under section 318 of the INA.

VI. Other Cases

- A. An alien may request NTA issuance to renew an application for adjustment or in certain cases with a denied N-400. The request must be made in writing.¹⁷
- B. An asylum applicant issued an NTA may request NTA issuance for family members not included on the asylum application as dependents for family unification purposes. The request must be made in writing.¹⁸

VII. Exceptions

Exceptions to the guidance in this PM require concurrence from Regional or Center Directors, who will consult with ICE before issuing an NTA.

¹⁶ In the Third Circuit *only* (Pennsylvania, New Jersey, Delaware, and the U.S. Virgin Islands), based on the holding in *Garcia v. Att’y Gen.*, 553 F.3d 724 (3d Cir. 2009), if the alien has been an LPR for at least five years, the alien cannot be placed in removal proceedings for fraud or willful misrepresentation of a material fact at time of adjustment, if USCIS could have learned of the fraud or misrepresentation through reasonable diligence before the five year rescission period expired. Please consult with USCIS counsel if there are questions regarding the applicability of this precedent.

¹⁷ USCIS retains discretion to deny a request. USCIS should consider ICE actions and determinations when making an NTA issuance decision under this section.

¹⁸ USCIS retains discretion to deny a request.

PM-602-0050: Revised Guidance for the Referral of Cases and Issuance of NTAs in Cases Involving Inadmissible and Removable Aliens

Page 9

VIII. Coordination with ICE

According to the June 2011 ICE memo regarding the exercise of prosecutorial discretion consistent with priorities,¹⁹ USCIS will receive notice before an ICE attorney exercises prosecutorial discretion and dismisses, suspends, or closes a case. The local N-400 NTA Review Panel will work with ICE to come to a resolution if USCIS does not agree with ICE's use of prosecutorial discretion in a particular case. If concurrence cannot be reached, the case should be elevated to the USCIS Office of Chief Counsel in headquarters.

Implementation

Each field office must form an N-400 NTA Review Panel and create a process to complete RTIs and refer EPS and non-EPS criminal cases to ICE. A written list enumerating the members of the Review Panel and a document outlining the process of referral must be sent to the appropriate district office within 30 days of the issuance of this memorandum.

Use

This PM is intended solely for the guidance of USCIS personnel in the performance of their official duties. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law, or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

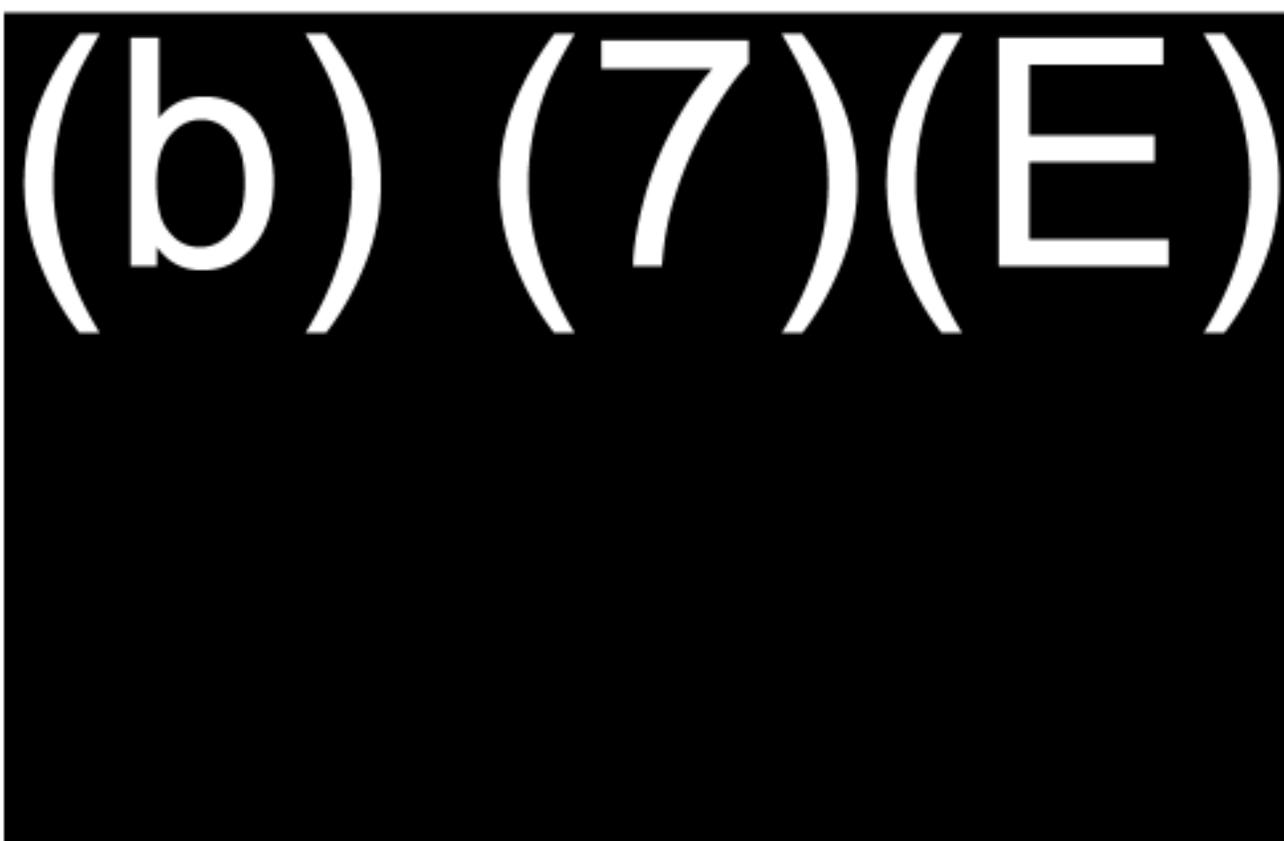
Contact Information

Questions or suggestions regarding this PM should be addressed through appropriate channels to the Field Operations Directorate, Service Center Operations Directorate, or the Refugee, Asylum, and International Operations Directorate.

¹⁹ *Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens*, signed June 17, 2011.

Appendix C

Overview of the Background Check Process



Appendix D

DEFERRED ACTION FOR CHILDHOOD ARRIVALS RFE CALL-UPS

NOTE: Text highlighted in **YELLOW** and bracketed by [] is hidden text that requires ISO input. The ISO should delete the highlighted bracketed **[Text]** and type in the necessary information, or choose the appropriate information from choices and delete the information that does not apply. Text only highlighted in **YELLOW** and not bracketed is directive in nature and should not be printed in the letter being sent but should be deleted. Please mix call-ups into a single RFE as needed.

NOTE: Please add call-ups **DACA 300 – FOREIGN LANGUAGE DOCUMENT MUST BE ACCOMPANIED BY AN ENGLISH TRANSLATION** and **DACA 301 – YOU MAY SUBMIT PHOTOCOPIES** to any other call-ups below as needed.

I. GUIDELINES

DACA 100 – IDENTITY

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to prove your identity is insufficient (*ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly*). You may still submit evidence, which may include, but is not limited to, copies of: (*ISO should delete any of the following that were already provided by the requestor*)

- Passport;
- Birth certificate accompanied by photo identification;
- Any national identity documents from your country of origin bearing your photo and/or fingerprint;
- Any U.S.-government immigration or other document bearing your name and photograph (e.g., Employment Authorization Documents (EADs), expired visas, driver's licenses, non-driver cards, etc.);
- Any school-issued form of identification with photo;
- Military identification document with photo;
- State-issued photo ID showing date of birth; or
- Any other document that you believe is relevant.

Expired documents are acceptable.

DACA 101 – CONTINUOUS RESIDENCE

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to establish that you have continuously resided in the United States during the 5-year period immediately before June 15, 2012 and up to the time of filing is insufficient. (*ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly*). You may still submit evidence, which may include, but is not limited to, copies of: (*ISO should delete any of the following that were already provided by the requestor*)

- a. Employment records (e.g., pay stubs, W-2 Forms, Federal and State income tax returns, letters from employer(s), or, if you are self employed, letters from banks and other firms with whom you have done business);

NOTE: In all of these documents, your name and the name of the employer or other interested organization must appear on the form or letter, as well as relevant dates. Letters from employers must be signed by the employer and must include the employer's contact information.

Such letters must include: **(1)** your address(es) at the time of employment; **(2)** the exact period(s) of employment; **(3)** period(s) of layoff; and **(4)** duties with the company.

- b. Rent receipts, utility bills (gas, electric, phone, etc.), receipts or letters from companies showing the dates during which you received service;
- c. School records (transcripts, letters, report cards, etc.) from the schools that you have attended in the United States, showing the name(s) of the schools and periods of school attendance;
- d. Military records (e.g., Form DD-214, Certificate of Release or Discharge from Active Duty; NGB Form 22, National Guard Report of Separation and Record of Service; military personnel records; or military health records);
- e. Hospital or medical records concerning treatment or hospitalization, showing the name of the medical facility or physician and the date(s) of the treatment or hospitalization;
- f. Official records from a religious entity in the United States confirming your participation in a religious ceremony, rite, or passage (e.g., baptism, first communion, wedding, etc.);
- g. Money order receipts for money sent into or out of the country; passport entries; birth certificates of children born in the United States; dated bank transactions; correspondence between you and another person or organization; U.S. Social Security card; Selective Service card; automobile license receipts, title, vehicle registration, etc.; deeds, mortgages, rental agreements, contracts to which you have been a party; tax receipts; insurance policies; receipts; postmarked letters; or
- h. Any other relevant document.

*(ISO: Add the appropriate language below to the RFE if any of the questions on page 3 (Part 2, Arrival/Residence Information) of the Form I-821D are blank **OR** if page 3 of the Form I-821D is missing.)*

In addition, you did not answer question(s) *(ISO should list the questions on page 3 (Part 2, Arrival/Residence Information) of the Form I-821D that were not answered)* in Part 2, Arrival/Residence Information, of your Form I-821D, Consideration of Deferred Action for Childhood Arrivals. Therefore, you are requested to answer these question(s) on the enclosed copy of your original Form I-821D.

Please re-sign and date page four (4) of the completed form; the completed form must contain a new original signature. Attach your completed Form I-821D to this Request for Evidence and send to the address as listed on this notice.

(Include a copy of the requestor's Form I-821D with the RFE)

OR

In addition, you did not submit page three (3) with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals. Therefore, you are requested to complete the enclosed page three (3) of the form.

Also enclosed is a copy of your original Form I-821D. Please re-sign and date page four (4) of the completed form; the completed form must contain a new original signature. Attach your completed Form I-821D to this Request for Evidence and send to the address as listed on this notice.

(Include a copy of the requestor's Form I-821D and a blank page 3 of the form with the RFE)

DACA 102 - BRIEF, CASUAL, AND INNOCENT ABSENCE

To be considered for deferred action as a childhood arrival, you must have continuously resided in the United States during the 5 years period immediately before June 15, 2012 and up to the date you filed your request for deferred action. A brief, casual, and innocent absence from the United States will not interrupt your continuous residence.

An absence will be considered brief, casual, and innocent, if:

- (1) The absence was short and reasonably calculated to accomplish the purpose of the absence;
- (2) The absence was not the result of an order of exclusion, deportation, or removal;
- (3) The absence was not because of an order of voluntary departure, or an administrative grant of voluntary departure before the requestor was placed in exclusion, deportation, or removal proceedings; and
- (4) The purpose of the absence from the United States or actions while outside of the United States were not contrary to law.

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, for each departure you made from the United States since June 15, 2007 to show that each departure you made from the United States since June 15, 2007 was brief, casual, and innocent is insufficient. *(ISO should list what evidence was submitted and briefly state why the evidence is insufficient. If the requestor did not submit any evidence, modify RFE call up accordingly)*. You may still submit evidence, which may include, but is not limited to, copies of: *(ISO should delete any of the following that were already provided by the requestor)*

- Plane or other transportation tickets or itinerary showing the travel dates;
- Passport entries;
- Hotel receipts showing the dates you were abroad;
- Evidence of the purpose of the travel (e.g., you attended a wedding or funeral);
- Advance parole document; or
- Any other evidence that could support a brief, casual, and innocent absence.

DACA 103A – ARRIVED IN THE UNITED STATES BEFORE AGE 16

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to establish that you came to the United States prior to your 16th birthday is insufficient. *(ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly)*. You may still submit evidence, which may include, but is not limited to, copies of: *(ISO should delete any of the following that were already provided by the requestor)*

- Passport with an admission stamp indicating when you entered the United States;
- I-94/I-95/I-94W Arrival/Departure Record;
- Any INS or DHS document stating your date of entry (e.g., Form I-862, Notice to Appear);
- Travel records, such as transportation tickets showing your dates of travel to the United States;
- School records (transcripts, report cards, etc.) from the schools that you have attended in the United States, showing the name(s) of the schools and the periods of school attendance;
- Hospital or medical records concerning treatment or hospitalization, showing the name of the medical facility or physician and the date(s) of the treatment or hospitalization;
- Official records from a religious entity in the United States confirming your participation in a religious ceremony, rite, or passage (e.g., baptism, first communion, wedding, etc.); or
- Any other document that you believe is relevant.

ACA 103B – ESTABLISHED RESIDENCE IN THE UNITED STATES PRIOR TO AGE 16

The record indicates that you left the United States for some period of time before returning on or after your 16th birthday and beginning your current period of continuous residence. Please submit evidence that you established residence in the United States before your 16th birthday. You can demonstrate that you established residence in the United States before your 16th birthday by, for example, submitting records showing that you attended school or worked in the United States during that time, or that you lived in the United States for multiple years during that time.

Evidence of establishing residence in the United States before your 16th birthday may include, but is not limited to, copies of:

- a. School records (transcripts, report cards, etc.) from the schools that you attended in the United States before turning 16 years old, showing the name(s) of the schools and periods of school attended;
- b. Employment records showing that you worked in the United States before turning 16 years old (e.g., pay stubs, W-2 Forms, certification of the filing of Federal income tax returns, State verification of the filing of state income tax returns, letters from employer(s), or, if you are self-employed, letters from banks and other firms with whom you have done business);
- c. Documents evidencing that you were physically present in the United States for multiple years prior to your 16th birthday; or
- d. Any other relevant document.

DACA 104A –IN UNLAWFUL STATUS ON JUNE 15, 2012

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to show that you were in unlawful status on June 15, 2012 is insufficient. *(ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly)*. You may still submit evidence, which may include, but is not limited to, copies of: *(ISO should delete any of the following that were already provided by the requestor)*

- I-94/I-95/I-94W Arrival/Departure Record showing the date your authorized stay expired;
- If you have a final order of exclusion, deportation, or removal issued on or before June 15, 2012, submit a copy of that order and related charging documents, if available;
- An INS or DHS charging document placing you into removal proceedings;
- Any other document that you believe is relevant to show that you lacked lawful immigration status on June 15, 2012; or
- Any document relating to parole.

DACA 104B –STUDENT IN UNLAWFUL STATUS ON JUNE 15, 2012

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to show that you were in unlawful status on June 15, 2012 is insufficient. *(ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly)*. You may still submit evidence, which may include, but is not limited to, copies of: *(ISO should delete any of the following that were already provided by the requestor)*

- I-94/I-95/I-94W Arrival/Departure Record showing the date your authorized stay expired;
- If you have a final order of exclusion, deportation, or removal issued on or before June 15, 2012, submit a copy of that order and related charging documents, if available;
- An INS or DHS charging document placing you into removal proceedings;
- Copies of your transcripts showing your student status from (ISO should insert dates);

- Copies of all properly completed old I-120AB/I-20ID forms or new SEVIS I-20 forms (required since August 1, 2003) for all schools attended;
- Proof of reinstatement;
- Any other document that you believe is relevant to show that you lacked lawful immigration status on June 15, 2012;
- Any document relating to parole.

DACA 105 – PROOF OF PRESENCE IN THE UNITED STATES ON JUNE 15, 2012

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to show that you were present in the United States on June 15, 2012 is insufficient. *(ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly).* You may still submit evidence, which may include, but is not limited to, copies of: *(ISO should delete any of the following that were already provided by the requestor)*

- a. Employment records (e.g., pay stubs, W-2 Forms, Federal and State income tax returns, letters from employer(s), or, if you are self employed, letters from banks and other firms with whom you have done business).

NOTE: In all of these documents, your name and the name of the employer or other interested organization must appear on the form or letter, as well as relevant dates. Letters from employers must be signed by the employer and must include the employer's contact information.

Such letters must include: **(1)** your address(es) at the time of employment; **(2)** the exact period(s) of employment; **(3)** period(s) of layoff; and **(4)** duties with the company.

- b. Rent receipts, utility bills (gas, electric, phone, etc.), receipts or letters from companies showing the dates during which you received service.
- c. School records (transcripts, letters, report cards, etc.) from the schools that you have attended in the United States, showing the name(s) of the schools and periods of school attendance.
- d. Military records (e.g., Form DD-214, Certificate of Release or Discharge from Active Duty; NGB Form 22, National Guard Report of Separation and Record of Service; military personnel records; or military health records).
- e. Hospital or medical records concerning treatment or hospitalization, showing the name of the medical facility or physician and the date(s) of the treatment or hospitalization.
- f. Official records from a religious entity in the United States confirming your participation in a religious ceremony, rite, or passage (e.g., baptism, first communion, wedding, etc.).
- g. Money order receipts for money sent into or out of the country; passport entries; birth certificates of children born in the United States; dated bank transactions; correspondence between you and another person or organization; U.S. Social Security card; Selective Service card; automobile license receipts, title, vehicle registration, etc.; deeds, mortgages, contracts to which you have been a party; tax receipts; insurance policies; receipts; postmarked letters; or
- h. Any other relevant document.

DACA 106 – CURRENTLY ENROLLED IN SCHOOL

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, showing that you have been accepted for enrollment or are already attending classes in one of the following is insufficient:

- A public or private elementary, junior high/middle school or high school/secondary school;
- A public or private college or university, or community college;
- A course of study to pass a General Education Development (GED) Certificate exam or other State-authorized exam;
- An educational or career training program (including vocational training);
- Literacy training; or
- An English as a Second Language (ESL) program.

(ISO should list what evidence was submitted and briefly state why the evidence is insufficient. If the documents provided by the requestor are incomplete (i.e. no identifying information) or illegible, the ISO should note this in the RFE. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly)

You may still submit evidence, which may include the following: *(ISO should delete any of the following that were already provided by the requestor)*

- **A public or private elementary, junior high/middle school or high school/secondary school;**
Such evidence may include, but is not limited to:
 - If accepted for enrollment, but classes have not yet commenced:
 - An acceptance letter on school letterhead from the school's authorized representative. Such acceptance letter is to include the name and address of the school, your grade level, and the date that classes are scheduled to commence. The letter is to be accompanied by evidence that the student has registered for classes, or other evidence showing the student has accepted the offer and has committed to start classes on a certain date;
 - A current individualized education program (IEP), as required under the Individuals with Disabilities Education Act, if you have a disability;
 - A current class schedule containing the student's name, the list of courses, and the day and time of each class; or
 - Any other relevant evidence.
 - If already enrolled – Current school registration cards; current transcripts; report cards; progress reports showing the name of the school, the time period or semester covered by the document, and the current grade; or a current IEP showing your process to date.
- **A public or private college or university, or community college;**
Such evidence may include, but is not limited to:
 - If accepted for enrollment, but classes have not yet commenced:
 - An acceptance package or related material on school letterhead from the school's authorized representative. Such acceptance package or related material is to include the name and address of the school, your grade level or class year, and the date or term when classes are scheduled to commence. In addition, the acceptance package or related material is to be accompanied by evidence that the student has registered for classes, or other evidence showing the student has accepted the offer and has committed to start classes on a certain date;
 - A current individualized education program (IEP), as required under the Individuals with Disabilities Education Act, if you have a disability;
 - A copy of your current tuition bill;
 - A current class schedule containing your name, the list of courses, and the day and time of each class; or
 - Any other relevant evidence.
 - If already enrolled – Current school registration cards; current transcripts; report cards; progress reports showing the name of the school, the time period or semester covered by the document, and the current grade or class year; or a current IEP showing your process to date.

- **A course of study to pass a General Education Development (GED) Certificate exam or other equivalent State-authorized exam;**

Such evidence is to include a letter from the authorized representative of the program that includes information such as:

 - Your name and date of enrollment;
 - The duration of the program and expected completion date;
 - Whether the course of study is for a regular high school diploma or recognized equivalent under State law or a GED exam or other equivalent State-authorized exam;
 - The program's source and amount of funding;
 - The program's authorized representative's contact information; and
 - The program's demonstrated effectiveness *if it is not publicly funded* (Federal, State, county, or municipal) in whole or in part.
- **An educational or career training program (including vocational training);**

Such evidence may include, but is not limited to:

 - If accepted for enrollment, but classes have not yet commenced:
 - An acceptance letter on school letterhead from the school registrar/authorized school representative. Such acceptance letter is to include the name and address of the program, a brief description of the program, the duration of the program, and state when the classes are scheduled to commence. The letter is to be accompanied by evidence that the student has registered for the program;
 - A copy of your current year registration (intake form/enrollment form); or
 - Any other relevant documentation.
 - If already attending classes– Current transcripts, report cards, or progress reports showing the name of the school, the time period or semester covered by the document, and if relevant, the current educational or grade level.
 - The program's demonstrated effectiveness *if it is not publicly funded* (Federal, State, county, or municipal) in whole or in part.
- **Literacy training; or**

Such evidence is to include a letter from the literacy program administrator or authorized representative providing information such as:

 - Your name;
 - The date of your enrollment;
 - The duration of the literacy program and the expected completion date;
 - The program administrator or authorized representative's contact information; and
 - The program's demonstrated effectiveness *if it is not publicly funded* (Federal, State, county, or municipal) in whole or in part.
- **An English as a Second Language (ESL) program.**

Such evidence is to include a letter from the ESL program administrator or authorized representative. This letter is to include the following:

 - Your name;
 - The date of your enrollment;
 - The duration of the ESL program and the expected completion date;
 - The program administrator or authorized representative's contact information; and
 - The program's demonstrated effectiveness *if it is not publicly funded* (Federal, State, county, or municipal) in whole or in part.

DACA 106A – EVIDENCE OF ACCEPTANCE BUT NO EVIDENCE OF REGISTERING FOR CLASSES:

You have provided an acceptance letter or other related material indicating that you have been accepted at *(ISO should list the name of the private elementary/junior high/middle school/high school/secondary school or public or private college/university/community college)*. However, you did not include evidence that you have enrolled in that school. Therefore, you are requested to submit such evidence

which is to include, but is not limited to paid tuition or evidence that you have registered for class at that school.

DACA 106B – LITERACY PROGRAM’S NON-PROFIT STATUS

If the literacy program in which you are enrolled has non-profit status, please provide evidence of such status. Evidence of the literacy program’s non-profit status is to include a copy of a valid letter from the Internal Revenue Service confirming exemption from taxation under section 501(c)(3) of the Internal Revenue Service Code of 1986, as amended, or equivalent section of prior code.

DACA 106C –PUBLIC FUNDING (GED; Educational or Career Training Program (Including Vocational Training); ESL)

If the *(ISO should insert GED; Educational or Career Training Program (Including Vocational Training); Literacy Program; or English as a Second Language)* in which you are enrolled is funded in whole or in part by public funds (Federal, State, county or municipal), you are requested to submit a letter from the *(ISO should insert GED program administrator/authorized representative; school registrar/authorized school representative if requestor is enrolled in Career Training Program (Including Vocational Training); literacy program administrator/authorized representative; or ESL program administrator/authorized representative)* providing basic details about the funding, such as the source(s) of the funding.

DACA 106D – PUBLIC FUNDING – (Literacy Program)

If the literacy program in which you are enrolled is not funded in whole or in part by public funds (Federal, State, county, or municipal) or not administered by a non-profit entity you are requested to submit a letter from the program administrator or authorized representative providing basic details about the funding, such as the amount and the source(s) of the funding.

DACA 106E – DEMONSTRATED EFFECTIVENESS (GED; Educational or Career Training Program (Including Vocational Training); Literacy Program; ESL)

(ISO should select the correct RFE paragraph below depending upon the program in which the requestor is enrolled)

If the **GED/Equivalency program**, in which you are enrolled, is not publicly funded (Federal, State, county, or municipal) in whole or in part, you are requested to submit information from the GED program administrator/authorized representative relating to the program’s demonstrated effectiveness. Such information can include, but is not limited to:

- The duration of the program’s existence;
- The program’s track record in assisting students in obtaining a regular high school diploma, GED, or a recognized equivalent certificate, or passing a GED or recognized equivalent exam;
- Receipt of awards or special achievement or recognition, that indicate the program’s overall quality; and/or
- Any other relevant information indicating the program’s overall quality.

If the **educational or career training program (including vocational training)**, in which you are enrolled, is not publicly funded (Federal, State, county, or municipal) in whole or in part, you are requested to submit information, with supporting documentation, if available, from the school registrar/authorized representative relating to the program’s demonstrated effectiveness. Such information can include, but is not limited to:

- The duration of the program’s existence;
- The program’s track record in placing students in employment, job training, or post-secondary education; and
- Receipt of awards or special achievement or recognition, that indicate the program’s overall quality; and/or
- Any other relevant information indicating the program’s overall quality.

If the **literacy program** in which you are enrolled is not publicly funded (Federal, State, county, or municipal) in whole or in part, you are requested to submit information from the literary program administrator/authorized representative relating to the program's demonstrated effectiveness. Such information can include, but is not limited to:

- The duration of the program's existence;
- The program's track record in placing students in post-secondary education, job training programs, or employment; and
- Receipt of awards or special achievement or recognition, that indicate the program's overall quality; and/or
- Any other relevant information indicating the program's overall quality.

If the **English as a Second Language (ESL)** program in which you are enrolled is not publicly funded (Federal, State, county, or municipal) in whole or in part, you are requested to submit information from the ESL program administrator/authorized representative relating to the program's demonstrated effectiveness. Such information can include, but is not limited to:

- The length of the program's existence;
- The program's track record in assisting students in obtaining placement in postsecondary schools, job training programs, or employment; and
- Receipt of awards or special achievement or recognition, that indicate the program's overall quality; and/or
- Any other relevant information indicating the program's overall quality.

DACA 106F – GRADUATED FROM SCHOOL

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to show that you graduated or obtained a General Educational Development (GED) Certificate or equivalent State authorized exam in the United States is insufficient (*ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the documents provided by the requestor are incomplete (i.e. no identifying information) or illegible, the ISO should note this in the RFE. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly*). You may still submit evidence, which may include, but is not limited to, copies of: (*ISO should delete any of the following that were already provided by the requestor*)

- A diploma;
- Transcripts showing the date of graduation; or
- A GED certificate, certificate of completion, certificate of attendance, or alternate award from a public or private high school or secondary school.

Documentation sufficient to demonstrate that you obtained a GED includes, but is not limited to, evidence you passed a GED exam, or other comparable State-authorized exam, and, as a result, you received the recognized equivalent of a regular high school diploma under State law.

DACA 107 – MEDICAL LEAVE

You indicate in your filing that you are currently on medical leave from school. Therefore, you are requested to submit evidence of your medical leave and indicate the date you expect to return to school. Evidence of your medical leave may include, but is not limited to, an explanation from a medical doctor on official letterhead stating the diagnosis and prognosis, and how long your treatment is expected to last.

DACA 108 - MILITARY

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to show that you are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States is insufficient. (*ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly*). You may still submit evidence, which may include, but is not limited to, copies of: (*ISO should delete any of the following that were already provided by the requestor*)

- Form DD-214, Certificate of Release or Discharge from Active Duty;
- NGB Form 22, National Guard Report of Separation and Record of Service;
- Military personnel records; or
- Military health records.

DACA 109- REMOVAL PROCEEDINGS

Submit documents that you have been issued an order of exclusion, deportation or removal. Such documentation could include copies of:

- Any removal, deportation, or exclusion order issued by an Immigration Judge;
- Final decision from the Board of Immigration Appeals (BIA); or
- Final decision from a U.S. Court of Appeals in your case.

II. APPLICATION SUPPORT CENTER (ASC) RELATED

DACA 130 – SCHEDULE ASC APPOINTMENT

Your request cannot be processed until you have appeared at an Application Support Center (ASC) for the collection of a digital photograph, signature, and fingerprint(s). Our records indicate that you have not yet appeared at an ASC for this purpose. Follow the instructions on the appointment notice for biometrics capture [enclosed with this notice/that will be mailed to you separately]. Additional information regarding the location of the ASC can be found on the USCIS web site at www.USCIS.gov. Please bring this notice with you to your appointment.

If you have appeared at an ASC for biometrics capture, please return this notice to the address below with the appointment information.

Date of Appointment: _____

Location of Appointment: _____

DACA 131– RESCHEDULE ASC APPOINTMENT (TECHNICAL DIFFICULTIES)

Our records indicate that you have already appeared at an Application Support Center (ASC) as previously scheduled. However, due to technical problems, your previously-acquired biometrics from the ASC cannot be used.

[USCIS will mail a separate notice to you containing information for a new appointment for biometrics capture at the ASC nearest you/Follow the instructions of the enclosed appointment for biometrics capture at the ASC nearest you.] Additional information regarding the location of the ASC can be found on the USCIS web site at www.USCIS.gov. Please bring this notice with you to your appointment in addition to any other required documents as stated in the new appointment notice.

We sincerely regret any inconvenience this has caused you.

III. NAME, DATE OF BIRTH DISCREPANCY

DACA 140 – DATE OF BIRTH DISCREPANCY

USCIS records indicate that you were born on [DATE]. You indicated on your request for consideration of deferred action for childhood arrivals that you were born on [DATE]. Submit documentary evidence to establish your true date of birth. Such evidence may include your birth certificate and/or passport. If you submit a copy of your birth certificate, you must submit copies of the front and back (if there is information on the back).

DACA 142 – NAME CHANGE/DISCREPANCY

USCIS records and/or evidence you submitted indicate that your name is [NAME]. You indicated on your request for consideration of deferred action for childhood arrivals that your name is [NAME]. Submit documentary evidence to establish your true name. Such evidence may include a birth certificate, adoption records, marriage certificate, passport, or government documentation showing that you have officially changed your name.

DACA143 – SUBMIT EVIDENCE OF NAME CHANGE

Submit proof of your name change. Such proof would normally be a marriage certificate, termination of marriage (divorce or annulment decree), adoption decree, or court order.

IV. FINGERPRINTING / CRIMINALITY

DACA 150A – 2 UNCLASSIFIABLE PRINTS – SUBMIT LOCAL POLICE CLEARANCES

To date, you have been fingerprinted twice and USCIS has been unable to get a required clearance for you because both sets of fingerprints were rejected as unclassifiable by the Federal Bureau of Investigation. At this time you must submit a local police clearance certificate for each jurisdiction (city, town, county, or municipality) in which you have lived for six months or more within the past five years.

Important Note: The police clearance certificate(s) must show your name and date of birth, and all aliases, if applicable, for all names researched. You must supply the law enforcement agency with all aliases you listed on your Form I-821D [ISO should list ONLY those names provided in Part 1. Other Names Used (including maiden name) of the Form I-821D. Aliases obtained from any other source should not be listed in the RFE], including maiden name, [If applicable, insert maiden name unless it was included in the list of names in Part 1. Other Names Used (including maiden name) of the Form I-821D] if applicable. Fingerprint cards are not acceptable evidence of a police clearance certificate.

If the police clearance shows you have been arrested for, charged with, or convicted of a felony or misdemeanor, you must provide a certified court disposition, arrest record, charging document, sentencing record, etc. for each arrest, unless disclosure is prohibited under state law within the United States. If you are unable to provide such records because your case was expunged or sealed, you must provide information about your arrest and evidence demonstrating that such records are unavailable under the law of the particular jurisdiction. The charge and disposition of each arrest must be specifically identified (not just numeric citations or codes). Additionally, if you were convicted, you may submit a copy of the pertinent statute, sentencing guide, or statement from the court clerk or police department identifying the statute under which you were convicted and the sentence you received.

If you fail to submit such evidence, USCIS may deny your request for consideration of deferred action for childhood arrivals.

DACA 150B – FINGERPRINT WAIVER

The Application Support Center (ASC) granted a fingerprint waiver on your case. At this time you must submit a local police clearance certificate for each jurisdiction (city, town, county, or municipality) in which you have lived for six months or more within the past five years.

Important Note: The police clearance certificate(s) must show your name and date of birth, and all aliases, if applicable, for all names researched. You must supply the law enforcement agency with all aliases you listed on your Form I-821D [ISO should list ONLY those names provided in Part 1. Other Names Used (including maiden name) of the Form I-821D. Aliases obtained from any other source should not be listed in the RFE], including maiden name, [If applicable, insert maiden name unless it was included in the list of names in Part 1. Other Names Used (including maiden name) of the Form I-821D] if applicable. Fingerprint cards are not acceptable evidence of a police clearance certificate.

If the police clearance shows you have ever been arrested for, charged with, or convicted of a felony or misdemeanor, you must provide a certified court disposition, arrest record, charging document,

sentencing record, etc. for each arrest, unless disclosure is prohibited under state law within the United States. If you are unable to provide such records because your case was expunged or sealed, you must provide information about your arrest and evidence demonstrating that such records are unavailable under the law of the particular jurisdiction. The charge and disposition of each arrest must be specifically identified (not just numeric citations or codes). Additionally, if you were convicted, you may submit a copy of the pertinent statute, sentencing guide, or statement from the court clerk or police department identifying the statute under which you were convicted and the sentence you received.

If you fail to submit such evidence, USCIS may deny your request for consideration of deferred action for childhood arrivals.

DACA 151– SUBMIT JUDGMENT AND CONVICTION DOCUMENTS

A background check has been conducted based upon the fingerprints you provided at the Application Support Center. Your criminal history check has revealed that you were arrested on [DATE], in [JURISDICTION] and charged with [CHARGES].

(Where appropriate, Service Center may also need to include the name under which the arrest took place if different from name being used by requestor on Form I-821D. If there are multiple charges, you may bullet each charge.)

At this time you must provide a certified court disposition, arrest record, charging document, sentencing record, etc. for each arrest, unless disclosure is prohibited under state law within the United States. If you are unable to provide such records because your case was expunged or sealed, you must provide information about your arrest and evidence demonstrating that such records are unavailable under the law of the particular jurisdiction. The charge and disposition of each arrest must be specifically identified (not just numeric citations or codes). Additionally, if you were convicted, you may submit a copy of the pertinent statute, sentencing guide, or statement from the court clerk or police department identifying the statute under which you were convicted and the sentence you received.

If you fail to submit such evidence, USCIS may deny your request for consideration of deferred action for childhood arrivals.

V. I-821D PART 3 INCOMPLETE

DACA 155 – FORM I-821D INCOMPLETE

You did not answer question(s) **(ISO should list the question numbers in Part 3 of the Form I-821D that the requestor did not answer)** in Part 3 of your Form I-821D, Consideration of Deferred Action for Childhood Arrivals. Therefore, you are requested to answer these question(s) on the enclosed copy of your original Form I-821D.

After you answer these questions, you must re-sign and date page four (4) of the enclosed copy of your original Form I-821D. The completed form must contain a new original signature. Attach your completed Form I-821D to this Request for Evidence and send to the address as listed on this notice.

As stated in the instructions on Part 3 of the Form I-821D, if any of the questions apply to you, please describe the circumstances and include a full explanation in Part 7 of the Form I-821D. To view the instructions of the Form I-821D, please visit the USCIS website at <http://www.uscis.gov/USCIS/files/form/i-821d.pdf> or call toll-free (800) 870-3676 to request this form by mail.

(Include a copy of the requestor's Form I-821D with the RFE)

VI. I-821D PART 3, CRIMINAL, NATIONAL SECURITY AND PUBLIC SAFETY INFORMATION AFFIRMATIVE RESPONSES POSSIBLE INELIGIBILITY ISSUES

DACA 160 – ANSWERED “YES” TO QUESTION 1 AND 2 IN PART 3 – DOCUMENTS NEEDED AND EXPLANATION

On your Consideration of Deferred Action for Childhood Arrivals (Form I-821D), you checked “Yes” to the following question(s) in Part 3, Criminal, National Security and Public Safety Information: **DELETE**

THOSE THAT DON’T APPLY

- 1. Have you been arrested for, charged with, or convicted of a felony or misdemeanor in the United States?**
- 2. Have you been arrested for, charged with, or convicted of any crime in any country other than the United States?**

You did not provide a full explanation in Part 7 of your Form I-821D describing the circumstances, as requested in the instructions on Part 3 of the Form I-821D. Therefore, please provide a full explanation describing the circumstances. **DELETE IF AN EXPLANATION WAS PROVIDED**

At this time you must provide a certified court disposition, arrest record, charging document, sentencing record, etc. for each arrest, unless disclosure is prohibited under state law within the United States. If you are unable to provide such records because your case was expunged or sealed, you must provide information about your arrest and evidence demonstrating that such records are unavailable under the law of the particular jurisdiction. The charge and disposition of each arrest must be specifically identified (not just numeric citations or codes). Additionally, if you were convicted, you may submit a copy of the pertinent statute, sentencing guide, or statement from the court clerk or police department identifying the statute under which you were convicted and the sentence you received.

If you fail to submit such evidence, USCIS may deny your request for consideration of deferred action for childhood arrivals.

DACA 161 – ANSWERED “YES” TO QUESTION 3 IN PART 3 – SUBMIT EXPLANATION

On your Consideration of Deferred Action for Childhood Arrivals (Form I-821D), you checked “Yes” to the following question in Part 3, Criminal, National Security and Public Safety Information:

- 3. Have you ever engaged in or do you continue to engage in or plan to engage in terrorist activities?**

You did not provide a full explanation in Part 7 of your Form I-821D describing the circumstances, as requested in the instructions on Part 3 of the Form I-821D.

Please provide a full and complete explanation of the terrorist activities you have ever engaged in, continue to engage in, or plan to engage in. Your explanation should include:

- Whether other people were engaged in terrorist activities with you;
- The names of the other people with whom you engaged in terrorists activities;
- The role you played in terrorist activities;
- The role that others played in terrorist activities;
- Whether you planned or actually carried out the terrorist activities;
- Whether you engaged in, continued to engage, or planned to engage in terrorist activities in the United States or abroad; and
- Describe the type of terrorist activities you engaged in, continue to engage in, or plan to engage in.

DACA 162 – ANSWERED “YES” TO QUESTION 4 IN PART 3 – SUBMIT EXPLANATION

On your Consideration of Deferred Action for Childhood Arrivals (Form I-821D), you checked “Yes” to the following question in Part 3, Criminal, National Security and Public Safety Information:

4. Are you now or have you ever been a member of a gang?

You did not provide a full explanation in Part 7 of the Form I-821D describing the circumstances, as requested in the instructions on Part 3 of the Form I-821D.

Please provide a full and complete explanation of your gang membership, including:

- When you joined the gang(s);
- How long you were a member of the gang(s);
- The name of the gang(s); and
- The criminal activities you participated in with the gang(s).

DACA163 – ANSWERED “YES” TO QUESTIONS 5a, 5b, 5c, AND 5d IN PART 3– SUBMIT EXPLANATION

On your Request for Deferred Action for Childhood Arrivals (Form I-821D) you checked “Yes” to the following question(s) in Part 3, Criminal, National Security and Public Safety Information: **DELETE THOSE THAT DON’T APPLY**

5. Have you EVER engaged in, ordered, incited, assisted, or otherwise participated in any of the following:

- a. acts involving torture, genocide, or human trafficking?**
- b. killing any person?**
- c. severely injuring a person?**
- d. any kind of sexual contact or relations with any person who was being forced or threatened?**

You did not provide a full explanation in Part 7 of the Form I-821D describing the circumstances, as requested in the instructions on Part 3 of the Form I-821D.

Please provide a full and complete explanation describing your participation in activities involving torture, genocide, human trafficking, killing any person, severely injuring any person, or any sexual contact or relations with any person who was being forced or threatened.

VII. I-821D PART 3, CRIMINAL, NATIONAL SECURITY AND PUBLIC SAFETY INFORMATION

DACA 170– ANSWERED “NO” TO QUESTIONS 1 AND 2 IN PART 3– USCIS FOUND CLEAR CHARGES OR OTHER DEROGATORY INFORMATION, SUBMIT JUDGMENT AND CONVICTION DOCUMENTS

A background check has been conducted based upon the fingerprints you provided at the Application Support Center. Your background check revealed that you were arrested on [DATE], in [JURISDICTION] and charged with [CHARGES].

Where appropriate, Service Center may also need to include the name under which the arrest took place if different from name being used by requestor on Form I-821D. If there are multiple charges, you may bullet each charge.)

At this time you must provide a certified court disposition, arrest record, charging document, sentencing record, etc. for each arrest, unless disclosure is prohibited under state law within the United States. If you are unable to provide such records because your case was expunged or sealed, you must provide

information about your arrest and evidence demonstrating that such records are unavailable under the law of the particular jurisdiction. The charge and disposition of each arrest must be specifically identified (not just numeric citations or codes). Additionally, if you were convicted, you may submit a copy of the pertinent statute, sentencing guide, or statement from the court clerk or police department identifying the statute under which you were convicted and the sentence you received.

If you fail to submit such evidence, USCIS may deny your request for consideration of deferred action for childhood arrivals.

DACA 171– ANSWERED “NO” TO QUESTIONS 1 AND 2 IN PART 3 - CRIMINAL ACTIVITY UNCLEAR TO USCIS, SUBMIT JUDGMENT AND CONVICTION DOCUMENTS

Based on a review of your case, it appears that you have some type of criminal record/interaction with law enforcement authorities. It appears that on [DATE] the following occurred:

[Provide explanation of findings, to include name of police dept. If applicable, charges if applicable, etc. NOTE: Do not inform the applicant where the information came from systems that are not our records (ex. IBIS)]

(Where appropriate, you may also need to include the name under which the arrest took place if different from name being used by the requestor on Form I-821D. If there are multiple interactions, you may bullet each interaction.)

At this time you must provide a certified court disposition, arrest record, charging document, sentencing record, etc. for each arrest, unless disclosure is prohibited under state law within the United States. If you are unable to provide such records because your case was expunged or sealed, you must provide information about your arrest and evidence demonstrating that such records are unavailable under the law of the particular jurisdiction. The charge and disposition of each arrest must be specifically identified (not just numeric citations or codes). Additionally, if you were convicted, you may submit a copy of the pertinent statute, sentencing guide, or statement from the court clerk or police department identifying the statute under which you were convicted and the sentence you received.

If you fail to submit such evidence, USCIS may deny your request for consideration of deferred action for childhood arrivals.

DACA 172– ANSWERED “NO” TO QUESTIONS 3, 4, 5a, 5b, 5c, AND 5d IN PART 3 – USCIS DISCOVERED UNCLEAR INFORMATION, SUBMIT EXPLANATION

Based on a review of your case, the following was discovered: **(Delete those that do not apply)**

- 3. you engaged in or do you continue to engage or plan to engage in terrorist activities?**
- 4. you are now or have been a member of gang?**
- 5. you engaged in, ordered, incited, assisted, or otherwise participated in any of the following:**
 - a. acts involving torture, genocide, or human trafficking?**
 - b. killing any person?**
 - c. severely injuring a person?**
 - d. any kind of sexual contact or relations with any person who was being forced or threatened?**

[Provide explanation of findings. This can include where the information was found if it is knowledge that can be shared with the requestor. NOTE: Do not inform the requestor where the information came from systems that are not our records (ex. IBIS).]

Therefore, you must submit a statement explaining and/or refuting the information/circumstances found in USCIS records. Please note that if you refute the above information, and USCIS later receives information that the above does relate to you, USCIS may terminate deferred action and you may be barred from other immigration benefits.

VIII. FORM I-765

DACA 180 – FAILURE TO SUBMIT OR COMPLETE FORM I-765WS

USCIS is unable to complete the adjudication of your Form I-765, Application for Employment Authorization, because you did not submit or complete the Form I-765WS. Please provide a response to Part 1 (Full Name), and Part 2 (Financial Information), and if applicable, Part 3 (Additional Information) of Form I-765WS to indicate whether or not you have an economic need to work and return it to the address provided within the specified time.

To obtain Form I-765WS, please visit the USCIS website at <http://www.uscis.gov/files/form/i-765ws.pdf> or call toll-free (800) 870-3676 to request this form by mail.

DACA 190 – SUBMIT PASSPORT PHOTOS

Please submit **two (2)** passport-style **color** photo(s) of [NAME] taken within 30 days of the date of this notice, which conform(s) to the specifications below. Using a pencil or felt pen, lightly print name (and Alien Registration Number, if known) on the back of each photograph.

Please do not staple through any part of the photo(s). Enclose the photo(s) in a plastic or paper envelope and staple the envelope to this notice when returning it to this office.

Passport-style photos must be 2 inches by 2 inches:

- Frame subject with full face, front view, eyes open.
- Make sure photo presents full head from top of hair to bottom of chin; height of head should measure 1 inch to 1 3/8 inch (25 mm to 35 mm).
- Center head within frame.
- Make sure eye level is between 1 1/8 inch and 1 3/8 inch (28 mm and 35 mm) from bottom of photo.
- Photograph subject against a plain white or off-white background.
- Position subject and lighting so that there are no distracting shadows on the face or background.
- Encourage subject to have a natural expression.
- Include headpieces if worn daily for religious purposes; they should not obscure or cast shadows on the eyes or any other part of the face.

For more information on photo requirements, please see the Department of State website at: <http://www.travel.state.gov/passport/pptphotos/index.html>, or contact the USCIS National Customer Service Center at 1-800-375-5283.

IX. FORM 131

DACA 200 – PROOF OF DACA

To be considered for advance parole you must submit evidence to establish that you have been granted deferred action for childhood arrivals. Submit a copy of the approval notice issued by USCIS for your Form I-821D, Consideration of Deferred Action for Childhood Arrivals.

DACA 201 – GENERAL

On [insert filing date], you filed an Application for Travel Document (Form I-131) based on an approved Form I-821D, Consideration of Deferred Action for Childhood Arrivals. Under section 212(d)(5)(A) of the Immigration and Nationality Act (INA), the Secretary of Homeland Security may, in her discretion,

parole into the United States any alien applying for admission to the United States on a case-by-case basis for urgent humanitarian reasons or significant public benefit. To assist USCIS in adjudicating your application, please provide additional information about your proposed travel, including the reasons for requesting advance parole in order to travel outside the United States. In response to this notice, you should also submit evidence in support of your request (e.g., documentation showing that your proposed travel is related to your current employment or education or a humanitarian purpose).

DACA 202 – PROOF OF EDUCATIONAL NEED

In accordance with the discretionary authority provided in section 212(d)(5)(A) of the Act, grants of advance parole to individuals granted deferred action for childhood arrivals may be made based on the need to travel abroad for educational, employment, or humanitarian purposes. You claim that you need to travel abroad for education purposes. Examples of travel abroad for education purposes include study abroad programs, school-sponsored trips abroad, or travel necessary to conduct academic research.

The evidence you submitted with your Form I-131, Application for Travel Document, to establish your need to travel abroad for education purposes is insufficient. *(ISO should list what evidence was submitted and briefly state why the evidence is insufficient. If the requestor did not submit any evidence to support his/her need to travel abroad for educational purposes, modify RFE call up accordingly).* You may still submit evidence, which may include, but is not limited to, copies of: *(ISO should delete any of the following that were already provided by the requestor)*

- A letter from the educational institution, or from an employee of the institution acting in his or her official capacity, describing the purpose of the travel, or documentation showing enrollment in a specific program or class coupled with documentary evidence showing that you will benefit from, or are required to travel for the specific program or class; or

NOTE: Travel during an academic year unrelated to academics (i.e., a vacation) is insufficient to qualify as an educational purpose.

(ISO: If the applicant did not establish the dates of travel, please include in the RFE as advance parole is valid for the duration of the event, as documented in the advance parole application. For multiple events, the advance parole is valid for the duration of all the documented events)

DACA 203 – PROOF OF HUMANITARIAN NEED

In accordance with the discretionary authority provided in section 212(d)(5)(A) of the Act, grants of advance parole to individuals granted deferred action for childhood arrivals may be made based on the need to travel abroad for educational, employment, or humanitarian purposes. You claim that you need to travel abroad for humanitarian reasons. Examples of travel abroad for humanitarian reasons include medical reasons, to visit a family member, or to attend funeral services for a family member.

The evidence you submitted with your Form I-131, Application for Travel Document, to establish your need to travel abroad for humanitarian purposes is insufficient. *(ISO should list what evidence was submitted and briefly state why the evidence is insufficient. If the requestor did not submit any evidence to support his/her need to travel abroad for humanitarian, modify RFE call up accordingly).* You may still submit evidence, which may include, but is not limited to, copies of: *(ISO should delete any of the following that were already provided by the requestor)*

- An explanation from a medical doctor on official letterhead stating the diagnosis and prognosis, and how long the treatment is expected to last;
- Information on the reasons why you cannot obtain treatment in the United States;
- An explanation from a medical doctor on official letterhead stating the diagnosis and prognosis of the family member's condition; or
- A death certificate or newspaper obituary of the family member or other document evidencing the death of the family member.

(ISO: If the applicant did not establish the dates of travel, please include in the RFE as advance parole is valid for the duration of the event, as documented in the advance parole application. For multiple events, the advance parole is valid for the duration of all the documented events)

DACA 204 – PROOF OF EMPLOYMENT NEED

In accordance with the discretionary authority provided in section 212(d)(5)(A) of the Act, grants of advance parole to individual granted deferred provided for childhood arrivals may be made based on the need to travel abroad for educational, employment, or humanitarian purposes. You claim that you need to travel abroad for employment purposes. Examples of travel abroad for employment purposes include: pursuit of a position in the United States with a foreign employer; an overseas assignment, interview, conference, or training; a meeting with overseas clients or others with whom you interact professionally; or a trip to cultivate business or sales overseas or any other overseas trip taken in furtherance of the applicant's professional responsibilities.

The evidence you submitted with your Form I-131, Application for Travel Document, to establish your need to travel abroad for employment purposes is insufficient. *(ISO should list what evidence was submitted and briefly state why the evidence is insufficient. If the requestor did not submit any evidence to support his/her need to travel abroad for employment purposes, modify RFE call up accordingly).* You may still submit evidence, which may include, but is not limited to, copies of: *(ISO should delete any of the following that were already provided by the requestor)*

- A letter on official letterhead from your employer describing the need for your travel; or
- A document showing a specific employment need, such as a conference program, that also shows your participation.

(ISO: If the applicant did not establish the dates of travel, please include in the RFE as advance parole is valid for the duration of the event, as documented in the advance parole application. For multiple events, the advance parole is valid for the duration of all the documented events)

X. ASSORTED OTHERS

DACA 300 – FOREIGN LANGUAGE DOCUMENT MUST BE ACCOMPANIED BY AN ENGLISH TRANSLATION

All foreign language documents must be accompanied by a full English language translation which the interpreter has certified as complete and accurate, and by the interpreter's certification that he or she is competent to translate from the foreign language into English. Please submit a full English translation of *(ISO should list the document(s))*. You must submit the requested foreign language document along with the translation.

DACA 301– YOU MAY SUBMIT PHOTOCOPIES

You may submit either the original documents or legible photocopies of the originals, including copies of the front and back of each document. If you choose to submit original documents, they will not be returned to you. *(Not for use when USCIS is requesting original documents.)*

DACA 302– AFFIDAVITS

Affidavits can support two of the DACA guidelines:

- Brief, casual, and innocent departures during the five years of required continuous presence in the United States: and
- Any minor gap in the five year continuous residence requirement.

In support of your DACA request, you submitted affidavits, but you did not indicate that:

- primary and secondary evidence cannot be obtained; and
- what effort you undertook to obtain that evidence.

Therefore, you are requested to provide the following:

- A written statement from the appropriate issuing authority attesting to the fact that no record exists or can be located, or that the record sought was part of some segment of records which were lost or destroyed; or
- Evidence (such as an affidavit) "that repeated good faith attempts were made to obtain the required document or record."

DACA 303A – SIGNATURE ON FORM I-821D

As stated in the Form I-821D instructions, each request must be properly signed. Part 4 of your Form I-821D, Consideration of Deferred Action for Childhood Arrivals is not properly signed because *(ISO should indicate why the form was incorrectly signed. For example, the preparer signed Part 4 instead of Part 5 of the form or the requestor is over the age of 14, but the requestor's parent or legal guardian signed Part 4)*. Therefore, a copy of your original Form I-821D is enclosed so that you can sign and date Part 4, 2.a. and 2.b. of your Form I-821D. The completed form must contain a new original signature. Attach your properly signed Form I-821D to this Request for Evidence and return to the address listed on this notice.

(Include a copy of the requestor's Form I-821D with the RFE)

DACA 303B - SIGNATURE ON FORM I-765

As stated in the Form I-765 instructions, each application must be properly signed. Form I-765, Application for Employment Authorization is not properly signed because *(ISO should indicate why the form was incorrectly signed. For example, the preparer signed the form or the requestor is over the age of 14, but the requestor's parent or legal guardian signed the signature area)*. Therefore, a copy of your original Form I-765 is enclosed so that you can sign and date. The completed form must contain a new original signature. Attach your properly signed Form I-765 to this Request for Evidence and return to the address listed on this notice.

(Include a copy of the requestor's Form I-765 with the RFE)

DACA 304 – FORM I-821D MISSING PAGE(S)

You did not submit page(s) *(ISO should list the missing page number(s))* with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals. In addition to submitting these missing pages, you must sign and date page four (4) of the Form I-821D. The completed form must contain a new original signature. Attach your completed Form I-821D to this Request for Evidence and send to the address as listed on this notice

To obtain Form I-821D, please visit the USCIS website at <http://www.uscis.gov/USCIS/files/form/i-821d.pdf> or call toll-free (800) 870-3676 to request this form by mail.

XI. ACKNOWLEDGEMENT OF WITHDRAWAL

DACA 350 FORM I-821D ACKNOWLEDGEMENT OF WITHDRAWAL

On [DATE] you filed a request for deferred action under the Secretary of Homeland Security's June 15, 2012, directive concerning Deferred Action for Childhood Arrivals. Your filing included a Form I-821D, Consideration of Deferred Action for Childhood Arrivals, a Form I-765, Application for Employment Authorization, and a Form I-765WS, Form I-765 Worksheet, together with the required filing fee.

On [DATE], you withdrew your Form I-821D. This withdrawal applies equally to the forms I-765 and I-765WS that you concurrently filed with the Form I-821D.

USCIS hereby acknowledges your withdrawal. USCIS will not take any further action on your Form I-821D or the related forms I-765 and I-765WS. If you later wish to request Consideration of Deferred Action for Childhood Arrivals, you may file a new Form I-821D concurrently with a new Form I-765 and Form I-765WS, with a new fee.

DACA 351 FORMS I-765/I-765WS ACKNOWLEDGEMENT OF WITHDRAWAL

On [DATE] you filed a request for deferred action under the Secretary of Homeland Security's June 15, 2012, directive concerning Deferred Action for Childhood Arrivals. Your filing included a Form I-821D, Consideration of Deferred Action for Childhood Arrivals, a Form I-765, Application for Employment Authorization, and a Form I-765WS, Form I-765 Worksheet, together with the required filing fee.

On [DATE], you withdrew your Form I-821D. This withdrawal applies equally to the forms I-765 and I-765WS that you concurrently filed with the Form I-821D.

USCIS hereby acknowledges your withdrawal. USCIS will not take any further action on your forms I-765 and I-765WS or the related Form I-821D. The filing fee is not refundable. If you later wish to request Consideration of Deferred Action for Childhood Arrivals, you may file a new Form I-821D concurrently with a new Form I-765 and Form I-765WS, with a new fee.

Appendix D

DEFERRED ACTION FOR CHILDHOOD ARRIVALS RFE CALL-UPS

NOTE: Text highlighted in **YELLOW** and bracketed by [] is hidden text that requires ISO input. The ISO should delete the highlighted bracketed **[Text]** and type in the necessary information, or choose the appropriate information from choices and delete the information that does not apply. Text only highlighted in **YELLOW** and not bracketed is directive in nature and should not be printed in the letter being sent but should be deleted. Please mix call-ups into a single RFE as needed.

NOTE: Please add call-ups **DACA 300 – FOREIGN LANGUAGE DOCUMENT MUST BE ACCOMPANIED BY AN ENGLISH TRANSLATION** and **DACA 301 – YOU MAY SUBMIT PHOTOCOPIES** to any other call-ups below as needed.

I. GUIDELINES

DACA 100 – IDENTITY

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to prove your identity is insufficient (*ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly*). You may still submit evidence, which may include, but is not limited to, copies of: (*ISO should delete any of the following that were already provided by the requestor*)

- Passport;
- Birth certificate accompanied by photo identification;
- Any national identity documents from your country of origin bearing your photo and/or fingerprint;
- Any U.S.-government immigration or other document bearing your name and photograph (e.g., Employment Authorization Documents (EADs), expired visas, driver's licenses, non-driver cards, etc.);
- Any school-issued form of identification with photo;
- Military identification document with photo;
- **State-issued photo ID showing date of birth;** or
- Any other document that you believe is relevant.

Expired documents are acceptable.

DACA 101 – CONTINUOUS RESIDENCE

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to establish that you have continuously resided in the United States during the 5-year period immediately before June 15, 2012 and up to the time of filing is insufficient. (*ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly*). You may still submit evidence, which may include, but is not limited to, copies of: (*ISO should delete any of the following that were already provided by the requestor*)

- a. Employment records (e.g., pay stubs, W-2 Forms, Federal and State income tax returns, letters from employer(s), or, if you are self employed, letters from banks and other firms with whom you have done business);

NOTE: In all of these documents, your name and the name of the employer or other interested organization must appear on the form or letter, as well as relevant dates. Letters from employers must be signed by the employer and must include the employer's contact information.

Such letters must include: **(1)** your address(es) at the time of employment; **(2)** the exact period(s) of employment; **(3)** period(s) of layoff; and **(4)** duties with the company.

- b. Rent receipts, utility bills (gas, electric, phone, etc.), receipts or letters from companies showing the dates during which you received service;
- c. School records (transcripts, letters, report cards, etc.) from the schools that you have attended in the United States, showing the name(s) of the schools and periods of school attendance;
- d. Military records (e.g., Form DD-214, Certificate of Release or Discharge from Active Duty; NGB Form 22, National Guard Report of Separation and Record of Service; military personnel records; or military health records);
- e. Hospital or medical records concerning treatment or hospitalization, showing the name of the medical facility or physician and the date(s) of the treatment or hospitalization;
- f. Official records from a religious entity in the United States confirming your participation in a religious ceremony, rite, or passage (e.g., baptism, first communion, wedding, etc.);
- g. Money order receipts for money sent into or out of the country; passport entries; birth certificates of children born in the United States; dated bank transactions; correspondence between you and another person or organization; U.S. Social Security card; Selective Service card; automobile license receipts, title, vehicle registration, etc.; deeds, mortgages, rental agreements, contracts to which you have been a party; tax receipts; insurance policies; receipts; postmarked letters; or
- h. Any other relevant document.

*(ISO: Add the appropriate language below to the RFE if any of the questions on page 3 (Part 2, Arrival/Residence Information) of the Form I-821D are blank **OR** if page 3 of the Form I-821D is missing.)*

In addition, you did not answer question(s) *(ISO should list the questions on page 3 (Part 2, Arrival/Residence Information) of the Form I-821D that were not answered)* in Part 2, Arrival/Residence Information, of your Form I-821D, Consideration of Deferred Action for Childhood Arrivals. Therefore, you are requested to answer these question(s) on the enclosed copy of your original Form I-821D.

Please re-sign and date page four (4) of the completed form; the completed form must contain a new original signature. Attach your completed Form I-821D to this Request for Evidence and send to the address as listed on this notice.

(Include a copy of the requestor's Form I-821D with the RFE)

OR

In addition, you did not submit page three (3) with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals. Therefore, you are requested to complete the enclosed page three (3) of the form.

Also enclosed is a copy of your original Form I-821D. Please re-sign and date page four (4) of the completed form; the completed form must contain a new original signature. Attach your completed Form I-821D to this Request for Evidence and send to the address as listed on this notice.

(Include a copy of the requestor's Form I-821D and a blank page 3 of the form with the RFE)

DACA 102 - BRIEF, CASUAL, AND INNOCENT ABSENCE

To be considered for deferred action as a childhood arrival, you must have continuously resided in the United States during the 5 years period immediately before June 15, 2012 and up to the date you filed your request for deferred action. A brief, casual, and innocent absence from the United States will not interrupt your continuous residence.

An absence will be considered brief, casual, and innocent, if:

- (1) The absence was short and reasonably calculated to accomplish the purpose of the absence;
- (2) The absence was not the result of an order of exclusion, deportation, or removal;
- (3) The absence was not because of an order of voluntary departure, or an administrative grant of voluntary departure before the requestor was placed in exclusion, deportation, or removal proceedings; and
- (4) The purpose of the absence from the United States or actions while outside of the United States were not contrary to law.

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, for each departure you made from the United States since June 15, 2007 to show that each departure you made from the United States since June 15, 2007 was brief, casual, and innocent is insufficient. *(ISO should list what evidence was submitted and briefly state why the evidence is insufficient. If the requestor did not submit any evidence, modify RFE call up accordingly)*. You may still submit evidence, which may include, but is not limited to, copies of: *(ISO should delete any of the following that were already provided by the requestor)*

- Plane or other transportation tickets or itinerary showing the travel dates;
- Passport entries;
- Hotel receipts showing the dates you were abroad;
- Evidence of the purpose of the travel (e.g., you attended a wedding or funeral);
- Advance parole document; or
- Any other evidence that could support a brief, casual, and innocent absence.

DACA 103 – ARRIVED IN THE UNITED STATES BEFORE AGE 16

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to establish that you came to the United States prior to your 16th birthday is insufficient. *(ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly)*. You may still submit evidence, which may include, but is not limited to, copies of: *(ISO should delete any of the following that were already provided by the requestor)*

- Passport with an admission stamp indicating when you entered the United States;
- I-94/I-95/I-94W Arrival/Departure Record;
- Any INS or DHS document stating your date of entry (e.g., Form I-862, Notice to Appear);
- Travel records, such as transportation tickets showing your dates of travel to the United States;
- School records (transcripts, report cards, etc.) from the schools that you have attended in the United States, showing the name(s) of the schools and the periods of school attendance;
- Hospital or medical records concerning treatment or hospitalization, showing the name of the medical facility or physician and the date(s) of the treatment or hospitalization;
- Official records from a religious entity in the United States confirming your participation in a religious ceremony, rite, or passage (e.g., baptism, first communion, wedding, etc.); or
- Any other document that you believe is relevant.

DACA 104A –IN UNLAWFUL STATUS ON JUNE 15, 2012

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to show that you were in unlawful status on June 15, 2012 is insufficient. *(ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly)*. You may still submit evidence, which may include, but is not limited to, copies of: *(ISO should delete any of the following that were already provided by the requestor)*

- I-94/I-95/I-94W Arrival/Departure Record showing the date your authorized stay expired;
- If you have a final order of exclusion, deportation, or removal issued on or before June 15, 2012, submit a copy of that order and related charging documents, if available;
- An INS or DHS charging document placing you into removal proceedings;
- Any other document that you believe is relevant to show that you lacked lawful immigration status on June 15, 2012; or
- Any document relating to parole.

DACA 104B –STUDENT IN UNLAWFUL STATUS ON JUNE 15, 2012

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to show that you were in unlawful status on June 15, 2012 is insufficient. *(ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly)*. You may still submit evidence, which may include, but is not limited to, copies of: *(ISO should delete any of the following that were already provided by the requestor)*

- I-94/I-95/I-94W Arrival/Departure Record showing the date your authorized stay expired;
- If you have a final order of exclusion, deportation, or removal issued on or before June 15, 2012, submit a copy of that order and related charging documents, if available;
- An INS or DHS charging document placing you into removal proceedings;
- Copies of your transcripts showing your student status from (ISO should insert dates);
- Copies of all properly completed old I-120AB/I-20ID forms or new SEVIS I-20 forms (required since August 1, 2003) for all schools attended;
- Proof of reinstatement;
- Any other document that you believe is relevant to show that you lacked lawful immigration status on June 15, 2012;
- Any document relating to parole.

DACA 105 – PROOF OF PRESENCE IN THE UNITED STATES ON JUNE 15, 2012

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to show that you were present in the United States on June 15, 2012 is insufficient. *(ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly)*. You may still submit evidence, which may include, but is not limited to, copies of: *(ISO should delete any of the following that were already provided by the requestor)*

- a. Employment records (e.g., pay stubs, W-2 Forms, Federal and State income tax returns, letters from employer(s), or, if you are self employed, letters from banks and other firms with whom you have done business).

NOTE: In all of these documents, your name and the name of the employer or other interested organization must appear on the form or letter, as well as relevant dates. Letters from employers must be signed by the employer and must include the employer’s contact information.

Such letters must include: (1) your address(es) at the time of employment; (2) the exact period(s) of employment; (3) period(s) of layoff; and (4) duties with the company.

- b. Rent receipts, utility bills (gas, electric, phone, etc.), receipts or letters from companies showing the dates during which you received service.
- c. School records (transcripts, letters, report cards, etc.) from the schools that you have attended in the United States, showing the name(s) of the schools and periods of school attendance.
- d. Military records (e.g., Form DD-214, Certificate of Release or Discharge from Active Duty; NGB Form 22, National Guard Report of Separation and Record of Service; military personnel records; or military health records).
- e. Hospital or medical records concerning treatment or hospitalization, showing the name of the medical facility or physician and the date(s) of the treatment or hospitalization.
- f. Official records from a religious entity in the United States confirming your participation in a religious ceremony, rite, or passage (e.g., baptism, first communion, wedding, etc.).
- g. Money order receipts for money sent into or out of the country; passport entries; birth certificates of children born in the United States; dated bank transactions; correspondence between you and another person or organization; U.S. Social Security card; Selective Service card; automobile license receipts, title, vehicle registration, etc.; deeds, mortgages, contracts to which you have been a party; tax receipts; insurance policies; receipts; postmarked letters; or
- h. Any other relevant document.

DACA 106 – CURRENTLY ENROLLED IN SCHOOL

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, showing that you have been accepted for enrollment or are already attending classes in one of the following is insufficient:

- A public or private elementary, junior high/middle school or high school/secondary school;
- A public or private college or university, or community college;
- A course of study to pass a General Education Development (GED) Certificate exam or other State-authorized exam;
- An educational or career training program (including vocational training);
- Literacy training; or
- An English as a Second Language (ESL) program.

(ISO should list what evidence was submitted and briefly state why the evidence is insufficient. If the documents provided by the requestor are incomplete (i.e. no identifying information) or illegible, the ISO should note this in the RFE. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly)

You may still submit evidence, which may include the following: *(ISO should delete any of the following that were already provided by the requestor)*

- **A public or private elementary, junior high/middle school or high school/secondary school;**
Such evidence may include, but is not limited to:
 - If accepted for enrollment, but classes have not yet commenced:
 - An acceptance letter on school letterhead from the school's authorized representative. Such acceptance letter is to include the name and address of the school, your grade level, and the date that classes are scheduled to commence. The letter is to be accompanied by evidence that the student has registered for classes, or other evidence showing the student has accepted the offer and has committed to start classes on a certain date;
 - A current individualized education program (IEP), as required under the Individuals with Disabilities Education Act, if you have a disability;

- A current class schedule containing the student's name, the list of courses, and the day and time of each class; or
 - Any other relevant evidence.
- If already enrolled – Current school registration cards; current transcripts; report cards; progress reports showing the name of the school, the time period or semester covered by the document, and the current grade; or a current IEP showing your process to date.
- **A public or private college or university, or community college;**
Such evidence may include, but is not limited to:
 - If accepted for enrollment, but classes have not yet commenced:
 - An acceptance package or related material on school letterhead from the school's authorized representative. Such acceptance package or related material is to include the name and address of the school, your grade level or class year, and the date or term when classes are scheduled to commence. In addition, the acceptance package or related material is to be accompanied by evidence that the student has registered for classes, or other evidence showing the student has accepted the offer and has committed to start classes on a certain date;
 - A current individualized education program (IEP), as required under the Individuals with Disabilities Education Act, if you have a disability;
 - A copy of your current tuition bill;
 - A current class schedule containing your name, the list of courses, and the day and time of each class; or
 - Any other relevant evidence.
 - If already enrolled – Current school registration cards; current transcripts; report cards; progress reports showing the name of the school, the time period or semester covered by the document, and the current grade or class year; or a current IEP showing your process to date.
- **A course of study to pass a General Education Development (GED) Certificate exam or other equivalent State-authorized exam;**
Such evidence is to include a letter from the authorized representative of the program that includes information such as:
 - Your name and date of enrollment;
 - The duration of the program and expected completion date;
 - Whether the course of study is for a regular high school diploma or recognized equivalent under State law or a GED exam or other equivalent State-authorized exam;
 - The program's source and amount of funding; and
 - The program's authorized representative's contact information.
- **An educational or career training program (including vocational training);**
Such evidence may include, but is not limited to:
 - If accepted for enrollment, but classes have not yet commenced:
 - An acceptance letter on school letterhead from the school registrar/authorized school representative. Such acceptance letter is to include the name and address of the program, a brief description of the program, the duration of the program, and state when the classes are scheduled to commence. The letter is to be accompanied by evidence that the student has registered for the program;
 - A copy of your current year registration (intake form/enrollment form); or
 - Any other relevant documentation.
 - If already attending classes– Current transcripts, report cards, or progress reports showing the name of the school, the time period or semester covered by the document, and if relevant, the current educational or grade level.
- **Literacy training; or**
Such evidence is to include a letter from the literacy program administrator or authorized representative providing information such as:

- Your name;
 - The date of your enrollment;
 - The duration of the literacy program and the expected completion date; and
 - The program administrator or authorized representative's contact information.
- **An English as a Second Language (ESL) program.**

Such evidence is to include a letter from the ESL program administrator or authorized representative. This letter is to include the following:

 - Your name;
 - The date of your enrollment;
 - The duration of the ESL program and the expected completion date;
 - The program administrator or authorized representative's contact information.

DACA 106A – EVIDENCE OF ACCEPTANCE BUT NO EVIDENCE OF REGISTERING FOR CLASSES:

You have provided an acceptance letter or other related material indicating that you have been accepted at *(ISO should list the name of the private elementary/junior high/middle school/high school/secondary school or public or private college/university/community college)*. However, you did not include evidence that you have enrolled in that school. Therefore, you are requested to submit such evidence which is to include, but is not limited to paid tuition bills or evidence that you have registered for class at that school.

DACA 106B – LITERACY PROGRAM'S NON-PROFIT STATUS

If the literacy program in which you are enrolled has non-profit status, please provide evidence of such status. Evidence of the literacy program's non-profit status is to include a copy of a valid letter from the Internal Revenue Service confirming exemption from taxation under section 501(c)(3) of the Internal Revenue Service Code of 1986, as amended, or equivalent section of prior code.

DACA 106C –PUBLIC FUNDING (GED; Educational or Career Training Program (Including Vocational Training); ESL)

If the *(ISO should insert GED; Educational or Career Training Program (Including Vocational Training); Literacy Program; or English as a Second Language)* in which you are enrolled is funded in whole or in part by public funds (Federal, State, county or municipal), you are requested to submit a letter from the *(ISO should insert GED program administrator/authorized representative; school registrar/authorized school representative if requestor is enrolled in Career Training Program (Including Vocational Training); literacy program administrator/authorized representative; or ESL program administrator/authorized representative)* providing basic details about the funding, such as the source(s) of the funding.

DACA 106D – PUBLIC FUNDING – (Literacy Program)

If the literacy program in which you are enrolled is not funded in whole or in part by public funds (Federal, State, county, or municipal) or not administered by a non-profit entity you are requested to submit a letter from the program administrator or authorized representative providing basic details about the funding, such as the amount and the source(s) of the funding.

DACA 106E – DEMONSTRATED EFFECTIVENESS (GED; Educational or Career Training Program (Including Vocational Training); Literacy Program; ESL)

(ISO should select the correct RFE paragraph below depending upon the program in which the request is enrolled)

Your record shows that the **GED/Equivalency program**, in which you are enrolled, is not publicly funded (Federal, State, county, or municipal) in whole or in part. Therefore, you are requested to submit information from the GED program administrator/authorized representative relating to the program's demonstrated effectiveness. Such information can include, but is not limited to:

- The duration of the program's existence;

- The program's track record in assisting students in obtaining a regular high school diploma, GED, or a recognized equivalent certificate, or passing a GED or recognized equivalent exam;
- Receipt of awards or special achievement or recognition, that indicate the program's overall quality; and/or
- Any other relevant information indicating the program's overall quality.

Your record shows that the **educational or career training program (including vocational training)**, in which you are enrolled, is not publicly funded (Federal, State, county, or municipal) in whole or in part. Therefore, you are requested to submit information, with supporting documentation, if available, from the school registrar/authorized representative relating to the program's demonstrated effectiveness. Such information can include, but is not limited to:

- The duration of the program's existence;
- The program's track record in placing students in employment, job training, or post-secondary education; and
- Receipt of awards or special achievement or recognition, that indicate the program's overall quality; and/or
- Any other relevant information indicating the program's overall quality.

Your record shows that the **literacy program** in which you are enrolled, is not publicly funded (Federal, State, county, or municipal) in whole or in part. Therefore, you are requested to submit information from the literacy program administrator/authorized representative relating to the program's demonstrated effectiveness. Such information can include, but is not limited to:

- The duration of the program's existence;
- The program's track record in placing students in post-secondary education, job training programs, or employment; and
- Receipt of awards or special achievement or recognition, that indicate the program's overall quality; and/or
- Any other relevant information indicating the program's overall quality.

Your record shows that the **English as a Second Language (ESL)** program in which you are enrolled is not publicly funded (Federal, State, county, or municipal) in whole or in part. Therefore, you are requested to submit information from the ESL program administrator/authorized representative relating to the program's demonstrated effectiveness. Such information can include, but is not limited to:

- The length of the program's existence;
- The program's track record in assisting students in obtaining placement in postsecondary schools, job training programs, or employment; and
- Receipt of awards or special achievement or recognition, that indicate the program's overall quality; and/or
- Any other relevant information indicating the program's overall quality.

DACA 106F– GRADUATED FROM SCHOOL

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to show that you graduated or obtained a General Educational Development (GED) Certificate or equivalent State authorized exam in the United States is insufficient (*ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the documents provided by the requestor are incomplete (i.e. no identifying information) or illegible, the ISO should note this in the RFE. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly*). You may still submit evidence, which may include, but is not limited to, copies of: (*ISO should delete any of the following that were already provided by the requestor*)

- A diploma;
- Transcripts showing the date of graduation; or
- A GED certificate, certificate of completion, certificate of attendance, or alternate award from a public or private high school or secondary school.

Documentation sufficient to demonstrate that you obtained a GED includes, but is not limited to, evidence you passed a GED exam, or other comparable State-authorized exam, and, as a result, you received the recognized equivalent of a regular high school diploma under State law.

DACA 107 – MEDICAL LEAVE

You indicate in your filing that you are currently on medical leave from school. Therefore, you are requested to submit evidence of your medical leave and indicate the date you expect to return to school. Evidence of your medical leave may include, but is not limited to, an explanation from a medical doctor on official letterhead stating the diagnosis and prognosis, and how long your treatment is expected to last.

DACA 108 - MILITARY

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to show that you are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States is insufficient. *(ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly).* You may still submit evidence, which may include, but is not limited to, copies of: *(ISO should delete any of the following that were already provided by the requestor)*

- Form DD-214, Certificate of Release or Discharge from Active Duty;
- NGB Form 22, National Guard Report of Separation and Record of Service;
- Military personnel records; or
- Military health records.

DACA 109- REMOVAL PROCEEDINGS

Submit documents that you have been issued an order of exclusion, deportation or removal. Such documentation could include copies of:

- Any removal, deportation, or exclusion order issued by an Immigration Judge;
- Final decision from the Board of Immigration Appeals (BIA); or
- Final decision from a U.S. Court of Appeals in your case.

II. APPLICATION SUPPORT CENTER (ASC) RELATED

DACA 130 – SCHEDULE ASC APPOINTMENT

Your request cannot be processed until you have appeared at an Application Support Center (ASC) for the collection of a digital photograph, signature, and fingerprint(s). Our records indicate that you have not yet appeared at an ASC for this purpose. *Follow the instructions on the appointment notice for biometrics capture [enclosed with this notice/that will be mailed to you separately].* Additional information regarding the location of the ASC can be found on the USCIS web site at www.USCIS.gov. Please bring this notice with you to your appointment.

If you have appeared at an ASC for biometrics capture, please return this notice to the address below with the appointment information.

Date of Appointment: _____

Location of Appointment: _____

DACA 131 – RESCHEDULE ASC APPOINTMENT (TECHNICAL DIFFICULTIES)

Our records indicate that you have already appeared at an Application Support Center (ASC) as previously scheduled. However, due to technical problems, your previously-acquired biometrics from the ASC cannot be used.

[USCIS will mail a separate notice to you containing information for a new appointment for biometrics capture at the ASC nearest you/Follow the instructions of the enclosed appointment for biometrics capture at the ASC nearest you.] Additional information regarding the location of the ASC can be found on the USCIS web site at www.USCIS.gov. Please bring this notice with you to your appointment in addition to any other required documents as stated in the new appointment notice.

We sincerely regret any inconvenience this has caused you.

III. NAME, DATE OF BIRTH DISCREPANCY

DACA 140 – DATE OF BIRTH DISCREPANCY

USCIS records indicate that you were born on [DATE]. You indicated on your request for consideration of deferred action for childhood arrivals that you were born on [DATE]. Submit documentary evidence to establish your true date of birth. Such evidence may include your birth certificate and/or passport. If you submit a copy of your birth certificate, you must submit copies of the front and back (if there is information on the back).

DACA 142 – NAME CHANGE/DISCREPANCY

USCIS records and/or evidence you submitted indicate that your name is [NAME]. You indicated on your request for consideration of deferred action for childhood arrivals that your name is [NAME]. Submit documentary evidence to establish your true name. Such evidence may include a birth certificate, adoption records, marriage certificate, passport, or government documentation showing that you have officially changed your name.

DACA143 – SUBMIT EVIDENCE OF NAME CHANGE

Submit proof of your name change. Such proof would normally be a marriage certificate, termination of marriage (divorce or annulment decree), adoption decree, or court order.

IV. FINGERPRINTING / CRIMINALITY

DACA 150A – 2 UNCLASSIFIABLE PRINTS – SUBMIT LOCAL POLICE CLEARANCES

To date, you have been fingerprinted twice and USCIS has been unable to get a required clearance for you because both sets of fingerprints were rejected as unclassifiable by the Federal Bureau of Investigation. Instead of a fingerprint clearance, you must submit a local police clearance certificate for each jurisdiction (city, town, county, or municipality) in which you have lived for six months or more within the past five years.

Please note: The police clearance certificate(s) must be researched by name and date of birth. You must supply the law enforcement agency with all aliases you have used, including maiden name, if applicable. Fingerprint cards are not acceptable evidence of a police clearance certificate.

If any record indicates that you have been arrested, you must provide documentation of each of the following:

- a. The final disposition (your sentence, probation, dismissal, etc.) of **every** charge against you. The charge and disposition must be specifically identified (not merely numeric citations or codes).
- b. If you were convicted of **any** charge, you must also provide evidence showing whether the charge for which you were convicted was classified as a **felony or misdemeanor**. You may submit a

copy of the pertinent statute, sentencing guidelines, and/or statement from the court clerk or police department for this purpose.

Along with the above information, you must also answer the following questions. You should respond on this notice and sign your name where it asks for your signature. If more space is needed, you may respond to the following questions on separate sheet(s) of paper. Please sign every separate sheet of paper.

- 1) Have you ever been arrested or detained by a law enforcement officer? If yes, please explain.

Answer: _____

- 2) Have you had your fingerprints taken for any reason by a law enforcement officer for a criminal offense? If yes, please explain.

Answer: _____

- 3) Have you been issued a ticket or been taken into custody by a law enforcement officer? If yes, please explain.

Answer: _____

- 4) Have you ever been ordered by a court to: pay a fine; serve a probationary sentence; perform community service; make restitution; or have your wages garnished (e.g., for failure to make child support payments)? If yes, please explain.

Answer: _____

- 5) Have you ever received an expungement, parole, pardon, or successfully completed a diversion or rehabilitation program? If yes, please explain.

Answer: _____

I certify, under penalties of perjury under the laws of the United States of America, that the foregoing is true and correct. Furthermore, I authorize the release from my records that USCIS needs to determine my eligibility for deferred action of childhood arrivals.

Signature of Requestor: _____

DACA 150B – FINGERPRINT WAIVER 1603

The ASC granted a fingerprint waiver on your case, and provided you with a Police Clearance Notice instructing you to obtain police clearances and arrest reports (if any) for every U.S. residence during the past (5) five years.

Please note: The police clearance certificate(s) must be researched by name and date of birth. You must supply the law enforcement agency with all aliases you have used, including maiden name, if applicable. Fingerprint cards are not acceptable evidence of a police clearance certificate.

If any record indicates that you have been arrested, you must provide documentation of each of the following:

- a. The final disposition (your sentence, probation, dismissal, etc.) of **every** charge against you. The charge and disposition must be specifically identified (not merely numeric citations or codes).
- b. If you were convicted of **any** charge, you must also provide evidence showing whether the charge for which you were convicted was classified as a **felony or misdemeanor**. You may submit a copy of the pertinent statute, sentencing guidelines, and/or statement from the court clerk or police department for this purpose.

Along with the above information, you must also answer the following questions. You should respond on this notice and sign your name where it asks for your signature. If more space is needed, you may respond to the following questions on separate sheet(s) of paper. Please sign every separate sheet of paper.

- 1) Have you ever been arrested or detained by a law enforcement officer? If yes, please explain.

Answer: _____

- 2) Have you had your fingerprints taken for any reason by a law enforcement officer for a criminal offense? If yes, please explain.

Answer: _____

- 3) Have you been issued a ticket or been taken into custody by a law enforcement officer? If yes, please explain.

Answer: _____

- 4) Have you ever been ordered by a court to: pay a fine; serve a probationary sentence; perform community service; make restitution; or have your wages garnished (e.g., for failure to make child support payments)? If yes, please explain.

Answer: _____

- 5) Have you ever received an expungement, pardon, or successfully completed a diversion or rehabilitation program? If yes, please explain.

Answer: _____

I certify, under penalties of perjury under the laws of the United States of America, that the foregoing is true and correct. Furthermore, I authorize the release from my records that USCIS needs to determine my eligibility for deferred action of childhood arrivals.

Signature of Requestor: _____

DACA 151– SUBMIT JUDGMENT AND CONVICTION DOCUMENTS

A background check has been conducted based upon the fingerprints you provided at the Application Support Center. Your criminal history check has revealed that you were arrested on [DATE], in [JURISDICTION] and charged with [CHARGES].

(Where appropriate, Service Center may also need to include the name under which the arrest took place if different from name being used by requestor on Form I-821D. If there are multiple charges, you may bullet each charge.)

You must provide certified judgment and conviction/disposition documents from the court(s) for all of your arrests, including but not limited to, the charges listed above. If you are unable to provide such records because your case was expunged or sealed, you must provide information about your arrest and evidence demonstrating that such records are unavailable under the law of the particular jurisdiction. The certified judgment and conviction/disposition documents must address the following:

- a. The final disposition (*e.g.*, your sentence, probation, dismissal, etc.) of every charge against you. The charge and disposition must be specifically identified (not just numeric citations or codes).
- b. If you were convicted, you must also provide evidence showing whether the charge for which you were convicted was classified as a felony, misdemeanor or other type of offense. Please submit a copy of the pertinent statute, sentencing guide, or statement from the court clerk or police department for this purpose.

If you fail to submit such evidence, USCIS may deny your request for consideration of deferred action for childhood arrivals.

V. I-821D PART 3 INCOMPLETE

DACA 155 – FORM I-821D INCOMPLETE

You did not answer question(s) **(ISO should list the question numbers in Part 3 of the Form I-821D that the requestor did not answer)** in Part 3 of your Form I-821D, Consideration of Deferred Action for Childhood Arrivals. Therefore, you are requested to answer these question(s) on the enclosed copy of your original Form I-821D.

As stated in the instructions on Part 3 of the Form I-821D, if any of the questions apply to you, please describe the circumstances and include a full explanation in Part 7 of the Form I-821D. Re-sign and date page four (4) of the completed form; the completed form must contain a new original signature. Attach your completed Form I-821D to this Request for Evidence and send to the address as listed on this notice.

(Include a copy of the requestor's Form I-821D with the RFE)

VI. I-821D PART 3, CRIMINAL, NATIONAL SECURITY AND PUBLIC SAFETY INFORMATION AFFIRMATIVE RESPONSES POSSIBLE INELIGIBILITY ISSUES

DACA 160 – ANSWERED “YES” to QUESTION 1 AND 2 IN PART 3 –DOCUMENTS NEEDED AND EXPLANATION

On your Consideration of Deferred Action for Childhood Arrivals (Form I-821D), you checked “Yes” to the following question(s) in Part 3, Criminal, National Security and Public Safety Information: **DELETE THOSE THAT DON’T APPLY**

- 1. Have you been arrested for, charged with, or convicted of a felony or misdemeanor in the United States?**
- 2. Have you been arrested for, charged with, or convicted of any crime in any country other than the United States?**

You did not provide a full explanation in Part 7 of your Form I-821D describing the circumstances, as requested in the instructions on Part 3 of the Form I-821D. Therefore, please provide a full explanation describing the circumstances. **DELETE IF AN EXPLANATION WAS PROVIDED**

You must provide certified judgment and conviction/*disposition* documents from the court(s) for all of your arrests, including but not limited to, the charges listed above. *If you are unable to provide such records because your case was expunged or sealed, you must provide information about your arrest and evidence demonstrating that such records are unavailable under the law of the particular jurisdiction.* The certified judgment and conviction/*disposition* documents must address the following:

- a. The final disposition (*e.g.*, your sentence, probation, dismissal, etc.) of every charge against you. The charge and disposition must be specifically identified (not just numeric citations or codes).
- b. If you were convicted, you must also provide evidence showing whether the charge for which you were convicted was classified as a felony, misdemeanor, or some other type of offense. You may submit a copy of the pertinent statute, sentencing guide, or statement from the court clerk or police department for this purpose.

If you fail to submit such evidence, USCIS may deny your request for consideration of deferred action for childhood arrivals.

DACA 161 – ANSWERED “YES” TO QUESTION 3 IN PART 3 – SUBMIT EXPLANATION

On your Consideration of Deferred Action for Childhood Arrivals (Form I-821D), you checked “Yes” to the following question in Part 3, Criminal, National Security and Public Safety Information:

- 3. Have you ever engaged in or do you continue to engage in or plan to engage in terrorist activities?**

You did not provide a full explanation in Part 7 of your Form I-821D describing the circumstances, as requested in the instructions on Part 3 of the Form I-821D.

Please provide a full and complete explanation of the terrorist activities you have ever engaged in, continue to engage in, or plan to engage in. Your explanation should include:

- Whether other people were engaged in terrorist activities with you;
- The names of the other people with whom you engaged in terrorists activities;
- The role you played in terrorist activities;
- The role that others played in terrorist activities;

Whether you planned or actually carried out the terrorist activities;
Whether you engaged in, continued to engage, or planned to engage in terrorist activities in the United States or abroad; and
Describe the type of terrorist activities you engaged in, continue to engage in, or plan to engage in.

DACA 162 – ANSWERED “YES” TO QUESTION 4 IN PART 3 – SUBMIT EXPLANATION

On your Consideration of Deferred Action for Childhood Arrivals (Form I-821D), you checked “Yes” to the following question in Part 3, Criminal, National Security and Public Safety Information:

4. Are you now or have you ever been a member of a gang?

You did not provide a full explanation in Part 7 of the Form I-821D describing the circumstances, as requested in the instructions on Part 3 of the Form I-821D.

Please provide a full and complete explanation of your gang membership, including:

- When you joined the gang(s);
- How long you were a member of the gang(s);
- The name of the gang(s); and
- The criminal activities you participated in with the gang(s).

DACA163 – ANSWERED “YES” TO QUESTIONS 5a, 5b, 5c, AND 5d IN PART 3– SUBMIT EXPLANATION

On your Request for Deferred Action for Childhood Arrivals (Form I-821D) you checked “Yes” to the following question(s) in Part 3, Criminal, National Security and Public Safety Information: **DELETE THOSE THAT DON’T APPLY**

5. Have you EVER engaged in, ordered, incited, assisted, or otherwise participated in any of the following:

- a. acts involving torture, genocide, or human trafficking?
- b. killing any person?
- c. severely injuring a person?
- d. any kind of sexual contact or relations with any person who was being forced or threatened?

You did not provide a full explanation in Part 7 of the Form I-821D describing the circumstances, as requested in the instructions on Part 3 of the Form I-821D.

Please provide a full and complete explanation describing your participation in activities involving torture, genocide, human trafficking, killing any person, severely injuring any person, or any sexual contact or relations with any person who was being forced or threatened.

VII. I-821D PART 3, CRIMINAL, NATIONAL SECURITY AND PUBLIC SAFETY INFORMATION

DACA 170– ANSWERED “NO” TO QUESTIONS 1 AND 2 IN PART 3– USCIS FOUND CLEAR CHARGES OR OTHER DEROGATORY INFORMATION, SUBMIT JUDGMENT AND CONVICTION DOCUMENTS

A background check has been conducted based upon the fingerprints you provided at the Application Support Center. Your background check revealed that you were arrested on [DATE], in [JURISDICTION] and charged with [CHARGES].

Where appropriate, Service Center may also need to include the name under which the arrest took place if different from name being used by requestor on Form I-821D. If there are multiple charges, you may bullet each charge.)

You must provide certified judgment and conviction/[disposition](#) documents from the court(s) for all of your arrests, including but not limited to, the charges listed above. [If you are unable to provide such records because your case was expunged or sealed, you must provide information about your arrest and evidence demonstrating that such records are unavailable under the law of the particular jurisdiction.](#) The certified judgment and conviction/[disposition](#) documents must address the following:

- a. The final disposition (your sentence, probation, dismissal, etc.) of every charge against you. The charge and disposition must be specifically identified (not just numeric citations or codes).
- b. If you were convicted, you must also provide evidence showing whether the charge for which you were convicted was classified as a felony or misdemeanor. You may submit a copy of the pertinent statute, sentencing guide, or statement from the court clerk or police department for this purpose.

If you fail to submit such evidence, USCIS may deny your request for consideration of deferred action for childhood arrivals.

DACA 171– ANSWERED “NO” TO QUESTIONS 1 AND 2 IN PART 3 - CRIMINAL ACTIVITY UNCLEAR TO USCIS, SUBMIT JUDGMENT AND CONVICTION DOCUMENTS

Based on a review of your case, it appears that you have some type of criminal record/interaction with law enforcement authorities. It appears that on **[DATE]** the following occurred:

[Provide explanation of findings, to include name of police dept. If applicable, charges if applicable, etc. NOTE: Do not inform the applicant where the information came from systems that are not our records (ex. IBIS)]

(Where appropriate, you may also need to include the name under which the arrest took place if different from name being used by the requestor on Form I-821D. If there are multiple interactions, you may bullet each interaction.)

Submit a statement explaining the results of this interaction with law enforcement authorities. You must provide certified judgment and conviction/[disposition](#) documents from the court(s) for all of your arrests, including but not limited to, the charges listed above. [If you are unable to provide such records because your case was expunged or sealed, you must provide information about your arrest and evidence demonstrating that such records are unavailable under the law of the particular jurisdiction.](#) The certified judgment and conviction/[disposition](#) documents must address the following:

- a. The final disposition (your sentence, probation, dismissal, etc.) of every charge against you. The charge and disposition must be specifically identified (not just numeric citations or codes).
- b. If you were convicted of any charge, you must also provide evidence showing whether the charge for which you were convicted was classified as a felony or misdemeanor. You may submit a copy of the pertinent statute, sentencing guide, or statement from the court clerk or police department for this purpose.

If you fail to submit such evidence, USCIS may deny your request for consideration of deferred action for childhood arrivals.

DACA 172– ANSWERED “NO” TO QUESTIONS 3, 4, 5a, 5b, 5c, AND 5d IN PART 3 – USCIS DISCOVERED UNCLEAR INFORMATION, SUBMIT EXPLANATION

Based on a review of your case, the following was discovered: **(Delete those that do not apply)**

3. you engaged in or do you continue to engage or plan to engage in terrorist activities?

4. you are now or have been a member of gang?

5. you engaged in, ordered, incited, assisted, or otherwise participated in any of the following:

a. acts involving torture, genocide, or human trafficking?

b. killing any person?

c. severely injuring a person?

d. any kind of sexual contact or relations with any person who was being forced or threatened?

[Provide explanation of findings. This can include where the information was found if it is knowledge that can be shared with the requestor. NOTE: Do not inform the requestor where the information came from systems that are not our records (ex. IBIS).]

Therefore, you must submit a statement explaining and/or refuting the information/circumstances found in USCIS records. Please note that if you refute the above information, and USCIS later receives information that the above does relate to you, USCIS may terminate deferred action and you may be barred from other immigration benefits.

VIII. FORM I-765

DACA 180 – FAILURE TO SUBMIT OR COMPLETE FORM I-765WS

USCIS is unable to complete your Form I-765, Application for Employment Authorization because you failed to submit or complete the Form I-765WS. Please complete the worksheet and return it to the address provided within the specified time.

DACA 190 – SUBMIT PASSPORT PHOTOS

Please submit **two (2)** passport-style **color** photo(s) of **[NAME]** taken within 30 days of the date of this notice, which conform(s) to the specifications below. Using a pencil or felt pen, lightly print name (and Alien Registration Number, if known) on the back of each photograph.

Please do not staple through any part of the photo(s). Enclose the photo(s) in a plastic or paper envelope and staple the envelope to this notice when returning it to this office.

Passport-style photos must be 2 inches by 2 inches:

- Frame subject with full face, front view, eyes open.
- Make sure photo presents full head from top of hair to bottom of chin; height of head should measure 1 inch to 1 3/8 inch (25 mm to 35 mm).
- Center head within frame.
- Make sure eye level is between 1 1/8 inch and 1 3/8 inch (28 mm and 35 mm) from bottom of photo.
- Photograph subject against a plain white or off-white background.
- Position subject and lighting so that there are no distracting shadows on the face or background.
- Encourage subject to have a natural expression.
- Include headpieces if worn daily for religious purposes; they should not obscure or cast shadows on the eyes or any other part of the face.

For more information on photo requirements, please see the Department of State website at: <http://www.travel.state.gov/passport/pptphotos/index.html>, or contact the USCIS National Customer Service Center at 1-800-375-5283.

DACA 200 – PROOF OF DACA

To be considered for advance parole you must submit evidence to establish that you have been granted deferred action for childhood arrivals. Submit a copy of the approval notice issued by USCIS for your Form I-821D, Consideration of Deferred Action for Childhood Arrivals.

DACA 201 – GENERAL

On [insert filing date], you filed an Application for Travel Document (Form I-131) based on an approved Form I-821D, Consideration of Deferred Action for Childhood Arrivals. Under section 212(d)(5)(A) of the Immigration and Nationality Act (INA), the Secretary of Homeland Security may, in her discretion, parole into the United States any alien applying for admission to the United States on a case-by-case basis for urgent humanitarian reasons or significant public benefit. To assist USCIS in adjudicating your application, please provide additional information about your proposed travel, including the reasons for requesting advance parole in order to travel outside the United States. In response to this notice, you should also submit evidence in support of your request (e.g., documentation showing that your proposed travel is related to your current employment or education or a humanitarian purpose).

DACA 202 – PROOF OF EDUCATIONAL NEED

In accordance with the discretionary authority provided in section 212(d)(5)(A) of the Act, grants of advance parole to individuals granted deferred action for childhood arrivals may be made based on the need to travel abroad for educational, employment, or humanitarian purposes. You claim that you need to travel abroad for education purposes. Examples of travel abroad for education purposes include study abroad programs, school-sponsored trips abroad, or travel necessary to conduct academic research.

The evidence you submitted with your Form I-131, Application for Travel Document, to establish your need to travel abroad for education purposes is insufficient. *(ISO should list what evidence was submitted and briefly state why the evidence is insufficient. If the requestor did not submit any evidence to support his/her need to travel abroad for educational purposes, modify RFE call up accordingly)*. You may still submit evidence, which may include, but is not limited to, copies of: *(ISO should delete any of the following that were already provided by the requestor)*

- A letter from the educational institution, or from an employee of the institution acting in his or her official capacity, describing the purpose of the travel, or documentation showing enrollment in a specific program or class coupled with documentary evidence showing that you will benefit from, or are required to travel for the specific program or class; or

NOTE: Travel during an academic year unrelated to academics (i.e., a vacation) is insufficient to qualify as an educational purpose.

(ISO: If the applicant did not establish the dates of travel, please include in the RFE as advance parole is valid for the duration of the event, as documented in the advance parole application. For multiple events, the advance parole is valid for the duration of all the documented events)

DACA 203 – PROOF OF HUMANITARIAN NEED

In accordance with the discretionary authority provided in section 212(d)(5)(A) of the Act, grants of advance parole to individuals granted deferred action for childhood arrivals may be made based on the need to travel abroad for educational, employment, or humanitarian purposes. You claim that you need to travel abroad for humanitarian reasons. Examples of travel abroad for humanitarian reasons include medical reasons, to visit a family member, or to attend funeral services for a family member.

The evidence you submitted with your Form I-131, Application for Travel Document, to establish your need to travel abroad for humanitarian purposes is insufficient. *(ISO should list what evidence was submitted and briefly state why the evidence is insufficient. If the requestor did not submit any evidence to*

support his/her need to travel abroad for humanitarian, modify RFE call up accordingly). You may still submit evidence, which may include, but is not limited to, copies of: (ISO should delete any of the following that were already provided by the requestor)

- An explanation from a medical doctor on official letterhead stating the diagnosis and prognosis, and how long the treatment is expected to last;
- Information on the reasons why you cannot obtain treatment in the United States;
- An explanation from a medical doctor on official letterhead stating the diagnosis and prognosis of the family member's condition; or
- A death certificate or newspaper obituary of the family member or other document evidencing the death of the family member.

(ISO: If the applicant did not establish the dates of travel, please include in the RFE as advance parole is valid for the duration of the event, as documented in the advance parole application. For multiple events, the advance parole is valid for the duration of all the documented events)

DACA 204 – PROOF OF EMPLOYMENT NEED

In accordance with the discretionary authority provided in section 212(d)(5)(A) of the Act, grants of advance parole to individual granted deferred action for childhood arrivals may be made based on the need to travel abroad for educational, employment, or humanitarian purposes. You claim that you need to travel abroad for employment purposes. Examples of travel abroad for employment purposes include: pursuit of a position in the United States with a foreign employer; an overseas assignment, interview, conference, or training; a meeting with overseas clients or others with whom you interact professionally; or a trip to cultivate business or sales overseas or any other overseas trip taken in furtherance of the applicant's professional responsibilities.

The evidence you submitted with your Form I-131, Application for Travel Document, to establish your need to travel abroad for employment purposes is insufficient. (ISO should list what evidence was submitted and briefly state why the evidence is insufficient. If the requestor did not submit any evidence to support his/her need to travel abroad for employment purposes, modify RFE call up accordingly). You may still submit evidence, which may include, but is not limited to, copies of: (ISO should delete any of the following that were already provided by the requestor)

- A letter on official letterhead from your employer describing the need for your travel; or
- A document showing a specific employment need, such as a conference program, that also shows your participation.

(ISO: If the applicant did not establish the dates of travel, please include in the RFE as advance parole is valid for the duration of the event, as documented in the advance parole application. For multiple events, the advance parole is valid for the duration of all the documented events)

X. ASSORTED OTHERS

DACA 300 – FOREIGN LANGUAGE DOCUMENT MUST BE ACCOMPANIED BY AN ENGLISH TRANSLATION

All foreign language documents must be accompanied by a full English language translation which the interpreter has certified as complete and accurate, and by the interpreter's certification that he or she is competent to translate from the foreign language into English. Please submit a full English translation of (ISO should list the document(s)). You must submit the requested foreign language document along with the translation.

DACA 301– YOU MAY SUBMIT PHOTOCOPIES

You may submit either the original documents or legible photocopies of the originals, including copies of the front and back of each document. If you choose to submit original documents, they will not be returned to you. **(Not for use when USCIS is requesting original documents.)**

DACA 302– AFFIDAVITS

Affidavits can support two of the DACA guidelines:

- Brief, casual, and innocent departures during the five years of required continuous presence in the United States: and
- Any minor gap in the five year continuous residence requirement.

In support of your DACA request, you submitted affidavits, but you did not indicate that:

- primary and secondary evidence cannot be obtained; and
- what effort you undertook to obtain that evidence.

Therefore, you are requested to provide the following:

- A written statement from the appropriate issuing authority attesting to the fact that no record exists or can be located, or that the record sought was part of some segment of records which were lost or destroyed; or
- Evidence (such as an affidavit) "that repeated good faith attempts were made to obtain the required document or record."

DACA 303A – SIGNATURE ON FORM I-821D

As stated in the Form I-821D instructions, each request must be properly signed. Part 4 of your Form I-821D, Consideration of Deferred Action for Childhood Arrivals is not properly signed because **(ISO should indicate why the form was incorrectly signed. For example, the preparer signed Part 4 instead of Part 5 of the form or the requestor is over the age of 14, but the requestor's parent or legal guardian signed Part 4)** Therefore, a copy of your Form I-821D is enclosed so that you can sign and date Part 4, 2.a. and 2.b. of your Form I-821D. Please note that a photocopy of a signed request or a typewritten name in place of a signature is not acceptable. Please attach your properly signed Form I-821D to this Request for Evidence and return to the address listed on this notice.

(Include a copy of the requestor's Form I-821D with the RFE)

DACA 303B - SIGNATURE ON FORM I-765

As stated in the Form I-765 instructions, each application must be properly signed. Form I-765, Application for Employment Authorization is not properly signed because **(ISO should indicate why the form was incorrectly signed. For example, the preparer signed the form or the requestor is over the age of 14, but the requestor's parent or legal guardian signed the signature area)**. Therefore, a copy of your Form I-765 is enclosed so that you can sign and date. Please note that a photocopy of a signed application or a typewritten name in place of a signature is not acceptable. Please attach your properly signed Form I-765 to this Request for Evidence and return to the address listed on this notice.

(Include a copy of the requestor's Form I-765 with the RFE)

DACA 304 – FORM I-821D MISSING PAGE(S)

You did not submit page (ISO should list the missing page number(s)) with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals. Therefore, you are requested to complete the enclosed page (ISO should list the missing page number(s)) of the form.

Also enclosed is a copy of your original Form I-821D. Please re-sign and date page four (4) of the completed form; the completed form must contain a new original signature. Attach your completed Form I-821D to this Request for Evidence and send to the address as listed on this notice.

(Include a copy of the requestor's Form I-821D and the blank missing page(s) of the form with the RFE)

XI. ACKNOWLEDGEMENT OF WITHDRAWAL

DACA 350 FORM I-821D ACKNOWLEDGEMENT OF WITHDRAWAL

On [DATE] you filed a request for deferred action under the Secretary of Homeland Security's June 15, 2012, directive concerning Deferred Action for Childhood Arrivals. Your filing included a Form I-821D, Consideration of Deferred Action for Childhood Arrivals, a Form I-765, Application for Employment Authorization, and a Form I-765WS, Form I-765 Worksheet, together with the required filing fee.

On [DATE], you withdrew your Form I-821D. This withdrawal applies equally to the forms I-765 and I-765WS that you concurrently filed with the Form I-821D.

USCIS hereby acknowledges your withdrawal. USCIS will not take any further action on your Form I-821D or the related forms I-765 and I-765WS. If you later wish to request Consideration of Deferred Action for Childhood Arrivals, you may file a new Form I-821D concurrently with a new Form I-765 and Form I-765WS, with a new fee.

DACA 351 FORMS I-765/I-765WS ACKNOWLEDGEMENT OF WITHDRAWAL

On [DATE] you filed a request for deferred action under the Secretary of Homeland Security's June 15, 2012, directive concerning Deferred Action for Childhood Arrivals. Your filing included a Form I-821D, Consideration of Deferred Action for Childhood Arrivals, a Form I-765, Application for Employment Authorization, and a Form I-765WS, Form I-765 Worksheet, together with the required filing fee.

On [DATE], you withdrew your Form I-821D. This withdrawal applies equally to the forms I-765 and I-765WS that you concurrently filed with the Form I-821D.

USCIS hereby acknowledges your withdrawal. USCIS will not take any further action on your forms I-765 and I-765WS or the related Form I-821D. The filing fee is not refundable. If you later wish to request Consideration of Deferred Action for Childhood Arrivals, you may file a new Form I-821D concurrently with a new Form I-765 and Form I-765WS, with a new fee.

Appendix D

DEFERRED ACTION FOR CHILDHOOD ARRIVALS RFE CALL-UPS

NOTE: Text highlighted in **YELLOW** and bracketed by [] is hidden text that requires ISO input. The ISO should delete the highlighted bracketed **[Text]** and type in the necessary information, or choose the appropriate information from choices and delete the information that does not apply. Text only highlighted in **YELLOW** and not bracketed is directive in nature and should not be printed in the letter being sent but should be deleted. Please mix call-ups into a single RFE as needed.

NOTE: Please add call-ups **DACA 300 – FOREIGN LANGUAGE DOCUMENT MUST BE ACCOMPANIED BY AN ENGLISH TRANSLATION** and **DACA 301 – YOU MAY SUBMIT PHOTOCOPIES** to any other call-ups below as needed.

DACA 100 – IDENTITY

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to prove your identity is insufficient (ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly). You may still submit evidence, which may include, but is not limited to, copies of: (ISO should delete any of the following that were already provided by the requestor)

- Passport;
- Birth certificate accompanied by photo identification;
- Any national identity documents from your country of origin bearing your photo and/or fingerprint;
- Any U.S.-government immigration or other document bearing your name and photograph (e.g., Employment Authorization Documents (EADs), expired visas, driver's licenses, non-driver cards, etc.);
- Any school-issued form of identification with photo;
- Military identification document with photo; or
- Any other document that you believe is relevant.

DACA 101 – CONTINUOUS RESIDENCE

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to establish that you have continuously resided in the United States during the 5-year period immediately before June 15, 2012 and up to the time of filing is insufficient. (ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly). You may still submit evidence, which may include, but is not limited to, copies of: (ISO should delete any of the following that were already provided by the requestor)

- a. Employment records (e.g., pay stubs, W-2 Forms, Federal and State income tax returns, letters from employer(s), or, if you are self employed, letters from banks and other firms with whom you have done business);

NOTE: In all of these documents, your name and the name of the employer or other interested organization must appear on the form or letter, as well as relevant dates. Letters from employers must be signed by the employer and must include the employer's contact information.

Such letters must include: **(1)** your address(es) at the time of employment; **(2)** the exact period(s) of employment; **(3)** period(s) of layoff; and **(4)** duties with the company.

- b. Rent receipts, utility bills (gas, electric, phone, etc.), receipts or letters from companies showing the dates during which you received service;
- c. School records (transcripts, letters, report cards, etc.) from the schools that you have attended in the United States, showing the name(s) of the schools and periods of school attendance;
- d. Military records (e.g., Form DD-214, Certificate of Release or Discharge from Active Duty; NGB Form 22, National Guard Report of Separation and Record of Service; military personnel records; or military health records);
- e. Hospital or medical records concerning treatment or hospitalization, showing the name of the medical facility or physician and the date(s) of the treatment or hospitalization;
- f. Official records from a religious entity in the United States confirming your participation in a religious ceremony, rite, or passage (e.g., baptism, first communion, wedding, etc.);
- g. Money order receipts for money sent into or out of the country; passport entries; birth certificates of children born in the United States; dated bank transactions; correspondence between you and another person or organization; U.S. Social Security card; Selective Service card; automobile license receipts, title, vehicle registration, etc.; deeds, mortgages, rental agreements, contracts to which you have been a party; tax receipts; insurance policies; receipts; postmarked letters; or
- h. Any other relevant document.

(ISO: Add the appropriate language below to the RFE if any of the questions on page 3 (Part 2, Arrival/Residence Information) of the Form I-821D are blank OR if page 3 of the Form I-821D is missing.)

In addition, you did not answer question(s) (ISO should list the questions on page 3 (Part 2, Arrival/Residence Information) of the Form I-821D that were not answered) in Part 2, Arrival/Residence Information, of your Form I-821D, Consideration of Deferred Action for Childhood Arrivals. Therefore, you are requested to answer these question(s) on the enclosed copy of your original Form I-821D.

Please re-sign and date page four (4) of the completed form; the completed form must contain a new original signature. Attach your completed Form I-821D to this Request for Evidence and send to the address as listed on this notice.

(Include a copy of the requestor's Form I-821D with the RFE)

OR

In addition, you did not submit page three (3) with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals. Therefore, you are requested to complete the enclosed page three (3) of the form.

Also enclosed is a copy of your original Form I-821D. Please re-sign and date page four (4) of the completed form; the completed form must contain a new original signature. Attach your completed Form I-821D to this Request for Evidence and send to the address as listed on this notice.

(Include a copy of the requestor's Form I-821D and a blank page 3 of the form with the RFE)

DACA 102 - BRIEF, CASUAL, AND INNOCENT ABSENCE

To be considered for deferred action as a childhood arrival, you must have continuously resided in the United States during the 5 years period immediately before June 15, 2012 and up to the date you filed your request for deferred action. A brief, casual, and innocent absence from the United States will not interrupt your continuous residence.

An absence will be considered brief, casual, and innocent, if:

- (1) The absence was short and reasonably calculated to accomplish the purpose of the absence;
- (2) The absence was not the result of an order of exclusion, deportation, or removal;
- (3) The absence was not because of an order of voluntary departure, or an administrative grant of voluntary departure before the requestor was placed in exclusion, deportation, or removal proceedings; and
- (4) The purpose of the absence from the United States or actions while outside of the United States were not contrary to law.

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, for each departure you made from the United States since June 15, 2007 to show that each departure you made from the United States since June 15, 2012 were brief, casual, and innocent is insufficient. (ISO should list what evidence was submitted and briefly state why the evidence is insufficient. If the requestor did not submit any evidence, modify RFE call up accordingly). You may still submit evidence, which may include, but is not limited to, copies of: (ISO should delete any of the following that were already provided by the requestor)

- Plane or other transportation tickets or itinerary showing the travel dates;
- Passport entries;
- Hotel receipts showing the dates you were abroad;
- Evidence of the purpose of the travel (e.g., you attended a wedding or funeral);
- Advance parole document; or
- Any other evidence that could support a brief, casual, and innocent absence.

DACA 103 – ARRIVED IN THE UNITED STATES BEFORE AGE 16

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to establish that you came to the United States prior to your 16th birthday is insufficient. (ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly). You may still submit evidence, which may include, but is not limited to, copies of: (ISO should delete any of the following that were already provided by the requestor)

- Passport with an admission stamp indicating when you entered the United States;
- I-94/I-95/I-94W Arrival/Departure Record;
- Any INS or DHS document stating your date of entry (e.g., Form I-862, Notice to Appear);
- Travel records, such as transportation tickets showing your dates of travel to the United States;
- School records (transcripts, report cards, etc.) from the schools that you have attended in the United States, showing the name(s) of the schools and the periods of school attendance;
- Hospital or medical records concerning treatment or hospitalization, showing the name of the medical facility or physician and the date(s) of the treatment or hospitalization;
- Official records from a religious entity in the United States confirming your participation in a religious ceremony, rite, or passage (e.g., baptism, first communion, wedding, etc.); or
- Any other document that you believe is relevant.

DACA 104 – IN UNLAWFUL STATUS AS OF JUNE 15, 2012

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to show that you were in unlawful status as of June 15, 2012 is insufficient. (ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly). You may still submit evidence, which may include, but is not limited to, copies of: (ISO should delete any of the following that were already provided by the requestor)

- I-94/I-95/I-94W Arrival/Departure Record showing the date your authorized stay expired;
- If you have a final order of exclusion, deportation, or removal issued on or before June 15, 2012, submit a copy of that order and related charging documents, if available;
- An INS or DHS charging document placing you into removal proceedings;
- Any other document that you believe is relevant to show that you lacked lawful immigration status on June 15, 2012; or
- Any document relating to parole.

DACA 105 – PROOF OF PRESENCE IN THE UNITED STATES ON JUNE 15, 2012

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to show that you were present in the United States on June 15, 2012 is insufficient. (ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly). You may still submit evidence, which may include, but is not limited to, copies of: (ISO should delete any of the following that were already provided by the requestor)

- a. Employment records (e.g., pay stubs, W-2 Forms, Federal and State income tax returns, letters from employer(s), or, if you are self employed, letters from banks and other firms with whom you have done business).

NOTE: In all of these documents, your name and the name of the employer or other interested organization must appear on the form or letter, as well as relevant dates. Letters from employers must be signed by the employer and must include the employer's contact information.

Such letters must include: **(1)** your address(es) at the time of employment; **(2)** the exact period(s) of employment; **(3)** period(s) of layoff; and **(4)** duties with the company.

- b. Rent receipts, utility bills (gas, electric, phone, etc.), receipts or letters from companies showing the dates during which you received service.
- c. School records (transcripts, letters, report cards, etc.) from the schools that you have attended in the United States, showing the name(s) of the schools and periods of school attendance.
- d. Military records (e.g., Form DD-214, Certificate of Release or Discharge from Active Duty; NGB Form 22, National Guard Report of Separation and Record of Service; military personnel records; or military health records).
- e. Hospital or medical records concerning treatment or hospitalization, showing the name of the medical facility or physician and the date(s) of the treatment or hospitalization.
- f. Official records from a religious entity in the United States confirming your participation in a religious ceremony, rite, or passage (e.g., baptism, first communion, wedding, etc.).
- g. Money order receipts for money sent into or out of the country; passport entries; birth certificates of children born in the United States; dated bank transactions; correspondence between you and another person or organization; U.S. Social Security card; Selective Service card; automobile license receipts, title, vehicle registration, etc.; deeds, mortgages, contracts to which you have been a party; tax receipts; insurance policies; receipts; postmarked letters; or
- h. Any other relevant document.

DACA 106 – CURRENTLY ENROLLED IN SCHOOL

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, showing that you have been accepted for enrollment or are already attending classes in one of the following is insufficient:

- A public or private elementary, junior high/middle school or high school/secondary school;
- A public or private college or university, or community college;
- A course of study to pass a General Education Development (GED) Certificate exam or other State-authorized exam;
- An educational or career training program (including vocational training);
- Literacy training; or
- An English as a Second Language (ESL) program.

(ISO should list what evidence was submitted and briefly state why the evidence is insufficient. If the documents provided by the requestor are incomplete (i.e. no identifying information) or illegible, the ISO should note this in the RFE. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly)

You may still submit evidence, which may include the following: (ISO should delete any of the following that were already provided by the requestor.)

- **A public or private elementary, junior high/middle school or high school/secondary school;**
Such evidence may include, but is not limited to:
 - If accepted for enrollment, but classes have not yet commenced:
 - An acceptance letter on school letterhead from the school's authorized representative. Such acceptance letter is to include the name and address of the school, your grade level, and the date that classes are scheduled to commence. The letter is to be accompanied by evidence that the student has registered for classes, or other evidence showing the student has accepted the offer and has committed to start classes on a certain date;
 - A current individualized education program (IEP), as required under the Individuals with Disabilities Education Act, if you have a disability;
 - A current class schedule containing the student's name, the list of courses, and the day and time of each class; or
 - Any other relevant evidence.
 - If already enrolled – Current school registration cards; current transcripts; report cards; progress reports showing the name of the school, the time period or semester covered by the document, and the current grade; or a current IEP showing your process to date.
- **A public or private college or university, or community college;**
Such evidence may include, but is not limited to:
 - If accepted for enrollment, but classes have not yet commenced:
 - An acceptance package or related material on school letterhead from the school's authorized representative. Such acceptance package or related material is to include the name and address of the school, your grade level or class year, and the date or term when classes are scheduled to commence. In addition, the acceptance package or related material is to be accompanied by evidence that the student has registered for classes, or other evidence showing the student has accepted the offer and has committed to start classes on a certain date;
 - A current individualized education program (IEP), as required under the Individuals with Disabilities Education Act, if you have a disability;
 - A copy of your current tuition bill;
 - A current class schedule containing your name, the list of courses, and the day and time of each class; or
 - Any other relevant evidence.

- If already enrolled – Current school registration cards; current transcripts; report cards; progress reports showing the name of the school, the time period or semester covered by the document, and the current grade or class year; or a current IEP showing your progress to date.
- **A course of study to pass a General Education Development (GED) Certificate exam or other equivalent State-authorized exam;**

Such evidence is to include a letter from the authorized representative of the program that includes information such as:

 - Your name and date of enrollment;
 - The duration of the program and expected completion date;
 - Whether the course of study is for a regular high school diploma or recognized equivalent under State law or a GED exam or other equivalent State-authorized exam;
 - The program’s source and amount of funding; and
 - The program’s authorized representative’s contact information.
- **An educational or career training program (including vocational training);**

Such evidence may include, but is not limited to:

 - If accepted for enrollment, but classes have not yet commenced:
 - An acceptance letter on school letterhead from the school registrar/authorized school representative. Such acceptance letter is to include the name and address of the program, a brief description of the program, the duration of the program, and state when the classes are scheduled to commence. The letter is to be accompanied by evidence that the student has registered for the program;
 - A copy of your current year registration (intake form/enrollment form); or
 - Any other relevant documentation.
 - If already attending classes– Current transcripts, report cards, or progress reports showing the name of the school, the time period or semester covered by the document, and if relevant, the current educational or grade level.
- **Literacy training; or**

Such evidence is to include a letter from the literacy program administrator or authorized representative providing information such as:

 - Your name;
 - The date of your enrollment;
 - The duration of the literacy program and the expected completion date; and
 - The program administrator or authorized representative’s contact information.
- **An English as a Second Language (ESL) program.**

Such evidence is to include a letter from the ESL program administrator or authorized representative. This letter is to include the following:

 - Your name;
 - The date of your enrollment;
 - The duration of the ESL program and the expected completion date;
 - The program administrator or authorized representative’s contact information.

DACA 106A – EVIDENCE OF ACCEPTANCE BUT NO EVIDENCE OF REGISTERING FOR CLASSES:

You have provided an acceptance letter or other related material indicating that you have been accepted at [ISO should list the name of the private elementary/junior high/middle school/high school/secondary school or public or private college/university/community college]. However, you did not include evidence that you have enrolled in that school. Therefore, you are requested to submit such evidence which is to include, but is not limited to paid tuition bills or evidence that you have registered for class at that school.

DACA 106B – LITERACY PROGRAM’S NON-PROFIT STATUS

If the literacy program in which you are enrolled has non-profit status, please provide evidence of such status. Evidence of the literacy program’s non-profit status is to include a copy of a valid letter from the Internal Revenue Service confirming exemption from taxation under section 501(c)(3) of the Internal Revenue Service Code of 1986, as amended, or equivalent section of prior code.

DACA 106C – PUBLIC FUNDING (GED; Educational or Career Training Program (Including Vocational Training); ESL)

If the [ISO should insert GED; Educational or Career Training Program (Including Vocational Training); Literacy Program; or English as a Second Language] in which you are enrolled is funded in whole or in part by public funds (Federal, State, county or municipal), you are requested to submit a letter from the [ISO should insert GED program administrator/authorized representative; school registrar/authorized school representative if requestor is enrolled in Career Training Program (Including Vocational Training); literacy program administrator/authorized representative; or ESL program administrator/authorized representative] providing basic details about the funding, such as the source(s) of the funding.

DACA 106D – PUBLIC FUNDING – (Literacy Program)

If the literacy program in which you are enrolled is not funded in whole or in part by public funds (Federal, State, county, or municipal) or not administered by a non-profit entity you are requested to submit a letter from the program administrator or authorized representative providing basic details about the funding, such as the amount and the source(s) of the funding.

DACA 106E – DEMONSTRATED EFFECTIVENESS (GED; Educational or Career Training Program (Including Vocational Training); Literacy Program; ESL)

(ISO SHOULD SELECT THE CORRECT RFE PARAGRAPH BELOW DEPENDING UPON THE PROGRAM IN WHICH THE REQUESTOR IS ENROLLED)

Your record shows that the **GED/Equivalency program**, in which you are enrolled, is not publicly funded (Federal, State, county, or municipal) in whole or in part. Therefore, you are requested to submit information from the GED program administrator/authorized representative relating to the program's demonstrated effectiveness. Such information can include, but is not limited to:

- The duration of the program's existence;
- The program's track record in assisting students in obtaining a regular high school diploma, GED, or a recognized equivalent certificate, or passing a GED or recognized equivalent exam;
- Receipt of awards or special achievement or recognition, that indicate the program's overall quality; and/or
- Any other relevant information indicating the program's overall quality.

Your record shows that the **educational or career training program (including vocational training)**, in which you are enrolled, is not publicly funded (Federal, State, county, or municipal) in whole or in part. Therefore, you are requested to submit information, with supporting documentation, if available, from the school registrar/authorized representative relating to the program's demonstrated effectiveness. Such information can include, but is not limited to:

- The duration of the program's existence;
- The program's track record in placing students in employment, job training, or post-secondary education; and
- Receipt of awards or special achievement or recognition, that indicate the program's overall quality; and/or
- Any other relevant information indicating the program's overall quality.

Your record shows that the **literacy program** in which you are enrolled, is not publicly funded (Federal, State, county, or municipal) in whole or in part. Therefore, you are requested to submit information from the literacy program administrator/authorized representative relating to the program's demonstrated effectiveness. Such information can include, but is not limited to:

- The duration of the program's existence;
- The program's track record in placing students in post-secondary education, job training programs, or employment; and
- Receipt of awards or special achievement or recognition, that indicate the program's overall quality; and/or
- Any other relevant information indicating the program's overall quality.

Your record shows that the **English as a Second Language (ESL)** program in which you are enrolled is not publicly funded (Federal, State, county, or municipal) in whole or in part. Therefore, you are requested to submit information from the ESL program administrator/authorized representative relating to the program's demonstrated effectiveness. Such information can include, but is not limited to:

- The length of the program's existence;
- The program's track record in assisting students in obtaining placement in postsecondary schools, job training programs, or employment; and
- Receipt of awards or special achievement or recognition, that indicate the program's overall quality; and/or
- Any other relevant information indicating the program's overall quality.

DACA 106F- GRADUATED FROM SCHOOL

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to show that you graduated from school is insufficient (ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the documents provided by the requestor are incomplete (i.e. no identifying information) or illegible, the ISO should note this in the RFE. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly). You may still submit evidence, which may include, but is not limited to, copies of: (ISO should delete any of the following that were already provided by the requestor)

- A diploma;
- Transcripts showing the date of graduation; or
- A GED certificate, certificate of completion, certificate of attendance, or alternate award from a public or private high school or secondary school.

Documentation sufficient to demonstrate that you obtained a GED includes, but is not limited to, evidence you passed a GED exam, or other comparable State-authorized exam, and, as a result, you received the recognized equivalent of a regular high school diploma under State law.

DACA 107G - MEDICAL LEAVE

You indicate in your filing that you are currently on medical leave from school. Therefore, you are requested to submit evidence of your medical leave and indicate the date you expect to return to school. Evidence of your medical leave may include, but is not limited to, an explanation from a medical doctor on official letterhead stating the diagnosis and prognosis, and how long your treatment is expected to last.

DACA 107 - MILITARY

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to show that you are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States is insufficient. (ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly). You may still submit evidence, which may include, but is not limited to, copies of: (ISO should delete any of the following that were already provided by the requestor)

- Form DD-214, Certificate of Release or Discharge from Active Duty;
- NGB Form 22, National Guard Report of Separation and Record of Service;
- Military personnel records; or
- Military health records.

DACA 108- REMOVAL PROCEEDINGS

Submit documents that you have been issued an order of exclusion, deportation or removal. Such documentation could include copies of:

- Any removal, deportation, or exclusion order issued by an Immigration Judge;
- Final decision from the Board of Immigration Appeals (BIA); or
- Final decision from a U.S. Court of Appeals in your case.

APPLICATION SUPPORT CENTER (ASC) RELATED

DACA 130 – SCHEDULE ASC APPOINTMENT

Your request cannot be processed until you have appeared at an Application Support Center (ASC) for the collection of a digital photograph, signature, and fingerprint(s). Our records indicate that you have not yet appeared at an ASC for this purpose. Please schedule an appointment at the ASC nearest you by calling the USCIS National Customer Service Center at 1-800-375-5283 (TTY 1-800-767-1833). You also can find the location of the ASC nearest you on the USCIS web site at www.USCIS.gov.

Once you have scheduled an appointment, or if you have a scheduled appointment, please return this notice to the address below with the appointment information.

Date of Appointment: _____

Location of Appointment: _____

DACA 131– RESCHEDULE ASC APPOINTMENT (TECHNICAL DIFFICULTIES)

On [DATE], USCIS asked you to schedule an appointment at an Application Support Center (ASC) for the collection of a digital photograph, signature and fingerprint(s). In response to that request, you indicated that you already appeared at an ASC as required. However, due to technical problems, your previously-acquired biometrics from the ASC cannot be used.

USCIS will mail a separate notice to you containing information for a new appointment for biometrics capture at the ASC nearest you and listing identity documents that you must bring with you to your ASC appointment. Once you receive that notice, additional information regarding the location of the ASC can be found on the USCIS web site at www.USCIS.gov. Please bring this notice with you to your appointment.

Once you have provided your biometrics to the ASC, respond to this request with evidence of your attendance of the ASC appointment. Such evidence typically consists of a copy of your appointment notice, bearing a stamp from the ASC technician. Along with the evidence of your appointment, please include all other evidence requested in this notice.

We sincerely regret any inconvenience this has caused you.

NAME, DATE OF BIRTH DISCREPANCY

DACA 140 – DATE OF BIRTH DISCREPANCY

USCIS records indicate that you were born on [DATE]. You indicated on your request for consideration of deferred action for childhood arrivals that you were born on [DATE]. Submit documentary evidence to establish your true date of birth. Such evidence may include your birth certificate and/or passport. If you submit a copy of your birth certificate, you must submit copies of the front and back (if there is information on the back).

DACA 142 – NAME CHANGE/DISCREPANCY

USCIS records and/or evidence you submitted indicate that your name is [NAME]. You indicated on your request for consideration of deferred action for childhood arrivals that your name is [NAME]. Submit documentary evidence to establish your true name. Such evidence may include a birth certificate, adoption records, marriage certificate, passport, or government documentation showing that you have officially changed your name.

DACA143 – SUBMIT EVIDENCE OF NAME CHANGE

Submit proof of your name change. Such proof would normally be a marriage certificate, termination of marriage (divorce or annulment decree), adoption decree, or court order.

FINGERPRINTING / CRIMINALITY

DACA 150 – 2 UNCLASSIFIABLE PRINTS – SUBMIT LOCAL POLICE CLEARANCES

To date, you have been fingerprinted twice and USCIS has been unable to get a required clearance for you because both sets of fingerprints were rejected as unclassifiable by the Federal Bureau of Investigation. Instead of a fingerprint clearance, you must submit a local police clearance certificate for each jurisdiction (city, town, county, or municipality) in which you have lived for six months or more within the past five years.

Please note: The police clearance certificate(s) must be researched by name and date of birth. You must supply the law enforcement agency with all aliases you have used, including maiden name, if applicable. Fingerprint cards are not acceptable evidence of a police clearance certificate.

If any record indicates that you have been arrested, you must provide documentation of each of the following:

- a. The final disposition (your sentence, probation, dismissal, etc.) of **every** charge against you. The charge and disposition must be specifically identified (not merely numeric citations or codes).
- b. If you were convicted of **any** charge, you must also provide evidence showing whether the charge for which you were convicted was classified as a **felony or misdemeanor**. You may submit a copy of the pertinent statute, sentencing guidelines, and/or statement from the court clerk or police department for this purpose.

Along with the above information, you must also answer the following questions. You should respond on this notice and sign your name where it asks for your signature. If more space is needed, you may respond to the following questions on separate sheet(s) of paper. Please sign every separate sheet of paper.

- 1) Have you ever been arrested or detained by a law enforcement officer? If yes, please explain.

Answer: _____

- 2) Have you had your fingerprints taken for any reason by a law enforcement officer for a criminal offense? If yes, please explain.

Answer: _____

- 3) Have you been issued a ticket or been taken into custody by a law enforcement officer? If yes, please explain.

Answer: _____

- 4) Have you ever been ordered by a court to: pay a fine; serve a probationary sentence; perform community service; make restitution; or have your wages garnished (e.g., for failure to make child support payments)? If yes, please explain.

Answer: _____

- 5) Have you ever received an expungement, pardon, or successfully completed a diversion or rehabilitation program? If yes, please explain.

Answer: _____

I certify, under penalties of perjury under the laws of the United States of America, that the foregoing is true and correct. Furthermore, I authorize the release from my records that USCIS needs to determine my eligibility for deferred action of childhood arrivals.

Signature of Requestor: _____

DACA 151– SUBMIT JUDGMENT AND CONVICTION DOCUMENTS

A criminal history check has been conducted based upon the fingerprints you provided at the Application Support Center. Your criminal history check has revealed that you were arrested on [DATE], in [JURISDICTION] and charged with [CHARGES].

(WHERE APPROPRIATE, SERVICE CENTER MAY ALSO NEED TO INCLUDE THE NAME UNDER WHICH THE ARREST TOOK PLACE IF DIFFERENT FROM NAME BEING USED BY REQUESTOR ON FORM I-821D. IF THERE ARE MULTIPLE CHARGES, YOU MAY BULLET EACH CHARGE.)

You must provide certified judgment and conviction documents from the court(s) for all of your arrests, including but not limited to, the charges listed above. The certified judgment and conviction documents must address the following:

- a. The final disposition (e.g., your sentence, probation, dismissal, etc.) of every charge against you. The charge and disposition must be specifically identified (not just numeric citations or codes).
- b. If you were convicted, you must also provide evidence showing whether the charge for which you were convicted was classified as a felony, misdemeanor or other type of offense. Please submit a copy of the pertinent statute, sentencing guide, or statement from the court clerk or police department for this purpose.

If you fail to submit such evidence, USCIS may deny your request for consideration of deferred action for childhood arrivals.

I-821D PART 3 INCOMPLETE

DACA 155 – FORM I-821D INCOMPLETE

You did not answer question(s) (ISO should list the question numbers in Part 3 of the Form I-821D that the requestor did not answer) in Part 3 of your Form I-821D, Consideration of Deferred Action for Childhood Arrivals. Therefore, you are requested to answer these question(s) on the enclosed copy of your original Form I-821D.

As stated in the instructions on Part 3 of the Form I-821D, if any of the questions apply to you, please describe the circumstances and include a full explanation in Part 7 of the Form I-821D. Re-sign and date page four (4) of the completed form; the completed form must contain a new original signature. Attach your completed Form I-821D to this Request for Evidence and send to the address as listed on this notice.

(Include a copy of the requestor’s Form I-821D with the RFE)

I-821D PART 3, CRIMINAL, NATIONAL SECURITY
AND PUBLIC SAFETY INFORMATION
AFFIRMATIVE RESPONSES
POSSIBLE INELIGIBILITY ISSUES

DACA 160 – ANSWERED “YES” to QUESTION 1 AND 2 IN PART 3 –DOCUMENTS NEEDED AND EXPLANATION

On your Consideration of Deferred Action for Childhood Arrivals (Form I-821D), you checked “Yes” to the following question(s) in Part 3, Criminal, National Security and Public Safety Information: **DELETE THOSE THAT DON’T APPLY**

- 1. Have you been arrested for, charged with, or convicted of a felony or misdemeanor in the United States?**
- 2. Have you been arrested for, charged with, or convicted of any crime in any country other than the United States?**

You did not provide a full explanation in Part 7 of your Form I-821D describing the circumstances, as requested in the instructions on Part 3 of the Form I-821D. Therefore, please provide a full explanation describing the circumstances. **DELETE IF AN EXPLANATION WAS PROVIDED**

You must provide certified judgment and conviction documents from the court(s) for all of your arrests, including but not limited to, the charges listed above. The certified judgment and conviction documents must address the following:

- a. The final disposition (e.g., your sentence, probation, dismissal, etc.) of every charge against you. The charge and disposition must be specifically identified (not just numeric citations or codes).
- b. If you were convicted, you must also provide evidence showing whether the charge for which you were convicted was classified as a felony, misdemeanor, or some other type of offense. You may submit a copy of the pertinent statute, sentencing guide, or statement from the court clerk or police department for this purpose.

If you fail to submit such evidence, USCIS may deny your request for consideration of deferred action for childhood arrivals.

DACA 161 – ANSWERED “YES” TO QUESTION 3 IN PART 3 – SUBMIT EXPLANATION

On your Consideration of Deferred Action for Childhood Arrivals (Form I-821D), you checked “Yes” to the following question in Part 3, Criminal, National Security and Public Safety Information:

- 3. Have you ever engaged in or do you continue to engage in or plan to engage in terrorist activities?**

You did not provide a full explanation in Part 7 of your Form I-821D describing the circumstances, as requested in the instructions on Part 3 of the Form I-821D.

Please provide a full and complete explanation of the terrorist activities you have ever engaged in, continue to engage in, or plan to engage in. Your explanation should include:

- Whether other people were engaged in terrorist activities with you;
- The names of the other people with whom you engaged in terrorists activities;
- The role you played in terrorist activities;
- The role that others played in terrorist activities;
- Whether you planned or actually carried out the terrorist activities;
- Whether you engaged in, continued to engage, or planned to engage in terrorist activities in the United States or abroad; and
- Describe the type of terrorist activities you engaged in, continue to engage in, or plan to engage in.

DACA 162 – ANSWERED “YES” TO QUESTION 4 IN PART 3 – SUBMIT EXPLANATION

On your Consideration of Deferred Action for Childhood Arrivals (Form I-821D), you checked “Yes” to the following question in Part 3, Criminal, National Security and Public Safety Information:

4. Are you now or have you ever been a member of a gang?

You did not provide a full explanation in Part 7 of the Form I-821D describing the circumstances, as requested in the instructions on Part 3 of the Form I-821D.

Please provide a full and complete explanation of your gang membership, including:

- When you joined the gang(s);
- How long you were a member of the gang(s);
- The name of the gang(s); and
- The criminal activities you participated in with the gang(s).

DACA163 – ANSWERED “YES” TO QUESTIONS 5a, 5b, 5c, AND 5d IN PART 3– SUBMIT EXPLANATION

On your Request for Deferred Action for Childhood Arrivals (Form I-821D) you checked “Yes” to the following question(s) in Part 3, Criminal, National Security and Public Safety Information: **DELETE THOSE THAT DON’T APPLY**

5. Have you EVER engaged in, ordered, incited, assisted, or otherwise participated in any of the following:

- a. acts involving torture, genocide, or human trafficking?
- b. killing any person?
- c. severely injuring a person?
- d. any kind of sexual contact or relations with any person who was being forced or threatened?

You did not provide a full explanation in Part 7 of the Form I-821D describing the circumstances, as requested in the instructions on Part 3 of the Form I-821D.

Please provide a full and complete explanation describing your participation in activities involving torture, genocide, human trafficking, killing any person, severely injuring any person, or any sexual contact or relations with any person who was being forced or threatened.

I-821D PART 3, CRIMINAL, NATIONAL SECURITY AND PUBLIC SAFETY INFORMATION

DACA 170– ANSWERED “NO” TO QUESTIONS 1 AND 2 IN PART 3– USCIS FOUND CLEAR CHARGES OR OTHER DEROGATORY INFORMATION, SUBMIT JUDGMENT AND CONVICTION DOCUMENTS

A background check has been conducted based upon the fingerprints you provided at the Application Support Center. Your background check revealed that you were arrested on [DATE], in [JURISDICTION] and charged with [CHARGES].

(WHERE APPROPRIATE, YOU MAY ALSO NEED TO INCLUDE THE NAME UNDER WHICH THE ARREST TOOK PLACE IF DIFFERENT FROM NAME BEING USED BY THE REQUESTOR ON FORM I-821D. IF THERE ARE MULTIPLE CHARGES, YOU MAY BULLET EACH CHARGE.)

You must provide certified judgment and/or conviction documents from the court(s) for all of your arrests, including but not limited to, the charges listed above. The certified judgment and conviction documents must address the following:

- a. The final disposition (your sentence, probation, dismissal, etc.) of every charge against you. The charge and disposition must be specifically identified (not just numeric citations or codes).

- b. If you were convicted, you must also provide evidence showing whether the charge for which you were convicted was classified as a felony or misdemeanor. You may submit a copy of the pertinent statute, sentencing guide, or statement from the court clerk or police department for this purpose.

If you fail to submit such evidence, USCIS may deny your request for consideration of deferred action for childhood arrivals.

DACA 171– ANSWERED “NO” TO QUESTIONS 1 AND 2 IN PART 3 - CRIMINAL ACTIVITY UNCLEAR TO USCIS, SUBMIT JUDGMENT AND CONVICTION DOCUMENTS

Based on a review of your case, it appears that you have some type of criminal record/interaction with law enforcement authorities. It appears that on [DATE] the following occurred:

[PROVIDE EXPLANATION OF FINDINGS, TO INCLUDE NAME OF POLICE DEPT. IF APPLICABLE, CHARGES IF APPLICABLE, ETC. NOTE: DO NOT INFORM THE APPLICANT WHERE THE INFORMATION CAME FROM SYSTEMS THAT ARE NOT OUR RECORDS (EX. IBIS)]

(WHERE APPROPRIATE, YOU MAY ALSO NEED TO INCLUDE THE NAME UNDER WHICH THE ARREST TOOK PLACE IF DIFFERENT FROM NAME BEING USED BY THE REQUESTOR ON FORM I-821D. IF THERE ARE MULTIPLE INTERACTIONS, YOU MAY BULLET EACH INTERACTION.)

Submit a statement explaining the results of this interaction with law enforcement authorities. You must provide certified judgment and conviction documents from the court(s) for all of your arrests, including but not limited to, the charges listed above. The certified judgment and conviction documents must address the following:

- a. The final disposition (your sentence, probation, dismissal, etc.) of every charge against you. The charge and disposition must be specifically identified (not just numeric citations or codes).
- b. If you were convicted of any charge, you must also provide evidence showing whether the charge for which you were convicted was classified as a felony or misdemeanor. You may submit a copy of the pertinent statute, sentencing guide, or statement from the court clerk or police department for this purpose.

If you fail to submit such evidence, USCIS may deny your request for consideration of deferred action for childhood arrivals.

DACA 172– ANSWERED “NO” TO QUESTIONS 3, 4, 5a, 5b, 5c, AND 5d IN PART 3 – USCIS DISCOVERED UNCLEAR INFORMATION, SUBMIT EXPLANATION

Based on a review of your case, the following was discovered: **DELETE THOSE THAT DON'T APPLY**

3. you engaged in or do you continue to engage or plan to engage in terrorist activities?

4. you are now or have been a member of gang?

5. you engaged in, ordered, incited, assisted, or otherwise participated in any of the following:

- a. acts involving torture, genocide, or human trafficking?
- b. killing any person?
- c. severely injuring a person?
- d. any kind of sexual contact or relations with any person who was being forced or threatened?

[PROVIDE EXPLANATION OF FINDINGS. THIS CAN INCLUDE WHERE THE INFORMATION WAS FOUND IF IT IS KNOWLEDGE THAT CAN BE SHARED WITH THE REQUESTOR. NOTE: DO NOT INFORM THE REQUESTOR WHERE THE INFORMATION CAME FROM SYSTEMS THAT ARE NOT OUR RECORDS (EX. IBIS).]

Therefore, you must submit a statement explaining and/or refuting the information/circumstances found in USCIS records. Please note that if you refute the above information, and USCIS later receives information that the above does relate to you, USCIS may terminate deferred action and you may be barred from other immigration benefits.

FORM I-765

DACA 180 – FAILURE TO SUBMIT OR COMPLETE FORM I-765WS

USCIS is unable to complete your Form I-765, Application for Employment Authorization because you failed to submit or complete the Form I-765WS. Please complete the worksheet and return it to the address provided within the specified time.

DACA 190 – SUBMIT PASSPORT PHOTOS

Please submit **two (2)** passport-style **color** photo(s) of [NAME] taken within 30 days of the date of this notice, which conform(s) to the specifications below. Using a pencil or felt pen, lightly print name (and Alien Registration Number, if known) on the back of each photograph.

Please do not staple through any part of the photo(s). Enclose the photo(s) in a plastic or paper envelope and staple the envelope to this notice when returning it to this office.

Passport-style photos must be 2 inches by 2 inches:

- Frame subject with full face, front view, eyes open.
- Make sure photo presents full head from top of hair to bottom of chin; height of head should measure 1 inch to 1 3/8 inch (25 mm to 35 mm).
- Center head within frame.
- Make sure eye level is between 1 1/8 inch and 1 3/8 inch (28 mm and 35 mm) from bottom of photo.
- Photograph subject against a plain white or off-white background.
- Position subject and lighting so that there are no distracting shadows on the face or background.
- Encourage subject to have a natural expression.
- Include headpieces if worn daily for religious purposes; they should not obscure or cast shadows on the eyes or any other part of the face.

For more information on photo requirements, please see the Department of State website at: <http://www.travel.state.gov/passport/pptphotos/index.html>, or contact the USCIS National Customer Service Center at 1-800-375-5283.

FORM 131

DACA 200 – PROOF OF DACA

To be considered for advance parole you must submit evidence to establish that you have been granted deferred action for childhood arrivals. Submit a copy of the approval notice issued by USCIS for your Form I-821D, Consideration of Deferred Action for Childhood Arrivals.

DACA 201 – PROOF OF EDUCATIONAL NEED

In accordance with the discretionary authority provided in section 212(d)(5)(A) of the Act, grants of advance parole to individuals granted deferred action for childhood arrivals may be made based on the need to travel abroad for educational, employment, or humanitarian purposes. You claim that you need to travel abroad for education purposes. Examples of travel abroad for education purposes include study abroad programs, school-sponsored trips abroad, or travel necessary to conduct academic research.

The evidence you submitted with your Form I-131, Application for Travel Document, to establish your need to travel abroad for education purposes is insufficient. (ISO should list what evidence was submitted and briefly state why the evidence is insufficient. If the requestor did not submit any evidence to support

his/her need to travel abroad for educational purposes, modify RFE call up accordingly). You may still submit evidence, which may include, but is not limited to, copies of: (ISO should delete any of the following that were already provided by the requestor)

- A letter from the educational institution, or from an employee of the institution acting in his or her official capacity, describing the purpose of the travel, or documentation showing enrollment in a specific program or class coupled with documentary evidence showing that you will benefit from, or are required to travel for the specific program or class; or

NOTE: Travel during an academic year unrelated to academics (i.e., a vacation) is insufficient to qualify as an educational purpose.

(ISO: If the applicant did not establish the dates of travel, please include in the RFE as advance parole is valid for the duration of the event, as documented in the advance parole application. For multiple events, the advance parole is valid for the duration of all the documented events)

DACA 202 – PROOF OF HUMANITARIAN NEED

In accordance with the discretionary authority provided in section 212(d)(5)(A) of the Act, grants of advance parole to individuals granted deferred action for childhood arrivals may be made based on the need to travel abroad for educational, employment, or humanitarian purposes. You claim that you need to travel abroad for humanitarian reasons. Examples of travel abroad for humanitarian reasons include medical reasons, to visit a family member, or to attend funeral services for a family member.

The evidence you submitted with your Form I-131, Application for Travel Document, to establish your need to travel abroad for humanitarian purposes is insufficient. (ISO should list what evidence was submitted and briefly state why the evidence is insufficient. If the requestor did not submit any evidence to support his/her need to travel abroad for humanitarian, modify RFE call up accordingly). You may still submit evidence, which may include, but is not limited to, copies of: (ISO should delete any of the following that were already provided by the requestor)

- An explanation from a medical doctor on official letterhead stating the diagnosis and prognosis, and how long the treatment is expected to last;
- Information on the reasons why you cannot obtain treatment in the United States;
- An explanation from a medical doctor on official letterhead stating the diagnosis and prognosis of the family member's condition; or
- A death certificate or newspaper obituary of the family member or other document evidencing the death of the family member.

(ISO: If the applicant did not establish the dates of travel, please include in the RFE as advance parole is valid for the duration of the event, as documented in the advance parole application. For multiple events, the advance parole is valid for the duration of all the documented events)

DACA 203 – PROOF OF EMPLOYMENT NEED

In accordance with the discretionary authority provided in section 212(d)(5)(A) of the Act, grants of advance parole to individual granted deferred action for childhood arrivals may be made based on the need to travel abroad for educational, employment, or humanitarian purposes. You claim that you need to travel abroad for employment purposes. Examples of travel abroad for employment purposes include: pursuit of a position in the United States with a foreign employer; an overseas assignment, interview, conference, or training; a meeting with overseas clients or others with whom you interact professionally; or a trip to cultivate business or sales overseas or any other overseas trip taken in furtherance of the applicant's professional responsibilities.

The evidence you submitted with your Form I-131, Application for Travel Document, to establish your need to travel abroad for employment purposes is insufficient. (ISO should list what evidence was submitted and briefly state why the evidence is insufficient. If the requestor did not submit any evidence to support his/her need to travel abroad for employment purposes, modify RFE call up accordingly). You may still submit evidence, which may include, but is not limited to, copies of: (ISO should delete any of the following that were already provided by the requestor)

- A letter on official letterhead from your employer describing the need for your travel; or
- A document showing a specific employment need, such as a conference program, that also shows your participation.

(ISO: If the applicant did not establish the dates of travel, please include in the RFE as advance parole is valid for the duration of the event, as documented in the advance parole application. For multiple events, the advance parole is valid for the duration of all the documented events)

ASSORTED OTHERS

DACA 300 – FOREIGN LANGUAGE DOCUMENT MUST BE ACCOMPANIED BY AN ENGLISH TRANSLATION

If you submit a document in any language other than English, it must be **completely** translated word-for-word. The translator must certify that the translation is accurate and that he or she is competent to translate. Note: You must submit the requested foreign language document along with the translation.

DACA 301– YOU MAY SUBMIT PHOTOCOPIES

You may submit either the original documents or legible photocopies of the originals, including copies of the front and back of each document. If you choose to submit original documents, they will not be returned to you. [NOT FOR USE WHEN USCIS IS REQUESTING ORIGINAL DOCUMENTS.]

DACA 302– AFFIDAVITS

Affidavits can support two of the DACA guidelines:

- Brief, casual, and innocent departures during the five years of required continuous presence in the United States: and
- Any minor gap in the five year continuous residence requirement.

In support of your DACA request, you submitted affidavits, but you did not indicate that:

- primary and secondary evidence cannot be obtained; and
- what effort you undertook to obtain that evidence.

Therefore, you are requested to provide the following:

- A written statement from the appropriate issuing authority attesting to the fact that no record exists or can be located, or that the record sought was part of some segment of records which were lost or destroyed; or
- Evidence (such as an affidavit) "that repeated good faith attempts were made to obtain the required document or record."

DACA 303 – SIGNATURE ON FORM I-821D 1630

As stated in the Form I-821D instructions, each request must be properly signed. Part 4 of your Form I-821D, Consideration of Deferred Action for Childhood Arrivals is not properly signed because (ISO should indicate why the form was incorrectly signed. For example, the preparer signed Part 4 instead of Part 5 of the form or the requestor is over the age of 14, but the requestor's parent or legal guardian signed Part 4) Therefore, your Form I-821D is enclosed so that you can sign and date Part 4, 2.a. and 2.b. of your Form I-821D. Please note that a photocopy of a signed request or a typewritten name in place of a signature is not acceptable. Please attach your properly signed Form I-821D to this Request for Evidence and return to the address listed on this notice.

(Include a copy of the requestor's Form I-821D with the RFE)

DACA 304 – Form I-821D Missing Page(s)

You did not submit page (ISO should list the missing page number(s)) with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals. Therefore, you are requested to complete the enclosed page (ISO should list the missing page number(s)) of the form.

Also enclosed is a copy of your original Form I-821D. Please re-sign and date page four (4) of the completed form; the completed form must contain a new original signature. Attach your completed Form I-821D to this Request for Evidence and send to the address as listed on this notice.

(Include a copy of the requestor's Form I-821D and the blank missing page(s) of the form with the RFE)

ACKNOWLEDGEMENT OF WITHDRAWAL

DACA Acknowledgement of Withdrawal

On [DATE] you filed a request for deferred action under the Secretary of Homeland Security's June 15, 2012, directive concerning Deferred Action for Childhood Arrivals. The complete DACA package included Form I-821D, Consideration of Deferred Action for Childhood Arrivals, a Form I-765, Application for Employment Authorization, and a Form I-765WS, Form I-765 Worksheet, together with the required filing fee ("DACA Package").

On [DATE], you withdrew your DACA Package. This withdrawal applies equally to the Form I-821D, the Form I-765, and the Form I-765WS.

USCIS hereby acknowledges your withdrawal of your DACA Package. Your withdrawal terminates each separate request that is part of your DACA Package. USCIS will not take any further action on your Form I-821D or the related Form I-765. The filing fee is not refundable.

This acknowledgement of your withdrawal of your DACA Package is not a "decision" that is subject to administrative appeal or to the filing of a motion to reopen/reconsider. However, if you later believe you are eligible and wish to request Consideration of Deferred Action for Childhood Arrivals, you may file a new Form I-821D concurrently with a new Form I-765 and Form I-765WS, with a new fee.

Appendix D

DEFERRED ACTION FOR CHILDHOOD ARRIVALS RFE CALL-UPS

NOTE: Text highlighted in **YELLOW** and bracketed by [] is hidden text that requires ISO input. The ISO should delete the highlighted bracketed **[Text]** and type in the necessary information, or choose the appropriate information from choices and delete the information that does not apply. Text only highlighted in **YELLOW** and not bracketed is directive in nature and should not be printed in the letter being sent but should be deleted. Please mix call-ups into a single RFE as needed.

NOTE: Please add call-ups **DACA 300 – FOREIGN LANGUAGE DOCUMENT MUST BE ACCOMPANIED BY AN ENGLISH TRANSLATION** and **DACA 301 – YOU MAY SUBMIT PHOTOCOPIES** to any other call-ups below as needed.

DACA 100 – IDENTITY

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to prove your identity is insufficient (**ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly**). You may still submit evidence, which may include, but is not limited to, copies of: (**ISO should delete any of the following that were already provided by the requestor**)

- Passport;
- Birth certificate accompanied by photo identification;
- Any national identity documents from your country of origin bearing your photo and/or fingerprint;
- Any U.S.-government immigration or other document bearing your name and photograph (e.g., Employment Authorization Documents (EADs), expired visas, driver's licenses, non-driver cards, etc.);
- Any school-issued form of identification with photo;
- Military identification document with photo; or
- Any other document that you believe is relevant.

DACA 101 – CONTINUOUS RESIDENCE

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to that establish that you have continuously resided in the United States during the 5-year period immediately before June 15, 2012 and up to the time of filing is insufficient.

(ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly). You may still submit evidence, which may include, but is not limited to, copies of: (ISO should delete any of the following that were already provided by the requestor)

- a. Employment records (e.g., pay stubs, W-2 Forms, certification of the filing of Federal income tax returns, State verification of the filing of state income tax returns, letters from employer(s), or, if you are self employed, letters from banks and other firms with whom you have done business);

NOTE: In all of these documents, your name and the name of the employer or other interested organization must appear on the form or letter, as well as relevant dates. Letters from employers must be signed by the employer and must include the employer's contact information.

Such letters must include: **(1)** your address(es) at the time of employment; **(2)** the exact period(s) of employment; **(3)** period(s) of layoff; and **(4)** duties with the company.

- b. Rent receipts, utility bills (gas, electric, phone, etc.), receipts or letters from companies showing the dates during which you received service;
- c. School records (transcripts, letters, report cards, etc.) from the schools that you have attended in the United States, showing the name(s) of the schools and periods of school attendance;
- d. Military records (e.g., Form DD-214, Certificate of Release or Discharge from Active Duty; NGB Form 22, National Guard Report of Separation and Record of Service; military personnel records; or military health records);
- e. Hospital or medical records concerning treatment or hospitalization, showing the name of the medical facility or physician and the date(s) of the treatment or hospitalization;
- f. Official records from a religious entity in the United States confirming your participation in a religious ceremony, rite, or passage (e.g., baptism, first communion, wedding, etc.);
- g. Money order receipts for money sent into or out of the country; passport entries; birth certificates of children born in the United States; dated bank transactions; correspondence between you and another person or organization; U.S. Social Security card; Selective Service card; automobile license receipts, title, vehicle registration, etc.; deeds, mortgages, rental agreements, contracts to which you have been a party; tax receipts; insurance policies; receipts; postmarked letters; or
- h. Any other relevant document.

DACA 102 - BRIEF, CASUAL, AND INNOCENT ABSENCE

To be considered for deferred action as a childhood arrival, you must have continuously resided in the United States during the 5 years period immediately before June 15, 2012 and date you filed your request for deferred action. A brief, casual, and innocent absence from the United States will not interrupt your continuous residence.

An absence will be considered brief, casual, and innocent, if:

- (1) The absence was short and reasonably calculated to accomplish the purpose of the absence;
- (2) The absence was not the result of an order of exclusion, deportation, or removal;
- (3) The absence was not because of an order of voluntary departure, or an administrative grant of voluntary departure before the requestor was placed in exclusion, deportation, or removal proceedings; and
- (4) The purpose of the absence from the United States or actions while outside of the United States were not contrary to law.

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, for each departure you made from the United States since June 15, 2007 to show that each departure you made from the United States since June 15, 2012 were brief, casual, and innocent is insufficient. (ISO should list what evidence was submitted and briefly state why the evidence is insufficient. If the requestor did not submit any evidence, modify RFE call up accordingly). You may still submit evidence, which may include, but is not limited to, copies of: (ISO should delete any of the following that were already provided by the requestor)

- Plane or other transportation tickets or itinerary showing the travel dates;
- Passport entries;
- Hotel receipts showing the dates you were abroad;
- Evidence of the purpose of the travel (e.g., you attended a wedding or funeral);
- Advance parole document; or
- Any other evidence that could support a brief, casual, and innocent absence.

DACA 103 – ARRIVED IN THE UNITED STATES BEFORE AGE 16

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to that establish you came to the United States prior to your 16th birthday is insufficient. (ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly). You may still submit evidence, which may include, but is not limited to, copies of: (ISO should delete any of the following that were already provided by the requestor)

- Passport with an admission stamp indicating when you entered the United States;
- I-94/I-95/I-94W Arrival/Departure Record;
- Any INS or DHS document stating your date of entry (e.g., Form I-862, Notice to Appear);
- Travel records, such as transportation tickets showing your dates of travel to the United States;
- School records (transcripts, report cards, etc.) from the schools that you have attended in the United States, showing the name(s) of the schools and the periods of school attendance;
- Hospital or medical records concerning treatment or hospitalization, showing the name of the medical facility or physician and the date(s) of the treatment or hospitalization;

- Official records from a religious entity in the United States confirming your participation in a religious ceremony, rite, or passage (e.g., baptism, first communion, wedding, etc.); or
- Any other document that you believe is relevant.

DACA 104 –IN UNLAWFUL STATUS AS OF JUNE 15, 2012

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to that show that you were in unlawful status as of June 15, 2012 is insufficient. (ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly). You may still submit evidence, which may include, but is not limited to, copies of: (ISO should delete any of the following that were already provided by the requestor)

- I-94/I-95/I-94W Arrival/Departure Record showing the date your authorized stay expired;
- If you have a final order of exclusion, deportation, or removal issued on or before June 15, 2012, submit a copy of that order and related charging documents, if available;
- An INS or DHS charging document placing you into removal proceedings;
- Any other document that you believe is relevant to show that you lacked lawful immigration status on June 15, 2012; or
- Any document relating to parole.

DACA 105 – PROOF OF PRESENCE IN THE UNITED STATES ON JUNE 15, 2012

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to that show that you were present in the United States on June 15, 2012 is insufficient. (ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly). You may still submit evidence, which may include, but is not limited to, copies of: (ISO should delete any of the following that were already provided by the requestor)

- a. Employment records (e.g., pay stubs, W-2 Forms, certification of the filing of Federal income tax returns, State verification of the filing of state income tax returns, letters from employer(s), or, if you are self employed, letters from banks and other firms with whom you have done business).

NOTE: In all of these documents, your name and the name of the employer or other interested organization must appear on the form or letter, as well as relevant dates. Letters from employers must be signed by the employer and must include the employer's contact information.

Such letters must include: **(1)** your address(es) at the time of employment; **(2)** the exact period(s) of employment; **(3)** period(s) of layoff; and **(4)** duties with the company.

- b. Rent receipts, utility bills (gas, electric, phone, etc.), receipts or letters from companies showing the dates during which you received service.
- c. School records (transcripts, letters, report cards, etc.) from the schools that you have attended in the United States, showing the name(s) of the schools and periods of school attendance.

- d. Military records (e.g., Form DD-214, Certificate of Release or Discharge from Active Duty; NGB Form 22, National Guard Report of Separation and Record of Service; military personnel records; or military health records).
- e. Hospital or medical records concerning treatment or hospitalization, showing the name of the medical facility or physician and the date(s) of the treatment or hospitalization.
- f. Official records from a religious entity in the United States confirming your participation in a religious ceremony, rite, or passage (e.g., baptism, first communion, wedding, etc.).
- g. Money order receipts for money sent into or out of the country; passport entries; birth certificates of children born in the United States; dated bank transactions; correspondence between you and another person or organization; U.S. Social Security card; Selective Service card; automobile license receipts, title, vehicle registration, etc.; deeds, mortgages, contracts to which you have been a party; tax receipts; insurance policies; receipts; postmarked letters; or
- h. Any other relevant document.

DACA 106 – CURRENTLY ENROLLED IN SCHOOL

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, showing that you have been accepted for enrollment or are already attending classes in one of the following is insufficient:

- A public or private elementary, junior high/middle school or high school/secondary school;
- A public or private college or university, or community college;
- A course of study to pass a General Education Development (GED) Certificate exam or other State-authorized exam;
- An educational or career training program (including vocational training);
- Literacy training; or
- An English as a Second Language (ESL) program.

(ISO should list what evidence was submitted and briefly state why the evidence is insufficient. If the documents provided by the requestor are incomplete (i.e. no identifying information) or illegible, the ISO should note this in the RFE. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly)

You may still submit evidence, which may include the following: (ISO should delete any of the following that were already provided by the requestor.

- **A public or private elementary, junior high/middle school or high school/secondary school;**

Such evidence may include, but is not limited to:

- If accepted for enrollment, but classes have not yet commenced:
 - An acceptance letter on school letterhead from the school's authorized representative. Such acceptance letter is to include the name and address of the school, your grade level, and the date that classes are scheduled to commence. The letter is to be accompanied by evidence that the student has registered for classes, or other evidence showing the student has accepted the offer and has committed to start classes on a certain date;
 - A current individualized education program (IEP), as required under the Individuals with Disabilities Education Act, if you have a disability;

- A current class schedule containing the student's name, the list of courses, and the day and time of each class; or
 - Any other relevant evidence.
 - If already enrolled – Current school registration cards; current transcripts; report cards; progress reports showing the name of the school, the time period or semester covered by the document, and the current grade; or a current IEP showing your process to date.
- **A public or private college or university, or community college;**
Such evidence may include, but is not limited to:
 - If accepted for enrollment, but classes have not yet commenced:
 - An acceptance package or related material on school letterhead from the school's authorized representative. Such acceptance package or related material is to include the name and address of the school, your grade level or class year, and the date or term when classes are scheduled to commence. In addition, the acceptance package or related material is to be accompanied by evidence that the student has registered for classes, or other evidence showing the student has accepted the offer and has committed to start classes on a certain date;
 - A current individualized education program (IEP), as required under the Individuals with Disabilities Education Act, if you have a disability;
 - A copy of your current tuition bill;
 - A current class schedule containing your name, the list of courses, and the day and time of each class; or
 - Any other relevant evidence.
 - If already enrolled – Current school registration cards; current transcripts; report cards; progress reports showing the name of the school, the time period or semester covered by the document, and the current grade or class year; or a current IEP showing your process to date.
- **A course of study to pass a General Education Development (GED) Certificate exam or other equivalent State-authorized exam;**
Such evidence is to include a letter from the authorized representative of the program that includes information such as:
 - Your name and date of enrollment;
 - The duration of the program and expected completion date;
 - Whether the course of study is for a regular high school diploma or recognized equivalent under State law or a GED exam or other equivalent State-authorized exam;
 - The program's source and amount of funding; and
 - The program's authorized representative's contact information.
- **An educational or career training program (including vocational training);**
Such evidence may include, but is not limited to:
 - If accepted for enrollment, but classes have not yet commenced:
 - An acceptance letter on school letterhead from the school registrar/authorized school representative. Such acceptance letter is to include the name and address of the program, a brief description of the program, the duration of the program, and state when the classes are scheduled to commence. The letter is to be accompanied by evidence that the student has registered for the program;
 - A copy of your current year registration (intake form/enrollment form); or
 - Any other relevant documentation.

- If already attending classes– Current transcripts, report cards, or progress reports showing the name of the school, the time period or semester covered by the document, and if relevant, the current educational or grade level.
- **Literacy training; or**
Such evidence is to include a letter from the literacy program administrator or authorized representative providing information such as:
 - Your name;
 - The date of your enrollment;
 - The duration of the literacy program and the expected completion date; and
 - The program administrator or authorized representative’s contact information.
- **An English as a Second Language (ESL) program.**
Such evidence is to include a letter from the ESL program administrator or authorized representative. This letter is to include the following:
 - Your name;
 - The date of your enrollment;
 - The duration of the ESL program and the expected completion date;
 - The program administrator or authorized representative’s contact information.

DACA 106A – EVIDENCE OF ACCEPTANCE BUT NO EVIDENCE OF REGISTERING FOR CLASSES:

You have provided an acceptance letter or other related material indicating that you have been accepted at [ISO should list the name of the private elementary/junior high/middle school/high school/secondary school or public or private college/university/community college]. However, you did not include evidence that you have enrolled in that school. Therefore, you are requested to submit such evidence which is to include, but is not limited to paid tuition bills or evidence that you have registered for class at that school.

DACA 106B – LITERACY PROGRAM’S NON-PROFIT STATUS

If the literacy program in which you are enrolled has non-profit status, please provide evidence of such status. Evidence of the literacy program’s non-profit status is to include a copy of a valid letter from the Internal Revenue Service confirming exemption from taxation under section 501(c)(3) of the Internal Revenue Service Code of 1986, as amended, or equivalent section of prior code.

DACA 106C –PUBLIC FUNDING (GED; Educational or Career Training Program (Including Vocational Training); ESL)

If the [ISO should insert GED; Educational or Career Training Program (Including Vocational Training); Literacy Program; or English as a Second Language] in which you are enrolled is funded in whole or in part by public funds (Federal, State, county or municipal), you are requested to submit a letter from the [ISO should insert GED program administrator/authorized representative; school registrar/authorized school representative if requestor is enrolled in Career Training Program (Including Vocational Training); literacy program administrator/authorized representative; or ESL program administrator/authorized representative] providing basic details about the funding, such as the source(s) of the funding.

DACA 106D – PUBLIC FUNDING – (Literacy Program)

If the literacy program in which you are enrolled is not funded in whole or in part by public funds (Federal, State, county, or municipal) or not administered by a non-profit entity you are requested to submit a letter from the program administrator or authorized representative providing basic details about the funding, such as the amount and the source(s) of the funding.

DACA 106E – DEMONSTRATED EFFECTIVENESS (GED; Educational or Career Training Program (Including Vocational Training); Literacy Program; ESL)

(ISO SHOULD SELECT THE CORRECT RFE PARAGRAPH BELOW DEPENDING UPON THE PROGRAM IN WHICH THE REQUESTOR IS ENROLLED)

Your record shows that the **GED/Equivalency program**, in which you are enrolled, is not publicly funded (Federal, State, county, or municipal) in whole or in part. Therefore, you are requested to submit information from the GED program administrator/authorized representative relating to the program's demonstrated effectiveness. Such information can include, but is not limited to:

- The duration of the program's existence;
- The program's track record in assisting students in obtaining a regular high school diploma, GED, or a recognized equivalent certificate, or passing a GED or recognized equivalent exam;
- Receipt of awards or special achievement or recognition, that indicate the program's overall quality; and/or
- Any other relevant information indicating the program's overall quality.

Your record shows that the **educational or career training program (including vocational training)**, in which you are enrolled, is not publicly funded (Federal, State, county, or municipal) in whole or in part. Therefore, you are requested to submit information, with supporting documentation, if available, from the school registrar/authorized representative relating to the program's demonstrated effectiveness. Such information can include, but is not limited to:

- The duration of the program's existence;
- The program's track record in placing students in employment, job training, or post-secondary education; and
- Receipt of awards or special achievement or recognition, that indicate the program's overall quality; and/or
- Any other relevant information indicating the program's overall quality.

Your record shows that the **literacy program** in which you are enrolled, is not publicly funded (Federal, State, county, or municipal) in whole or in part. Therefore, you are requested to submit information from the literacy program administrator/authorized representative relating to the program's demonstrated effectiveness. Such information can include, but is not limited to:

- The duration of the program's existence;
- The program's track record in placing students in post-secondary education, job training programs, or employment; and
- Receipt of awards or special achievement or recognition, that indicate the program's overall quality; and/or
- Any other relevant information indicating the program's overall quality.

Your record shows that the **English as a Second Language (ESL)** program in which you are enrolled is not publicly funded (Federal, State, county, or municipal) in whole or in part. Therefore, you are requested to submit information from the ESL program administrator/authorized representative relating to the program's demonstrated effectiveness. Such information can include, but is not limited to:

- The length of the program's existence;
- The program's track record in assisting students in obtaining placement in postsecondary schools, job training programs, or employment; and
- Receipt of awards or special achievement or recognition, that indicate the program's overall quality; and/or

- Any other relevant information indicating the program's overall quality.

DACA 106F– GRADUATED FROM SCHOOL

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to show that you graduated from school is insufficient (ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the documents provided by the requestor are incomplete (i.e. no identifying information) or illegible, the ISO should note this in the RFE. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly). You may still submit evidence, which may include, but is not limited to, copies of: (ISO should delete any of the following that were already provided by the requestor)

- A diploma;
- Transcripts showing the date of graduation; or
- A GED certificate, certificate of completion, certificate of attendance, or alternate award from a public or private high school or secondary school.

Documentation sufficient to demonstrate that you obtained a GED includes, but is not limited to, evidence you passed a GED exam, or other comparable State-authorized exam, and, as a result, you received the recognized equivalent of a regular high school diploma under State law.

DACA 107G – MEDICAL LEAVE

You indicate in your filing that you are currently on medical leave from school. Therefore, you are requested to submit evidence of your medical leave and indicate the date you expect to return to school. Evidence of your medical leave may include, but is not limited to, an explanation from a medical doctor on official letterhead stating the diagnosis and prognosis, and how long your treatment is expected to last.

DACA 107 - MILITARY

The evidence you submitted with your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to that show that you are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States is insufficient. (ISO should list what evidence was submitted for this guideline and briefly state why the evidence is insufficient. If the requestor did not submit any evidence for this guideline, modify RFE call up accordingly). You may still submit evidence, which may include, but is not limited to, copies of: (ISO should delete any of the following that were already provided by the requestor)

- Form DD-214, Certificate of Release or Discharge from Active Duty;
- NGB Form 22, National Guard Report of Separation and Record of Service;
- Military personnel records; or
- Military health records.

DACA 108- REMOVAL PROCEEDINGS

Submit documents that you have been issued an order of exclusion, deportation or removal. Such documentation could include copies of:

- Any removal, deportation, or exclusion order issued by an Immigration Judge;
- Final decision from the Board of Immigration Appeals (BIA); or
- Final decision from a U.S. Court of Appeals in your case.

APPLICATION SUPPORT CENTER (ASC) RELATED

DACA 130 – SCHEDULE ASC APPOINTMENT

Your request cannot be processed until you have appeared at an Application Support Center (ASC) for the collection of a digital photograph, signature, and fingerprint(s). Our records indicate that you have not yet appeared at an ASC for this purpose. Please schedule an appointment at the ASC nearest you by calling the USCIS National Customer Service Center at 1-800-375-5283 (TTY 1-800-767-1833). You also can find the location of the ASC nearest you on the USCIS web site at www.USCIS.gov.

Once you have scheduled an appointment, or if you have a scheduled appointment, please return this notice to the address below with the appointment information.

Date of Appointment: _____

Location of Appointment: _____

DACA 131– RESCHEDULE ASC APPOINTMENT (TECHNICAL DIFFICULTIES)

On [DATE], USCIS asked you to schedule an appointment at an Application Support Center (ASC) for the collection of a digital photograph, signature and fingerprint(s). In response to that request, you indicated that you already appeared at an ASC as required. However, due to technical problems, your previously-acquired biometrics from the ASC cannot be used.

USCIS will mail a separate notice to you containing information for a new appointment for biometrics capture at the ASC nearest you and listing identity documents that you must bring with you to your ASC appointment. Once you receive that notice, additional information regarding the location of the ASC can be found on the USCIS web site at www.USCIS.gov. Please bring this notice with you to your appointment.

Once you have provided your biometrics to the ASC, respond to this request with evidence of your attendance of the ASC appointment. Such evidence typically consists of a copy of your appointment notice, bearing a stamp from the ASC technician. Along with the evidence of your appointment, please include all other evidence requested in this notice.

We sincerely regret any inconvenience this has caused you.

NAME, DATE OF BIRTH DISCREPANCY

DACA 140 – DATE OF BIRTH DISCREPANCY

USCIS records indicate that you were born on [DATE]. You indicated on your request for consideration of deferred action for childhood arrivals that you were born on [DATE]. Submit documentary evidence to establish your true date of birth. Such evidence may include your birth certificate and/or passport. If you submit a copy of your birth certificate, you must submit copies of the front and back (if there is information on the back).

DACA 142 – NAME CHANGE/DISCREPANCY

USCIS records and/or evidence you submitted indicate that your name is [NAME]. You indicated on your request for consideration of deferred action for childhood arrivals that your name is [NAME]. Submit documentary evidence to establish your true name. Such evidence may include a birth certificate, adoption records, marriage certificate, passport, or government documentation showing that you have officially changed your name.

DACA 143 – SUBMIT EVIDENCE OF NAME CHANGE

Submit proof of your name change. Such proof would normally be a marriage certificate, termination of marriage (divorce or annulment decree), adoption decree, or court order.

FINGERPRINTING / CRIMINALITY

DACA 150 – 2 UNCLASSIFIABLE PRINTS – SUBMIT LOCAL POLICE CLEARANCES

To date, you have been fingerprinted twice and USCIS has been unable to get a required clearance for you because both sets of fingerprints were rejected as unclassifiable by the Federal Bureau of Investigation. Instead of a fingerprint clearance, you must submit a local police clearance certificate for each jurisdiction (city, town, county, or municipality) in which you have lived for six months or more within the past five years.

Please note: The police clearance certificate(s) must be researched by name and date of birth. You must supply the law enforcement agency with all aliases you have used, including maiden name, if applicable. Fingerprint cards are not acceptable evidence of a police clearance certificate.

If any record indicates that you have been arrested, you must provide documentation of each of the following:

- a. The final disposition (your sentence, probation, dismissal, etc.) of **every** charge against you. The charge and disposition must be specifically identified (not merely numeric citations or codes).
- b. If you were convicted of **any** charge, you must also provide evidence showing whether the charge for which you were convicted was classified as a **felony or misdemeanor**. You may submit a copy of the pertinent statute, sentencing guidelines, and/or statement from the court clerk or police department for this purpose.

Along with the above information, you must also answer the following questions. You should respond on this notice and sign your name where it asks for your signature. If more space is needed, you may respond to the following questions on separate sheet(s) of paper. Please sign every separate sheet of paper.

- 1) Have you ever been arrested or detained by a law enforcement officer? If yes, please explain.

Answer: _____

- 2) Have you had your fingerprints taken for any reason by a law enforcement officer for a criminal offense? If yes, please explain.

Answer: _____

- 3) Have you been issued a ticket or been taken into custody by a law enforcement officer? If yes, please explain.

Answer: _____

-
- 4) Have you ever been ordered by a court to: pay a fine; serve a probationary sentence; perform community service; make restitution; or have your wages garnished (e.g., for failure to make child support payments)? If yes, please explain.

Answer: _____

- 5) Have you ever received an expungement, parole, pardon, or successfully completed a diversion or rehabilitation program? If yes, please explain.

Answer: _____

I certify, under penalties of perjury under the laws of the United States of America, that the foregoing is true and correct. Furthermore, I authorize the release from my records that USCIS needs to determine my eligibility for deferred action of childhood arrivals.

Signature of Requestor: _____

DACA 151– SUBMIT JUDGMENT AND CONVICTION DOCUMENTS

A criminal history check has been conducted based upon the fingerprints you provided at the Application Support Center. Your criminal history check has revealed that you were arrested on [DATE], in [JURISDICTION] and charged with [CHARGES].

(WHERE APPROPRIATE, SERVICE CENTER MAY ALSO NEED TO INCLUDE THE NAME UNDER WHICH THE ARREST TOOK PLACE IF DIFFERENT FROM NAME BEING USED BY REQUESTOR ON FORM I-821D. IF THERE ARE MULTIPLE CHARGES, YOU MAY BULLET EACH CHARGE.)

You must provide certified judgment and conviction documents from the court(s) for all of your arrests, including but not limited to, the charges listed above. The certified judgment and conviction documents must address the following:

- a. The final disposition (e.g., your sentence, probation, dismissal, etc.) of every charge against you. The charge and disposition must be specifically identified (not just numeric citations or codes).
- b. If you were convicted, you must also provide evidence showing whether the charge for which you were convicted was classified as a felony, misdemeanor or other type of offense. Please submit a copy of the pertinent statute, sentencing guide, or statement from the court clerk or police department for this purpose.

If you fail to submit such evidence, USCIS may deny your request for consideration of deferred action for childhood arrivals.

I-821D PART 3. CRIMINAL, NATIONAL SECURITY

AND PUBLIC SAFETY INFORMATION
AFFIRMATIVE RESPONSES
POSSIBLE INELIGIBILITY ISSUES

DACA160 – ANSWERED “YES” TO QUESTION 1 AND 2 IN PART 3 –DOCUMENTS NEEDED AND EXPLANATION

On your Consideration of Deferred Action for Childhood Arrivals (Form I-821D), you checked “Yes” to the following question(s) in Part 3, Criminal, National Security and Public Safety Information:

DELETE THOSE THAT DON’T APPLY

1. Have you been arrested for, charged with, or convicted of a felony or misdemeanor in the United States?

2. Have you been arrested for, charged with, or convicted of any crime in any country other than the United States?

You did not provide a full explanation on a separate sheet of paper(s) describing the circumstances, as requested by the Form I-821D instructions. Therefore, please provide a full explanation describing the circumstances. **DELETE IF AN EXPLANATION WAS PROVIDED**

You must provide certified judgment and conviction documents from the court(s) for all of your arrests, including but not limited to, the charges listed above. The certified judgment and conviction documents must address the following:

- a. The final disposition (e.g., your sentence, probation, dismissal, etc.) of every charge against you. The charge and disposition must be specifically identified (not just numeric citations or codes).
- b. If you were convicted, you must also provide evidence showing whether the charge for which you were convicted was classified as a felony, misdemeanor, or some other type of offense. You may submit a copy of the pertinent statute, sentencing guide, or statement from the court clerk or police department for this purpose.

If you fail to submit such evidence, USCIS may deny your request for consideration of deferred action for childhood arrivals.

DACA 161 – ANSWERED “YES” TO QUESTION 3 IN PART 3 – SUBMIT EXPLANATION

On your Consideration of Deferred Action for Childhood Arrivals (Form I-821D), you checked “Yes” to the following question in Part 3, Criminal, National Security and Public Safety Information:

3. Have you ever engaged in or do you continue to engage in or plan to engage in terrorist activities?

You did not provide a full explanation on a separate sheet of paper(s) describing the circumstances, as requested by the Form I-821D instructions.

Please provide a full and complete explanation of the terrorist activities you have ever engaged in, continue to engage in, or plan to engage in. Your explanation should include:

Whether other people were engaged in terrorist activities with you;
The names of the other people with whom you engaged in terrorists activities;
The role you played in terrorist activities;
The role that others played in terrorist activities;
Whether you planned or actually carried out the terrorist activities;
Whether you engaged in, continued to engage, or planned to engage in terrorist activities in the United States or abroad; and
Describe the type of terrorist activities you engaged in, continue to engage in, or plan to engage in.

DACA 162 – ANSWERED “YES” TO QUESTION 4 IN PART 3 – SUBMIT EXPLANATION

On your Consideration of Deferred Action for Childhood Arrivals (Form I-821D), you checked “Yes” to the following question in Part 3, Criminal, National Security and Public Safety Information:

4. Are you now or have you ever been a member of a gang?

You did not provide a full explanation on a separate sheet of paper(s) describing the circumstances, as requested by the Form I-821D instructions.

Please provide a full and complete explanation of your gang membership, including:

When you joined the gang(s);
How long you were a member of the gang(s);
The name of the gang(s); and
The criminal activities you participated in with the gang(s).

DACA 163 – ANSWERED “YES” TO QUESTIONS 5a, 5b, 5c, AND 5d IN PART 3– SUBMIT EXPLANATION

On your Request for Deferred Action for Childhood Arrivals (Form I-821D) you checked “Yes” to the following question(s) in Part 3, Criminal, National Security and Public Safety Information:

DELETE THOSE THAT DON’T APPLY

5. Have you EVER engaged in, ordered, incited, assisted, or otherwise participated in any of the following:

- a. acts involving torture, genocide, or human trafficking?**
- b. killing any person?**
- c. severely injuring a person?**
- d. any kind of sexual contact or relations with any person who was being forced or threatened?**

You did not provide a full explanation on a separate sheet(s) of paper describing the circumstances, as requested by the Form I-821D instructions.

Please provide a full and complete explanation describing your participation in activities involving torture, genocide, human trafficking, killing any person, severely injuring any person, or any sexual contact or relations with any person who was being forced or threatened.

**I-821D PART 3. CRIMINAL, NATIONAL SECURITY
AND PUBLIC SAFETY INFORMATION**

DACA 170– ANSWERED “NO” TO QUESTIONS 1 AND 2 IN PART 3– USCIS FOUND CLEAR CHARGES OR OTHER DEROGATORY INFORMATION, SUBMIT JUDGMENT AND CONVICTION DOCUMENTS

A background check has been conducted based upon the fingerprints you provided at the Application Support Center. Your background check revealed that you were arrested on [DATE], in [JURISDICTION] and charged with [CHARGES].

(WHERE APPROPRIATE, YOU MAY ALSO NEED TO INCLUDE THE NAME UNDER WHICH THE ARREST TOOK PLACE IF DIFFERENT FROM NAME BEING USED BY THE REQUESTOR ON FORM I-821D. IF THERE ARE MULTIPLE CHARGES, YOU MAY BULLET EACH CHARGE.)

You must provide certified judgment and/or conviction documents from the court(s) for all of your arrests, including but not limited to, the charges listed above. The certified judgment and conviction documents must address the following:

- a. The final disposition (your sentence, probation, dismissal, etc.) of every charge against you. The charge and disposition must be specifically identified (not just numeric citations or codes).
- b. If you were convicted, you must also provide evidence showing whether the charge for which you were convicted was classified as a felony or misdemeanor. You may submit a copy of the pertinent statute, sentencing guide, or statement from the court clerk or police department for this purpose.

If you fail to submit such evidence, USCIS may deny your request for consideration of deferred action for childhood arrivals.

DACA 171– ANSWERED “NO” TO QUESTIONS 1 AND 2 IN PART 3 - CRIMINAL ACTIVITY UNCLEAR TO USCIS, SUBMIT JUDGMENT AND CONVICTION DOCUMENTS

Based on a review of your case, it appears that you have some type of criminal record/interaction with law enforcement authorities. It appears that on [DATE] the following occurred:

[PROVIDE EXPLANATION OF FINDINGS, TO INCLUDE NAME OF POLICE DEPT. IF APPLICABLE, CHARGES IF APPLICABLE, ETC. NOTE: DO NOT INFORM THE APPLICANT WHERE THE INFORMATION CAME FROM SYSTEMS THAT ARE NOT OUR RECORDS (EX. IBIS)]

(WHERE APPROPRIATE, YOU MAY ALSO NEED TO INCLUDE THE NAME UNDER WHICH THE ARREST TOOK PLACE IF DIFFERENT FROM NAME BEING USED BY THE REQUESTOR ON FORM I-821D. IF THERE ARE MULTIPLE INTERACTIONS, YOU MAY BULLET EACH INTERACTION.)

Submit a statement explaining the results of this interaction with law enforcement authorities. You must provide certified judgment and conviction documents from the court(s) for all of your arrests, including but not limited to, the charges listed above. The certified judgment and conviction documents must address the following:

- a. The final disposition (your sentence, probation, dismissal, etc.) of every charge against you. The charge and disposition must be specifically identified (not just numeric citations or codes).
- b. If you were convicted of any charge, you must also provide evidence showing whether the charge for which you were convicted was classified as a felony or misdemeanor.

You may submit a copy of the pertinent statute, sentencing guide, or statement from the court clerk or police department for this purpose.

If you fail to submit such evidence, USCIS may deny your request for consideration of deferred action for childhood arrivals.

DACA 172– ANSWERED “NO” TO QUESTIONS 3, 4, 5a, 5b, 5c, AND 5d IN PART 3 – USCIS DISCOVERED UNCLEAR INFORMATION, SUBMIT EXPLANATION

Based on a review of your case, the following was discovered: **DELETE THOSE THAT DON’T APPLY**

3. you engaged in or do you continue to engage or plan to engage in terrorist activities?

4. you are now or have been a member of gang?

5. you engaged in, ordered, incited, assisted, or otherwise participated in any of the following:

a. acts involving torture, genocide, or human trafficking?

b. killing any person?

c. severely injuring a person?

d. any kind of sexual contact or relations with any person who was being forced or threatened?

[PROVIDE EXPLANATION OF FINDINGS. THIS CAN INCLUDE WHERE THE INFORMATION WAS FOUND IF IT IS KNOWLEDGE THAT CAN BE SHARED WITH THE REQUESTOR. NOTE: DO NOT INFORM THE REQUESTOR WHERE THE INFORMATION CAME FROM SYSTEMS THAT ARE NOT OUR RECORDS (EX. IBIS).]

Therefore, you must submit a statement explaining and/or refuting the information/circumstances found in USCIS records. Please note that if you refute the above information, and USCIS later receives information that the above does relate to you, USCIS may terminate deferred action and you may be barred from other immigration benefits.

FORM I-765

DACA 180 – FAILURE TO SUBMIT OR COMPLETE FORM I-765 WS

USCIS is unable to complete your Form I-765, Application for Employment Authorization because you failed to submit or complete the Form I-765 WS. Please complete the worksheet and return it to the address provided within the specified time.

DACA 190 – SUBMIT PASSPORT PHOTOS

Please submit **two (2)** passport-style **color** photo(s) of **[NAME]** taken within 30 days of the date of this notice, which conform(s) to the specifications below. Using a pencil or felt pen, lightly print name (and Alien Registration Number, if known) on the back of each photograph.

Please do not staple through any part of the photo(s). Enclose the photo(s) in a plastic or paper envelope and staple the envelope to this notice when returning it to this office.

Passport-style photos must be 2 inches by 2 inches:

- Frame subject with full face, front view, eyes open.
- Make sure photo presents full head from top of hair to bottom of chin; height of head should measure 1 inch to 1 3/8 inch (25 mm to 35 mm).
- Center head within frame.
- Make sure eye level is between 1 1/8 inch and 1 3/8 inch (28 mm and 35 mm) from bottom of photo.
- Photograph subject against a plain white or off-white background.
- Position subject and lighting so that there are no distracting shadows on the face or background.
- Encourage subject to have a natural expression.
- Include headpieces if worn daily for religious purposes; they should not obscure or cast shadows on the eyes or any other part of the face.

For more information on photo requirements, please see the Department of State website at: <http://www.travel.state.gov/passport/pptphotos/index.html>, or contact the USCIS National Customer Service Center at 1-800-375-5283.

FORM 131

DACA 200 – PROOF OF DACA

To be considered for advance parole you must submit evidence to establish that you have been granted deferred action for childhood arrivals. Submit a copy of the approval notice issued by USCIS for your Form I-821D, Consideration of Deferred Action for Childhood Arrivals.

DACA 201 – PROOF OF EDUCATIONAL NEED

In accordance with the discretionary authority provided in section 212(d)(5)(A) of the Act, grants of advance parole to individuals granted deferred action for childhood arrivals may be made based on the need to travel abroad for educational, employment, or humanitarian purposes. You claim that you need to travel abroad for education purposes. Examples of travel abroad for education purposes include study abroad programs, school-sponsored trips abroad, or travel necessary to conduct academic research.

The evidence you submitted with your Form I-131, Application for Travel Document, to establish your need to travel abroad for education purposes is insufficient. (ISO should list what evidence was submitted and briefly state why the evidence is insufficient. If the requestor did not submit any evidence to support his/her need to travel abroad for educational purposes, modify RFE call up accordingly). You may still submit evidence, which may include, but is not limited to, copies of: (ISO should delete any of the following that were already provided by the requestor)

- A letter from the educational institution, or from an employee of the institution acting in his or her official capacity, describing the purpose of the travel, or documentation showing enrollment in a specific program or class coupled with documentary evidence showing that you will benefit from, or are required to travel for the specific program or class; or

NOTE: Travel during an academic year unrelated to academics (i.e., a vacation) is insufficient to qualify as an educational purpose.

(ISO: If the applicant did not establish the dates of travel, please include in the RFE as advance parole is valid for the duration of the event, as documented in the advance parole application. For multiple events, the advance parole is valid for the duration of all the documented events)

DACA 202 – PROOF OF HUMANITARIAN NEED

In accordance with the discretionary authority provided in section 212(d)(5)(A) of the Act, grants of advance parole to individuals granted deferred action for childhood arrivals may be made based on the need to travel abroad for educational, employment, or humanitarian purposes. You claim that you need to travel abroad for humanitarian reasons. Examples of travel abroad for humanitarian reasons include medical reasons, to visit a family member, or to attend funeral services for a family member.

The evidence you submitted with your Form I-131, Application for Travel Document, to establish your need to travel abroad for humanitarian purposes is insufficient. (ISO should list what evidence was submitted and briefly state why the evidence is insufficient. If the requestor did not submit any evidence to support his/her need to travel abroad for humanitarian, modify RFE call up accordingly). You may still submit evidence, which may include, but is not limited to, copies of: (ISO should delete any of the following that were already provided by the requestor)

- An explanation from a medical doctor on official letterhead stating the diagnosis and prognosis, and how long the treatment is expected to last;
- Information on the reasons why you cannot obtain treatment in the United States;
- An explanation from a medical doctor on official letterhead stating the diagnosis and prognosis of the family member's condition; or
- A death certificate or newspaper obituary of the family member or other document evidencing the death of the family member.

(ISO: If the applicant did not establish the dates of travel, please include in the RFE as advance parole is valid for the duration of the event, as documented in the advance parole application. For multiple events, the advance parole is valid for the duration of all the documented events)

DACA 203 – PROOF OF EMPLOYMENT NEED

In accordance with the discretionary authority provided in section 212(d)(5)(A) of the Act, grants of advance parole to individual granted deferred action for childhood arrivals may be made based on the need to travel abroad for educational, employment, or humanitarian purposes. You claim that you need to travel abroad for employment purposes. Examples of travel abroad for employment purposes include: pursuit of a position in the United States with a foreign employer; an overseas assignment, interview, conference, or training; a meeting with overseas clients or others with whom you interact professionally; or a trip to cultivate business or sales overseas or any other overseas trip taken in furtherance of the applicant's professional responsibilities.

The evidence you submitted with your Form I-131, Application for Travel Document, to establish your need to travel abroad for employment purposes is insufficient. (ISO should list what evidence was submitted and briefly state why the evidence is insufficient. If the requestor did not submit any evidence to support his/her need to travel abroad for employment purposes, modify RFE call up accordingly). You may still submit evidence, which may include, but is not limited to, copies of: (ISO should delete any of the following that were already provided by the requestor)

- A letter on official letterhead from your employer describing the need for your travel; or
- A document showing a specific employment need, such as a conference program, that also shows your participation.

(ISO: If the applicant did not establish the dates of travel, please include in the RFE as advance parole is valid for the duration of the event, as documented in the advance parole application. For multiple events, the advance parole is valid for the duration of all the documented events)

ASSORTED OTHERS

DACA 200 – FOREIGN LANGUAGE DOCUMENT MUST BE ACCOMPANIED BY AN ENGLISH TRANSLATION

If you submit a document in any language other than English, it must be **completely** translated word-for-word. The translator must certify that the translation is accurate and that he or she is competent to translate. Note: You must submit the requested foreign language document along with the translation.

DACA 201– YOU MAY SUBMIT PHOTOCOPIES

You may submit either the original documents or legible photocopies of the originals, including copies of the front and back of each document. If you choose to submit original documents, they will not be returned to you. [**NOT FOR USE WHEN USCIS IS REQUESTING ORIGINAL DOCUMENTS.**]

DACA 202– AFFIDAVITS

Affidavits can support two of the DACA guidelines:

- Brief, casual, and innocent departures during the five years of required continuous presence in the United States; and
- Any minor gap in the five year continuous residence requirement.

In support of your DACA request, you submitted affidavits, but you did not indicate that:

- primary and secondary evidence cannot be obtained; and
- what effort you undertook to obtain that evidence.

Therefore, you are requested to provide the following:

- A written statement from the appropriate issuing authority attesting to the fact that no record exists or can be located, or that the record sought was part of some segment of records which were lost or destroyed; or
- Evidence (such as an affidavit) "that repeated good faith attempts were made to obtain the required document or record."

Appendix E

DEFERRED ACTION FOR CHILDHOOD ARRIVALS NOIDs

NOTE: Text highlighted in **YELLOW** and bracketed by [] is hidden text that requires ISO input. The ISO should delete the highlighted bracketed [*Text*] and type in the necessary information, or choose the appropriate information from choices and delete the information that does not apply.

DACA 400 -NOTICE OF INTENT TO DENY – NOT A BCI DEPARTURE – UNDER VOLUNTARY DEPARTURE OR FINAL EXCLUSION, DEPORTATION, OR REMOVAL ORDER

USCIS has reviewed your request for consideration of deferred action for childhood arrivals.

In order to be considered for deferred action as a childhood arrival, you are to demonstrate that you have been residing continuously in the United States since June 15, 2007, to the present time. A brief, casual, and innocent departure from the United States does not meaningfully disrupt the period of continuous residence. A departure is deemed to be brief, casual, and innocent if:

- (1) It was short and reasonably calculated to accomplish the purpose of the absence;
- (2) It was not the result of an order of exclusion, deportation, or removal;
- (3) It was not because of an order of voluntary departure, or an administrative grant of voluntary departure before the requestor was placed in exclusion, deportation, or removal proceedings; and
- (4) Its purpose or the actions taken while outside of the United States were not contrary to law.

PICK PARAGRAPH (A) OR (B) BELOW, AS APPLICABLE:

A. USE THIS PARAGRAPH IF THE DISQUALIFYING TRAVEL OCCURRED BEFORE 8/15/12, THEN PROCEED TO THE CLOSING PARAGRAPH:

According to the information provided with your request, and/or based on information obtained during routine systems checks, it appears that you departed the United States on or about **[insert date; this date should be before 8/15/2012]**. It also appears that, at the time of your departure, you **[INSERT WHICHEVER IS APPROPRIATE: departed under an order of voluntary departure; departed under an administrative grant of voluntary departure prior to the commencement of removal proceedings; your departure was the result of an order of exclusion, deportation, or removal (including an order of voluntary departure that converted automatically to a final order of exclusion, deportation or removal).]** Because such a departure is not brief, casual, or innocent, you have not established that you have resided continuously in the United States since at least June 15, 2007, until the present time.

[Proceed to the closing paragraph.]

OR

B. USE THIS PARAGRAPH IF THE DISQUALIFYING TRAVEL OCCURRED ON OR AFTER 8/15/12 AND BEFORE FORM I-821D WAS APPROVED

According to the information provided with your request, and/or based on information obtained during routine systems checks, it appears that you departed the United States on or about ***[insert date – this date should be on or after 8/15/12]***. A departure made on or after August 15, 2012 is not brief, casual, or innocent unless removal action has been deferred, as evidenced by an approved Form I-821D. Because your departure occurred after August 15, 2012, but before USCIS has determined whether to defer action in your case, your departure from the United States was not brief, casual, or innocent. Therefore, you have not established that you have resided continuously in the United States since at least June 15, 2007, until the present time.

[CLOSING PARAGRAPH]

Accordingly, USCIS intends to deny your request for consideration of deferred action for childhood arrivals. You are afforded thirty-three (33) days from the date of this notice of intent to deny to submit additional information, evidence, or arguments overcoming the grounds for the intended denial. Failure to respond to this notice of intent to deny will result in the denial of your request for consideration of deferred action for childhood arrivals.

DACA 401 NOTICE OF INTENT TO DENY – DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

USCIS has reviewed your request for consideration of deferred action for childhood arrivals.

In order to be considered for deferred action as a childhood arrival, you are to demonstrate that you have not been convicted of a felony, a significant misdemeanor, or three or more misdemeanors, and you do not otherwise pose a threat to national security or public safety.

According to the information provided with your request, and/or based on information obtained during routine systems checks, it appears that you have a criminal conviction.

The court disposition that you submitted indicates that you were convicted on:

[Insert date of conviction, court name, city/state, crime, and statute]

Driving under the influence of alcohol or drugs constitutes a significant misdemeanor.¹ Accordingly, USCIS intends to deny your request for consideration of deferred action for childhood arrivals. You are afforded thirty-three (33) days from the date of this notice of intent to deny to submit additional information, evidence, or arguments overcoming the grounds for the intended denial. Failure to respond to this notice of intent to deny will result in the denial of your request for consideration of deferred action for childhood arrivals.

¹ For the purposes of the DACA process, a significant misdemeanor is a misdemeanor as defined by federal law (specifically, one for which the maximum term of imprisonment authorized is one year or less but greater than five days) and that meets the following criteria:

1. Regardless of the sentence imposed, is an offense of domestic violence; sexual abuse or exploitation; burglary; unlawful possession or use of a firearm; drug distribution or trafficking; or, driving under the influence; or,
2. If not an offense listed above, is one for which the individual was sentenced to time in custody of more than 90 days. The sentence must involve time to be served in custody, and therefore does not include a suspended sentence.

The time in custody does not include any time served beyond the sentence for the criminal offense based on a state or local law enforcement agency honoring a detainer issued by U S Immigration and Customs Enforcement (ICE)

See www.uscis.gov/childhoodarrivals.

DACA 402 NOTICE OF INTENT TO DENY – DOMESTIC VIOLENCE

USCIS has reviewed your request for consideration of deferred action for childhood arrivals.

In order to be considered for deferred action as a childhood arrival, you are to demonstrate that you have not been convicted of a felony, a significant misdemeanor, or three or more misdemeanors, and you do not otherwise pose a threat to national security or public safety.

According to the information provided with your request, and/or based on information obtained during routine systems checks, it appears that you have a criminal conviction.

The court disposition that you submitted indicates that you were convicted on:

[Insert date of conviction, court name, city/state, crime, and statute]

An offense of domestic violence constitutes a significant misdemeanor.¹ Accordingly, USCIS intends to deny your request for consideration of deferred action for childhood arrivals. You are afforded thirty-three (33) days from the date of this notice of intent to deny to submit additional information, evidence, or arguments overcoming the grounds for the intended denial. Failure to respond to this notice of intent to deny will result in the denial of your request for consideration of deferred

¹ For the purposes of the DACA process, a significant misdemeanor is a misdemeanor as defined by federal law (specifically, one for which the maximum term of imprisonment authorized is one year or less but greater than five days) and that meets the following criteria:

1. Regardless of the sentence imposed, is an offense of domestic violence; sexual abuse or exploitation; burglary; unlawful possession or use of a firearm; drug distribution or trafficking; or, driving under the influence; or,
2. If not an offense listed above, is one for which the individual was sentenced to time in custody of more than 90 days. The sentence must involve time to be served in custody, and therefore does not include a suspended sentence.

The time in custody does not include any time served beyond the sentence for the criminal offense based on a state or local law enforcement agency honoring a detainer issued by U.S. Immigration and Customs Enforcement (ICE).

See www.uscis.gov/childhoodarrivals.

DACA 403 NOTICE OF INTENT TO DENY – BURGLARY

USCIS has reviewed your request for consideration of deferred action for childhood arrivals.

In order to be considered for deferred action as a childhood arrival, you are to demonstrate that you have not been convicted of a felony, a significant misdemeanor, or three or more misdemeanors, and you do not otherwise pose a threat to national security or public safety.

According to the information provided with your request, and/or based on information obtained during routine systems checks, it appears that you have a criminal conviction.

The court disposition that you submitted indicates that you were convicted on:

[Insert date of conviction, court name, city/state, crime, and statute]

Burglary constitutes a significant misdemeanor.¹ Accordingly, USCIS intends to deny your request for consideration of deferred action for childhood arrivals. You are afforded thirty-three (33) days from the date of this notice of intent to deny to submit additional information, evidence, or arguments overcoming the grounds for the intended denial. Failure to respond to this notice of intent to deny will result in the denial of your request for consideration of deferred

¹ For the purposes of the DACA process, a significant misdemeanor is a misdemeanor as defined by federal law (specifically, one for which the maximum term of imprisonment authorized is one year or less but greater than five days) and that meets the following criteria:

1. Regardless of the sentence imposed, is an offense of domestic violence; sexual abuse or exploitation; burglary; unlawful possession or use of a firearm; drug distribution or trafficking; or, driving under the influence; or,
2. If not an offense listed above, is one for which the individual was sentenced to time in custody of more than 90 days. The sentence must involve time to be served in custody, and therefore does not include a suspended sentence.

The time in custody does not include any time served beyond the sentence for the criminal offense based on a state or local law enforcement agency honoring a detainer issued by U.S. Immigration and Customs Enforcement (ICE).

See www.uscis.gov/childhoodarrivals.

DACA 404 NOTICE OF INTENT TO DENY –NO ENTRY BEFORE 16

USCIS has reviewed your request for consideration of deferred action for childhood arrivals.

In order to be considered for deferred action as a childhood arrival, you are to demonstrate that you came to the United States before reaching your 16th birthday.

According to the information provided with your request, and/or based on information obtained during routine systems checks, it appears that you initially entered the United States when you were [insert age] years old. On [insert date Form I-821D received], you submitted Form I-821D, Consideration of Deferred Action for Childhood Arrivals. You indicated on your Form I-821D that you were born on [insert date of birth], and that your initial entry into the United States was on [insert date of entry]. Your date of birth is supported by your [identify the document (e.g. birth certificate, passport, etc.) that establishes the requestor's DOB], and you did not submit evidence that you entered the United States before reaching the age of 16.

Accordingly, USCIS intends to deny your request for consideration of deferred action for childhood arrivals. You are afforded thirty-three (33) days from the date of this notice of intent to deny to submit additional information, evidence, or arguments overcoming the grounds for the intended denial. Failure to respond to this notice of intent to deny will result in the denial of your request for consideration of deferred action for childhood arrivals.

DACA 405 NOTICE OF INTENT TO DENY –STUDENT IN LAWFUL STATUS ON JUNE 15, 2012 [Updated 2/27/2013]

USCIS has reviewed your request for consideration of deferred action for childhood arrivals.

In order to be considered for deferred action as a childhood arrival, you are to demonstrate that you were in unlawful immigration status as of June 15, 2012. For deferred action for childhood arrivals, the phrase “in unlawful immigration status as of June 15, 2012” means that you never had a lawful immigration status on or before June 15, 2012, or any lawful immigration status or parole that you obtained prior to June 15, 2012, had expired before June 15, 2012.

According to the information provided with your request, and based on information obtained during routine systems checks, your current F-1 nonimmigrant status is active in Student & Exchange Visitor Information System (SEVIS). [Identify other facts e.g., Employment Authorization Card validity date]. Based on these facts, USCIS has determined that you were not in an unlawful status on June 15, 2012.

Accordingly, USCIS intends to deny your request for consideration of deferred action for childhood arrivals. You are afforded thirty-three (33) days from the date of this notice of intent to deny to submit additional information, evidence, or arguments overcoming the grounds for the intended denial. Failure to respond to this notice of intent to deny will result in the denial of your request for consideration of deferred action for childhood arrivals.

DACA 406 NOTICE OF INTENT TO DENY –ARRIVED AFTER JUNE 15, 2007

USCIS has reviewed your request for consideration of deferred action for childhood arrivals.

In order to be considered for deferred action as a childhood arrival, you are to demonstrate that you have continuously resided in the United States since June 15, 2007.

According to the information you provided with your request, and/or based on information obtained during routine systems checks, it appears that you initially arrived in the United States on or about [*insert date of initial entry*].

Accordingly, USCIS intends to deny your request for consideration of deferred action for childhood arrivals. You are afforded thirty-three (33) days from the date of this notice of intent to deny to submit additional information, evidence, or arguments overcoming the grounds for the intended denial. Failure to respond to this notice of intent to deny will result in the denial of your request for consideration of deferred action for childhood arrivals.

DACA 407 NOTICE OF INTENT TO DENY – NOT IN SCHOOL

USCIS has reviewed your request for consideration of deferred action for childhood arrivals.

In order to be considered for deferred action as a childhood arrival, you are to demonstrate that you are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a general education development (GED) certificate, or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States.

On your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, you indicated that you are currently in school. However, according to the information provided with your request, and/or based on information obtained during routine systems checks, it appears that you are not currently enrolled in school. [*Insert specific information; e.g., official transcripts showing enrollment status as “Removed for Lack of Attendance” or school enrollment history listing requestor as a “No Show”.*]

Accordingly, USCIS intends to deny your request for consideration of deferred action for childhood arrivals. You are afforded thirty-three (33) days from the date of this notice of intent to deny to submit additional information, evidence, or arguments overcoming the grounds for the intended denial. Failure to respond to this notice of intent to deny will result in the denial of your request for consideration of deferred action for childhood arrivals.

DACA 408 NOTICE OF INTENT TO DENY – NONIMMIGRANT STATUS ON JUNE 15, 2012

USCIS has reviewed your request for consideration of deferred action for childhood arrivals.

In order to be considered for deferred action as a childhood arrival, you are to demonstrate that you were in unlawful immigration status as of June 15, 2012. For deferred action for childhood arrivals, the phrase “in unlawful immigration status as of June 15, 2012” means that you never had a lawful immigration status on or before June 15, 2012, or any lawful immigration status or parole that you obtained prior to June 15, 2012, had expired before June 15, 2012.

According to the information provided with your request, and/or based on information obtained during routine systems checks, it appears that you entered the United States on [Date] as [insert nonimmigrant classification. For example, “an E-2 Nonimmigrant Treaty Investor or as the spouse or child of a Nonimmigrant Treaty Investor”]. It appears that your lawful immigration status [insert “is” or “was” depending if still in status] valid until [Date], and therefore had not expired before June 15, 2012.

Accordingly, USCIS intends to deny your request for consideration of deferred action for childhood arrivals. You are afforded thirty-three (33) days from the date of this notice of intent to deny to submit additional information, evidence, or arguments overcoming the grounds for the intended denial. Failure to respond to this notice of intent to deny will result in the denial of your request for consideration of deferred action for childhood arrivals.

DACA 409 NOTICE OF INTENT TO DENY – TEMPORARY PROTECTED STATUS ON JUNE 15, 2012

USCIS has reviewed your request for consideration of deferred action for childhood arrivals.

In order to be considered for deferred action as a childhood arrival, you are to demonstrate that you were in unlawful immigration status as of June 15, 2012. For deferred action for childhood arrivals, the phrase “in unlawful immigration status as of June 15, 2012” means that you never had a lawful immigration status on or before June 15, 2012, or any lawful immigration status or parole that you obtained prior to June 15, 2012, had expired before June 15, 2012.

According to the information provided with your request, and/or based on information obtained during routine systems checks, it appears that you had Temporary Protected Status (TPS) on June 15, 2012. USCIS has no record that your status as a TPS beneficiary was withdrawn or terminated before June 15, 2012, therefore it appears you were not in unlawful status on June 15, 2012.

Accordingly, USCIS intends to deny your request for consideration of deferred action for childhood arrivals. You are afforded thirty-three (33) days from the date of this notice of intent to deny to submit additional information, evidence, or arguments overcoming the grounds for the intended denial. Failure to respond to this notice of intent to deny will result in the denial of your request for consideration of deferred action for childhood arrivals.

DACA 410 NOTICE OF INTENT TO DENY – MULTIPLE MISDEMEANORS

USCIS has reviewed your request for consideration of deferred action for childhood arrivals.

In order to be considered for deferred action as a childhood arrival, you are to demonstrate that you have not been convicted of a felony, a significant misdemeanor, or three or more misdemeanors, and you do not otherwise pose a threat to national security or public safety. According to the information provided with your request, and/or based on information obtained during routine systems checks, it appears that you have multiple criminal convictions.

The court dispositions that you submitted indicate that you were convicted on:

- [Insert date of conviction, court name, city/state, crime, and statute]
- [Insert date of conviction, court name, city/state, crime, and statute]
- [Insert date of conviction, court name, city/state, crime, and statute]

You have been convicted of three or more non-significant misdemeanors.¹ Accordingly, USCIS intends to deny your request for consideration of deferred action for childhood arrivals. You are afforded thirty-three (33) days from the date of this notice of intent to deny to submit additional information, evidence, or arguments overcoming the grounds for the intended denial. Failure to respond to this notice of intent to deny will result in the denial of your request for consideration of deferred action for childhood arrivals.

¹ For the purposes of the DACA process, a “non-significant misdemeanor” is any misdemeanor as defined by federal law (specifically, one for which the maximum term of imprisonment authorized is one year or less but greater than five days) and that meets the following criteria:

1. Is not an offense of domestic violence; sexual abuse or exploitation; burglary; unlawful possession or use of a firearm; drug distribution or trafficking; or, driving under the influence; and
2. Is one for which the individual was sentenced to time in custody of 90 days or less.

The time in custody does not include any time served beyond the sentence for the criminal offense based on a state or local law enforcement agency honoring a detainer issued by U.S. Immigration and Customs Enforcement (ICE).

DACA 411 NOTICE OF INTENT TO DENY – FELONY CONVICTION

USCIS has reviewed your request for consideration of deferred action for childhood arrivals.

In order to be considered for deferred action as a childhood arrival, you are to demonstrate that you have not been convicted of a felony, a significant misdemeanor, or three or more misdemeanors, and you do not otherwise pose a threat to national security or public safety.

According to the information provided with your request, and/or based on information obtained during routine systems checks, it appears that you have a criminal conviction.

The court disposition indicates that you were convicted on:

[Insert date of conviction, court name, city/state, crime, and statute]

[Explain why the offense is a felony under federal law. For example, “Possession of drug paraphernalia is classified as a Class 6 felony under Arizona law, with a maximum term of imprisonment of 1.5 years. See A.R.S. §§ 13-702(D), 13-3415.”] Therefore, the offense is a felony for purposes of deferred action for childhood arrivals.¹ Accordingly, USCIS intends to deny your request for consideration of deferred action for childhood arrivals. You are afforded thirty-three (33) days from the date of this notice of intent to deny to submit additional information, evidence, or arguments overcoming the grounds for the intended denial. Failure to respond to this notice of intent to deny will result in the denial of your request for consideration of deferred action for childhood arrivals.

¹ For the purposes of the DACA process, a felony is a federal, state, or local criminal offense for which the maximum term of imprisonment authorized is for a period of more than one year.

See www.uscis.gov/childhoodarrivals.

Appendix E

DEFERRED ACTION FOR CHILDHOOD ARRIVALS NOIDs

NOTE: Text highlighted in **YELLOW** and bracketed by [] is hidden text that requires ISO input. The ISO should delete the highlighted bracketed [Text] and type in the necessary information, or choose the appropriate information from choices and delete the information that does not apply.

DACA 400 -NOTICE OF INTENT TO DENY – NOT A BCI DEPARTURE – UNDER VOLUNTARY DEPARTURE OR FINAL EXCLUSION, DEPORTATION, OR REMOVAL ORDER

USCIS has reviewed your request for consideration of deferred action for childhood arrivals.

In order to be considered for deferred action as a childhood arrival, you are to demonstrate that you have been residing continuously in the United States since June 15, 2007, to the present time. A brief, casual, and innocent departure from the United States does not meaningfully disrupt the period of continuous residence. A departure is deemed to be brief, casual, and innocent if:

- (1) It was short and reasonably calculated to accomplish the purpose of the absence;
- (2) It was not the result of an order of exclusion, deportation, or removal;
- (3) It was not because of an order of voluntary departure, or an administrative grant of voluntary departure before the requestor was placed in exclusion, deportation, or removal proceedings; and
- (4) Its purpose or the actions taken while outside of the United States were not contrary to law.

PICK PARAGRAPH (A) OR (B) BELOW, AS APPLICABLE:

A. USE THIS PARAGRAPH IF THE DISQUALIFYING TRAVEL OCCURRED BEFORE 8/15/12, THEN PROCEED TO THE CLOSING PARAGRAPH:

According to the information provided with your request, and/or based on information obtained during routine systems checks, it appears that you departed the United States on or about **[insert date; this date should be before 8/15/2012]**. It also appears that, at the time of your departure, you **[INSERT WHICHEVER IS APPROPRIATE: departed under an order of voluntary departure; departed under an administrative grant of voluntary departure prior to the commencement of removal proceedings; your departure was the result of an order of exclusion, deportation, or removal (including an order of voluntary departure that converted automatically to a final order of exclusion, deportation or removal).]** Because such a departure is not brief, casual, or innocent, you have not established that you have resided continuously in the United States since at least June 15, 2007, until the present time.

[Proceed to the closing paragraph.]

OR

B. USE THIS PARAGRAPH IF THE DISQUALIFYING TRAVEL OCCURRED ON OR AFTER 8/15/12 AND BEFORE FORM I-821D WAS APPROVED

According to the information provided with your request, and/or based on information obtained during routine systems checks, it appears that you departed the United States on or about **[insert date – this date should be on or after 8/15/12]**. A departure made **on or** after August 15, 2012 is not brief, casual, or innocent unless removal action has been deferred, as evidenced by an approved Form I-821D. Because your departure occurred after August 15, 2012, but **before USCIS has determined whether to defer action in your case**, your departure from the United States was not brief, casual, or innocent. Therefore, you have not established that you have resided **continuously** in the United States since at least June 15, 2007, until **the present time**.

[CLOSING PARAGRAPH]

Accordingly, USCIS intends to deny your request for consideration of deferred action for childhood arrivals. You are afforded **thirty-three (33)** days from the date of this notice of intent to deny to submit additional information, evidence, or arguments overcoming the grounds for the intended denial. Failure to respond to this notice of intent to deny will result in the denial of your request for consideration of deferred action for childhood arrivals.

DACA 401 NOTICE OF INTENT TO DENY – DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

USCIS has reviewed your request for consideration of deferred action for childhood arrivals.

In order to be considered for deferred action as a childhood arrival, you are to demonstrate that you have not been convicted of a felony, a significant misdemeanor, or three or more misdemeanors, and you do not otherwise pose a threat to national security or public safety.

According to the information provided with your request, and/or based on information obtained during routine systems checks, it appears that you have a criminal conviction.

The court disposition that you submitted indicates that you were convicted on:

[Insert date of conviction, court name, city/state, crime, and statute]

Driving under the influence of alcohol or drugs constitutes a significant misdemeanor.¹ Accordingly, USCIS intends to deny your request for consideration of deferred action for childhood arrivals. You are afforded thirty-three (33) days from the date of this notice of intent to deny to submit additional information, evidence, or arguments overcoming the grounds for the intended denial. Failure to respond to this notice of intent to deny will result in the denial of your request for consideration of deferred action for childhood arrivals.

¹ For the purposes of the DACA process, a significant misdemeanor is a misdemeanor as defined by federal law (specifically, one for which the maximum term of imprisonment authorized is one year or less but greater than five days) and that meets the following criteria:

1. Regardless of the sentence imposed, is an offense of domestic violence; sexual abuse or exploitation; burglary; unlawful possession or use of a firearm; drug distribution or trafficking; or, driving under the influence; or,
2. If not an offense listed above, is one for which the individual was sentenced to time in custody of more than 90 days. The sentence must involve time to be served in custody, and therefore does not include a suspended sentence.

The time in custody does not include any time served beyond the sentence for the criminal offense based on a state or local law enforcement agency honoring a detainer issued by U S Immigration and Customs Enforcement (ICE)

See www.uscis.gov/childhoodarrivals.

DACA 402 NOTICE OF INTENT TO DENY – DOMESTIC VIOLENCE

USCIS has reviewed your request for consideration of deferred action for childhood arrivals.

In order to be considered for deferred action as a childhood arrival, you are to demonstrate that you have not been convicted of a felony, a significant misdemeanor, or three or more misdemeanors, and you do not otherwise pose a threat to national security or public safety.

According to the information provided with your request, and/or based on information obtained during routine systems checks, it appears that you have a criminal conviction.

The court disposition that you submitted indicates that you were convicted on:

[Insert date of conviction, court name, city/state, crime, and statute]

An offense of domestic violence constitutes a significant misdemeanor.¹ Accordingly, USCIS intends to deny your request for consideration of deferred action for childhood arrivals. You are afforded thirty-three (33) days from the date of this notice of intent to deny to submit additional information, evidence, or arguments overcoming the grounds for the intended denial. Failure to respond to this notice of intent to deny will result in the denial of your request for consideration of deferred

¹ For the purposes of the DACA process, a significant misdemeanor is a misdemeanor as defined by federal law (specifically, one for which the maximum term of imprisonment authorized is one year or less but greater than five days) and that meets the following criteria:

- 1 Regardless of the sentence imposed, is an offense of domestic violence; sexual abuse or exploitation; burglary; unlawful possession or use of a firearm; drug distribution or trafficking; or, driving under the influence; or,
- 2 If not an offense listed above, is one for which the individual was sentenced to time in custody of more than 90 days. The sentence must involve time to be served in custody, and therefore does not include a suspended sentence.

The time in custody does not include any time served beyond the sentence for the criminal offense based on a state or local law enforcement agency honoring a detainer issued by U S Immigration and Customs Enforcement (ICE)

See www.uscis.gov/childhoodarrivals.

DACA 403 NOTICE OF INTENT TO DENY – BURGLARY

USCIS has reviewed your request for consideration of deferred action for childhood arrivals.

In order to be considered for deferred action as a childhood arrival, you are to demonstrate that you have not been convicted of a felony, a significant misdemeanor, or three or more misdemeanors, and you do not otherwise pose a threat to national security or public safety.

According to the information provided with your request, and/or based on information obtained during routine systems checks, it appears that you have a criminal conviction.

The court disposition that you submitted indicates that you were convicted on:

[Insert date of conviction, court name, city/state, crime, and statute]

Burglary constitutes a significant misdemeanor.¹ Accordingly, USCIS intends to deny your request for consideration of deferred action for childhood arrivals. You are afforded thirty-three (33) days from the date of this notice of intent to deny to submit additional information, evidence, or arguments overcoming the grounds for the intended denial. Failure to respond to this notice of intent to deny will result in the denial of your request for consideration of deferred

¹ For the purposes of the DACA process, a significant misdemeanor is a misdemeanor as defined by federal law (specifically, one for which the maximum term of imprisonment authorized is one year or less but greater than five days) and that meets the following criteria:

1. Regardless of the sentence imposed, is an offense of domestic violence; sexual abuse or exploitation; burglary; unlawful possession or use of a firearm; drug distribution or trafficking; or, driving under the influence; or,
2. If not an offense listed above, is one for which the individual was sentenced to time in custody of more than 90 days. The sentence must involve time to be served in custody, and therefore does not include a suspended sentence.

The time in custody does not include any time served beyond the sentence for the criminal offense based on a state or local law enforcement agency honoring a detainer issued by U S Immigration and Customs Enforcement (ICE)

See www.uscis.gov/childhoodarrivals.

DACA 404 NOTICE OF INTENT TO DENY –NO ENTRY BEFORE 16

USCIS has reviewed your request for consideration of deferred action for childhood arrivals.

In order to be considered for deferred action as a childhood arrival, you are to demonstrate that you came to the United States before reaching your 16th birthday.

According to the information provided with your request, and/or based on information obtained during routine systems checks, it appears that you initially entered the United States when you were [insert age] years old. On [insert date Form I-821D received], you submitted Form I-821D, Consideration of Deferred Action for Childhood Arrivals. You indicated on your Form I-821D that you were born on [insert date of birth], and that your initial entry into the United States was on [insert date of entry]. Your date of birth is supported by your [identify the document (e.g. birth certificate, passport, etc.) that establishes the requestor's DOB], and you did not submit evidence that you entered the United States before reaching the age of 16.

Accordingly, USCIS intends to deny your request for consideration of deferred action for childhood arrivals. You are afforded thirty-three (33) days from the date of this notice of intent to deny to submit additional information, evidence, or arguments overcoming the grounds for the intended denial. Failure to respond to this notice of intent to deny will result in the denial of your request for consideration of deferred action for childhood arrivals.

DACA 405 NOTICE OF INTENT TO DENY –STUDENT IN LAWFUL STATUS ON JUNE 15, 2012 [Updated 2/27/2013]

USCIS has reviewed your request for consideration of deferred action for childhood arrivals.

In order to be considered for deferred action as a childhood arrival, you are to demonstrate that you were in unlawful immigration status as of June 15, 2012. For deferred action for childhood arrivals, the phrase “in unlawful immigration status as of June 15, 2012” means that you never had a lawful immigration status on or before June 15, 2012, or any lawful immigration status or parole that you obtained prior to June 15, 2012, had expired before June 15, 2012.

According to the information provided with your request, and based on information obtained during routine systems checks, your current F-1 nonimmigrant status is active in Student & Exchange Visitor Information System (SEVIS). [Identify other facts e.g., Employment Authorization Card validity date]. Based on these facts, USCIS has determined that you were not in an unlawful status on June 15, 2012.

Accordingly, USCIS intends to deny your request for consideration of deferred action for childhood arrivals. You are afforded thirty-three (33) days from the date of this notice of intent to deny to submit additional information, evidence, or arguments overcoming the grounds for the intended denial. Failure to respond to this notice of intent to deny will result in the denial of your request for consideration of deferred action for childhood arrivals.

DACA 406 NOTICE OF INTENT TO DENY –ARRIVED AFTER JUNE 15, 2007

USCIS has reviewed your request for consideration of deferred action for childhood arrivals.

In order to be considered for deferred action as a childhood arrival, you are to demonstrate that you have continuously resided in the United States since June 15, 2007.

According to the information you provided with your request, and/or based on information obtained during routine systems checks, it appears that you initially arrived in the United States on or about *[insert date of initial entry]*.

Accordingly, USCIS intends to deny your request for consideration of deferred action for childhood arrivals. You are afforded thirty-three (33) days from the date of this notice of intent to deny to submit additional information, evidence, or arguments overcoming the grounds for the intended denial. Failure to respond to this notice of intent to deny will result in the denial of your request for consideration of deferred action for childhood arrivals.

DACA 407 NOTICE OF INTENT TO DENY – NOT IN SCHOOL

USCIS has reviewed your request for consideration of deferred action for childhood arrivals.

In order to be considered for deferred action as a childhood arrival, you are to demonstrate that you are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a general education development (GED) certificate, or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States.

On your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, you indicated that you are currently in school. However, according to the information provided with your request, and/or based on information obtained during routine systems checks, it appears that you are not currently enrolled in school. *[Insert specific information; e.g., official transcripts showing enrollment status as “Removed for Lack of Attendance” or school enrollment history listing requestor as a “No Show”.]*

Accordingly, USCIS intends to deny your request for consideration of deferred action for childhood arrivals. You are afforded thirty-three (33) days from the date of this notice of intent to deny to submit additional information, evidence, or arguments overcoming the grounds for the intended denial. Failure to respond to this notice of intent to deny will result in the denial of your request for consideration of deferred action for childhood arrivals.

Appendix F

NOTICE OF DENIAL OF CONSIDERATION OF DEFERRED ACTION FOR CHILDHOOD ARRIVALS, FORM I-821D

USCIS has evaluated your Form I-821D, Consideration of Deferred Action for Childhood Arrivals. For the reason(s) indicated below, USCIS has, in its unreviewable discretion, determined that it will not defer action in your matter. Accordingly, your Form I-765, Application for Employment Authorization, has also been denied. Deferred action is a discretionary determination to defer removal action of an individual as an act of prosecutorial discretion. You may not file an appeal or motion to reopen/reconsider this decision.

- || At the time of filing, you were under the age of fifteen (15) and were not in removal proceedings, did not have a final removal order, or did not have a voluntary departure order.
- || You have not established that you came to the United States under the age of sixteen (16).
- || You have not established that you were under age 31 on June 15, 2012.
- || You have not established that you have continuously resided in the United States since June 15, 2007, until the date of filing your request.
- || During your period of residence in the United States, you had one or more absences that did not qualify as “brief, casual, and innocent.”
- || You have not established that you were present in the United States on June 15, 2012.
- || You have not established that you were in an unlawful immigration status in the United States on June 15, 2012.
- || You have not established that you are currently in school at the time of filing your request, have graduated or obtained a certificate of completion from a U.S. high school, or have obtained a general educational development (GED) certificate or other equivalent State-authorized exam in the United States, or that you are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States.
- || You have been convicted of a felony or a significant misdemeanor, or you have been convicted of three or more misdemeanors, or you do not warrant a favorable exercise of prosecutorial discretion because of public safety concerns, or exercising prosecutorial discretion in your case would not be consistent with the Department of Homeland Security’s enforcement priorities.
- || You have not established that you warrant a favorable exercise of prosecutorial discretion.
- || You have not paid the fee for your concurrently filed Application for Employment Authorization, Form I-765, and/or your biometrics fee, because your payment has been rejected for insufficient funds and you have failed to correct the fee deficiency within the allotted time.
- || USCIS was unable to conduct a background check on you because you did not appear for your scheduled appointment at an Application Support Center for the collection of biometrics, or your fingerprints were rejected as unclassifiable and you did not submit a local police clearance certificate for each jurisdiction in which you have lived for six months or more within the past five years.
- || You did not respond to a Request for Evidence or Notice of Intent to Deny within the time prescribed.
- || You have abandoned your Form I-821D, Consideration of Deferred Action for Childhood Arrivals because you departed the United States while the form was pending.
- USCIS lacks the authority to consider your request because you were in immigration detention at the time you filed your Form I-821D and you remain in immigration detention as of the date of this notice.

**NOTICE OF DENIAL OF CONSIDERATION OF DEFERRED ACTION FOR
CHILDHOOD ARRIVALS, FORM I-821D**

USCIS has evaluated your Form I-821D, Consideration of Deferred Action for Childhood Arrivals. For the reason(s) indicated below, USCIS has, in its unreviewable discretion, determined that it will not defer action in your matter. Accordingly, your Form I-765, Application for Employment Authorization, has also been denied. Deferred action is a discretionary determination to defer removal action of an individual as an act of prosecutorial discretion. You may not file an appeal or motion to reopen/reconsider this decision.

- You are under the age of fifteen (15) and are not in removal proceedings, do not have a final removal order, or do not have a voluntary departure order.
- You have not established that you came to the United States under the age of sixteen (16).
- You have not established that you were under age 31 on June 15, 2012.
- You have not established that you have continuously resided in the United States since June 15, 2007, until the date of filing your request.
- During your period of residence in the United States, you had one or more absences that did not qualify as “brief, casual, and innocent.”
- You have not established that you were present in the United States on June 15, 2012.
- You have not established that you were in an unlawful immigration status in the United States on June 15, 2012.
- You have not established that you are currently in school at the time of filing your request, have graduated or obtained a certificate of completion from a U.S. high school, or have obtained a general educational development (GED) certificate or other equivalent State-authorized exam in the United States, or that you are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States.
- You have been convicted of a felony or a significant misdemeanor, or you have been convicted of three or more misdemeanors, or you do not warrant a favorable exercise of prosecutorial discretion because of public safety concerns, or exercising prosecutorial discretion in your case would not be consistent with the Department of Homeland Security’s enforcement priorities.
- You have not established that you warrant a favorable exercise of prosecutorial discretion.
- You have not paid the fee for your concurrently filed Application for Employment Authorization, Form I-765, and/or your biometrics fee, because your payment has been rejected for insufficient funds and you have failed to correct the fee deficiency within the allotted time.
- USCIS was unable to conduct a background check on you because you failed to appear for your scheduled appointment at an Application Support Center for the collection of biometrics, or your fingerprints were rejected as unclassifiable and you did not submit a local police clearance certificate for each jurisdiction in which you have lived for six months or more within the past five years.
- You did not respond to a Request for Evidence or Notice of Intent to Deny within the time prescribed.
- You have abandoned your Form I-821D, Consideration of Deferred Action for Childhood Arrivals because you departed the United States while the form was pending.
- USCIS lacks the authority to consider your request because you were in immigration detention at the time you filed your Form I-821D and you remain in immigration detention as of the date of this notice.

Appendix F

NOTICE OF DENIAL OF CONSIDERATION OF DEFERRED ACTION FOR CHILDHOOD ARRIVALS, FORM I-821D

USCIS has evaluated your Form I-821D, Consideration of Deferred Action for Childhood Arrivals. For the reason(s) indicated below, USCIS has, in its unreviewable discretion, determined that that it will not defer action in your matter. Accordingly, your Form I-765, Application for Employment Authorization, has also been denied. Deferred action is a discretionary determination to defer removal action of an individual as an act of prosecutorial discretion. You may not file an appeal or motion to reopen/reconsider this decision.

- You are under the age of fifteen (15) and are not in removal proceedings, do not have a final removal order, or do not have a voluntary departure order.
- You have failed to establish that you came to the United States under the age of sixteen (16).
- You have failed to establish that you were under age 31 on June 15, 2012.
- You have failed to establish that you have continuously resided in the United States since June 15, 2007, until the date of filing your request.
- During your period of residence in the United States, you had one or more absences that did not qualify as ‘brief, casual, and innocent.’
- You have failed to establish that you were present in the United States on June 15, 2012 and that you were unlawfully present in the United States on that date.
- You have failed to establish that you are currently in school, have graduated or obtained a certificate of completion from high school, have obtained a general education development (GED) certificate, or that you are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States.
- You have been convicted of a felony or a significant misdemeanor, or you have been convicted of three or more misdemeanors, or you do not warrant a favorable exercise of prosecutorial discretion because of public safety concerns.
- You do not warrant a favorable exercise of prosecutorial discretion because of other concerns.
- You have failed to pay the fee for your concurrently filed Application for Employment Authorization, Form I-765, and/or your biometrics fee, because your payment has been rejected for insufficient funds and you have failed to correct the fee deficiency within the allotted time.
- You failed to appear for the collection of biometrics at an Application Support Center.
- You failed to respond to a Request for Evidence or Notice of Intent to Deny within the time prescribed.
- You have abandoned your Form I-821D, Consideration of Deferred Action for Childhood Arrivals because you departed the United States while the form was pending.

Appendix G

SRMT Call Ups Pertaining to Denied Form I-821D, Consideration of Deferred Action for Childhood Arrivals

Administrative Errors

- 1. Denial of Form I-821D on the grounds that the requestor did not come to the United States prior to reaching his/her 16th birthday.**

Final response if denial was correct:

Use SRMT Denial Template

Final response if denial was incorrect:

Since the date we received your request, we have reopened your case on a service motion and reviewed the decision made on your case. Upon review, it has been determined that the denial was issued in error.

We have corrected the error in our records. You will receive an approval notice for your Form I-821D, Consideration of Deferred Action for Childhood Arrivals and if your Form I-765, Application for Employment Authorization is approved, you will receive an Employment Authorization Document.

- 2. Denial of Form I-821D on the grounds that the requestor was under the age of 15 at the time of filing, but not in removal proceedings.**

Final response if denial was correct:

Use SRMT Denial Template

Final response if denial was incorrect:

Since the date we received your request, we have reopened your case on a service motion and reviewed the decision made on your case. Upon review, it has been determined that the denial was issued in error.

We have corrected the error in our records. You will receive an approval notice for your Form I-821D, Consideration of Deferred Action for Childhood Arrivals and if your Form I-765, Application for Employment Authorization is approved, you will receive an Employment Authorization Document.

3. **Denial of Form I-821D on the grounds that the requestor was not under the age of 31 on June 15, 2012.**

Final response if denial was correct:

Use SRMT Denial Template

Final response if denial was incorrect:

Since the date we received your request, we have reopened your case on a service motion and reviewed the decision made on your case. Upon review, it has been determined that the denial was issued in error.

We have corrected the error in our records. You will receive an approval notice for your Form I-821D, Consideration of Deferred Action for Childhood Arrivals and if your Form I-765, Application for Employment Authorization is approved, you will receive an Employment Authorization Document.

4. **Denial of Form I-821D on the grounds that the requestor was not in an unlawful immigration status as of June 15, 2012.**

Final response if denial was correct:

Use SRMT Denial Template

Final response if denial was incorrect:

Since the date we received your request, we have reopened your case on a service motion and reviewed the decision made on your case. Upon review, it has been determined that the denial was issued in error.

We have corrected the error in our records. You will receive an approval notice for your Form I-821D, Consideration of Deferred Action for Childhood Arrivals and if your Form I-765, Application for Employment Authorization is approved, you will receive an Employment Authorization Document.

5. **Denial of Form I-821D on the grounds that the requestor was not physically present in the United States on June 15, 2012.**

Final response if denial was correct:

Use SRMT Denial Template

Final response if denial was incorrect:

Since the date we received your request, we have reopened your case on a service motion and reviewed the decision made on your case. Upon review, it has been determined that the denial was issued in error.

We have corrected the error in our records. You will receive an approval notice for your Form I-821D, Consideration of Deferred Action for Childhood Arrivals and if your Form I-765, Application for Employment is approved, you will receive an Employment Authorization Document.

6. Denial of Form I-821D on the grounds that the requestor did not appear to have biometrics collected at a USCIS ASC

SRMT DACA 1 Interim Response:

We have received your request to review the denial of your Form I-821D, Consideration of Deferred Action for Childhood Arrivals on the grounds that you failed to appear for the collection of biometrics at an Application Support Center. We have reopened your case on a service motion and will review your file. You will receive a notice that your case is reopened on a service motion and a response once our review is complete.

Final response if denial was correct:

Use SRMT Denial Template

Final response if denial was incorrect:

Since the date we received your request, we have reopened your case on a service motion and reviewed the decision made on your case. Upon review, it has been determined that the denial was issued in error.

We have corrected the error in our records and have routed your file for adjudication. You will receive an approval notice for your Form I-821D, Consideration of Deferred Action for Childhood Arrivals and your Form I-765, Application for Employment after adjudication is complete.

7. Denial of Form I-821D on the grounds that the requestor did not request to have his/her biometrics appointment at a USCIS ASC rescheduled prior to the scheduled date

SRMT DACA 2 Interim Response:

We have received your request to review the denial of your Form I-821D, Consideration of Deferred Action for Childhood Arrivals on the grounds that you failed to appear for the collection of biometrics at an Application Support Center nor did you request to have your biometrics appointment rescheduled prior to the date you were scheduled to appear. We have reopened your case on a service motion and will review your file. You will receive a notice that your case is reopened on a service motion and a response once our review is complete.

Final Response if denial was correct:

Use SRMT Denial Template

Final response if denial was incorrect:

Since the date we received your request, we have reopened your case on a service motion and reviewed the decision made on your case. Upon review, it has been determined that the denial was issued in error.

We have corrected the error in our records. Your Form I-821D, Consideration of Deferred Action for Childhood Arrivals and your Form I-765, Application for Employment have resumed processing. Once adjudication is complete, you will receive a decision.

8. Denial of Form I-821D on the grounds that the requestor failed to pay the filing and biometric fees for the Form I-765

SRMT DACA 3 Interim Response:

We have received your request to review the denial of your Form I-821D, Consideration of Deferred Action for Childhood Arrivals on the grounds that you failed to pay the fee for your concurrently filed Form I-765, Application for Employment Authorization, and/or your biometrics fee because your payment has been rejected for insufficient funds and you have failed to correct the fee deficiency within the allotted time. We have reopened your case on a service motion and will review your file. You will receive a notice that your case is reopened on a service motion and a response once our review is complete.

Final Response if denial was correct:

Use SRMT Denial Template

Final response if denial was incorrect:

Since the date we received your request, we have reopened your case on a service motion and reviewed the decision made on your case. Upon review, it has been determined that the denial was issued in error.

We have corrected the error in our records and have routed your file for adjudication. You will receive an approval notice for your Form I-821D, Consideration of Deferred Action for Childhood Arrivals and your Form I-765, Application for Employment after adjudication is complete.

9. Denial of Form I-821D due to abandonment and the requestor claims he/she did respond to RFE within the prescribed time

SRMT DACA 4 Interim Response:

We have received your request to review the denial of your Form I-821D, Consideration of Deferred Action for Childhood Arrivals on the grounds that you failed to respond to a Request for Evidence within the time prescribed. We reopened your case on a service motion and will review your file. You will receive a notice that your case is reopened on a service motion and a response once our review is complete.

Final Response if denial was correct:

Use SRMT Denial Template

Final response if denial was incorrect:

Since the date we received your request, we have reopened your case on a service motion and reviewed the decision made on your case. Upon review, it has been determined that the denial was issued in error.

We have corrected the error in our records and have routed your file for adjudication. You will receive an approval notice for your Form I-821D, Consideration of Deferred Action for Childhood Arrivals and your Form I-765, Application for Employment after adjudication is complete.

10. Denial of Form I-821D due to abandonment – USCIS mailed the RFE to the wrong address and the requestor submitted a change of address prior to the issuance of RFE.

SRMT DACA 5 Interim Response:

We have received your request to review the denial of your Form I-821D, Consideration of Deferred Action for Childhood Arrivals on the grounds that you failed to respond to a Request for Evidence (RFE) within the time prescribed. In your request to review the denial of your Form I-821D, you indicated that the RFE was mailed to the wrong address and you had submitted a Change of Address prior to the RFE issuance. We have reopened your case on a service motion and will review your file. You will receive a notice that your case is reopened on a service motion and a response once our review is complete.

Final Response if denial was correct:

Use SRMT Denial Template

Final response if denial was incorrect:

Since the date we received your request, we have reopened your case on a service motion and reviewed the decision made on your case. Upon review, it has been determined that the denial was issued in error.

We have corrected the error in our records and have routed your file for adjudication. You will receive an approval notice for your Form I-821D, Consideration of Deferred Action for Childhood Arrivals and your Form I-765, Application for Employment after adjudication is complete.

Appendix H**SRMT Denial Template**

We have received your request to review the denial of your Form I-821D, Consideration of Deferred Action for Childhood Arrivals and the accompanying Form I-765, Application for Employment Authorization. Your request was based on your belief that the denial involved one or more of the administrative errors, as indicated below:

- You claimed that your DACA request was denied on the grounds that you did not come to the United States prior to reaching your 16th birthday and that the evidence you submitted at the time of filing shows that you did, in fact, arrive before the required age.
- You claimed that your DACA request was denied on the grounds that you were under the age of 15 at the time of filing, but not in removal proceedings, or did not have a final removal order or a voluntary departure order, and that the evidence submitted at the time of filing shows that you were, in fact, in removal proceedings or had a final removal order or a voluntary departure order.
- You claimed that your DACA request was denied on the grounds that you were over the age of 31 on June 15, 2012 and that the evidence you submitted at the time of filing shows that you were, in fact, under age 31 on June 15, 2012.
- You claimed that your DACA request was denied on the grounds that you were in a lawful immigration status as of June 15, 2012, and that the evidence you submitted at the time of filing shows that you were, in fact, in an unlawful status on June 15, 2012.
- You claimed that your DACA request was denied on the grounds that you were not physically present in the United States on June 15, 2012, up through the date of filing, and that the evidence you submitted at the time of filing establishes that you were, in fact, present.
- You claimed that your DACA request was denied because you did not appear for biometrics collection at an Application Support Center, but you did appear.
- You claimed that your DACA request was denied because you did not appear for biometrics collection at an Application Support Center, but you asked for the appointment to be rescheduled before the originally scheduled date.
- You claimed that your DACA request was denied because you did not pay the required fees, but you have evidence that you paid (including evidence that you remitted payment to rectify any Nonsufficient Funds notice on the initial payment).
- You claimed that your DACA request was denied because you did not respond to a request for evidence (RFE) within the prescribed time (includes a request to submit additional evidence or appear at an ASC for biometrics collection following a prior failure to appear) and that you did, in fact respond timely.
- You claimed that your DACA request was denied because USCIS mailed the RFE to the wrong address even though you filed a change of address request before the RFE was issued.

Upon review of your request, the evidence in the file at the time of filing, and upon performing all relevant records and systems checks, it has been determined that your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, and the accompanying Form I-765, Application for Employment Authorization, were properly denied and that the denial did not involve an administrative error.

Appendix H**SRMT Denial Template**

We have received your request to review the denial of your Form I-821D, Consideration of Deferred Action for Childhood Arrivals and the accompanying Form I-765, Application for Employment Authorization. Your request was based on your belief that the denial involved one or more of the administrative errors, as indicated below:

- You claimed that your DACA request was denied on the grounds that you did not come to the United States prior to reaching your 16th birthday and that the evidence you submitted at the time of filing shows that you did, in fact, arrive before the required age.
- You claimed that your DACA request was denied on the grounds that you were under the age of 15 at the time of filing, but not in removal proceedings, or did not have a final removal order or a voluntary departure order, and that the evidence submitted at the time of filing shows that you were, in fact, in removal proceedings or had a final removal order or a voluntary departure order.
- You claimed that your DACA request was denied on the grounds that you were over the age of 31 on June 15, 2012 and that the evidence you submitted at the time of filing shows that you were, in fact, under age 31 on June 15, 2012.
- You claimed that your DACA request was denied on the grounds that you were in a lawful immigration status as of June 15, 2012, and that the evidence you submitted at the time of filing shows that you were, in fact, in an unlawful status on June 15, 2012.
- You claimed that your DACA request was denied on the grounds that you were not physically present in the United States on June 15, 2012, up through the date of filing, and that the evidence you submitted at the time of filing establishes that you were, in fact, present.
- You claimed that your DACA request was denied because you did not appear for biometrics collection at an Application Support Center, but you did appear.
- You claimed that your DACA request was denied because you did not appear for biometrics collection at an Application Support Center, but you asked for the appointment to be rescheduled before the originally scheduled date.
- You claimed that your DACA request was denied because you did not pay the required fees, but you have evidence that you paid (including evidence that you remitted payment to rectify any Nonsufficient Funds notice on the initial payment).
- You claimed that your DACA request was denied because you did not respond to a request for evidence (RFE) within the prescribed time (includes a request to submit additional evidence or appear at an ASC for biometrics collection following a prior failure to appear) and that you did, in fact respond timely.
- You claimed that your DACA request was denied because USCIS mailed the RFE to the wrong address even though you filed a change of address request before the RFE was issued.

Upon review of your request, the evidence in the file at the time of filing, and upon performing all relevant records and systems checks, it has been determined that your Form I-821D, Consideration of Deferred Action for Childhood Arrivals, and the accompanying Form I-765, Application for Employment Authorization, were properly denied and that the denial did not involve an administrative error.

Appendix I

NOTE: Text highlighted in **YELLOW** and bracketed by [] is hidden text that requires ISO input. The ISO should delete the highlighted bracketed [Text] and type in the necessary information, or choose the appropriate information from choices and delete the information that does not apply.

DACA 600 – Notice of Intent to Terminate

On [Date], you filed Form I-821D, Consideration of Deferred Action for Childhood Arrivals. USCIS approved your Form I-821D on [Date] deferring your removal from the United States. A review of your records reveals that [ISO should thoroughly explain why the removal was deferred under DACA in error or that it has come to the attention of USCIS that the individual committed fraud in seeking deferral of removal under DACA. If the decision to issue a Notice of Intent to Terminate is based on fraud, it should be supported by a fully documented SOF and any other relevant documents/information.]

Based on the information outlined above, USCIS is notifying you of its intent to terminate your deferred action for childhood arrivals. A final decision to terminate your deferred action for childhood arrivals will not be made for 33 days. During that time, you may submit any evidence that you feel will overcome the grounds for termination. If your response is not received within the allotted time or if your response to this notice does not overcome the grounds for termination, USCIS will terminate your deferred action for childhood arrivals. If your deferred action for childhood arrivals is terminated, any associated employment authorization granted during the period of your deferred action will be terminated for cause

DACA 601 – Termination Notice [After NOIT]

On [Date], you were notified that it was the intent of USCIS to terminate your deferred action for childhood arrivals. In response to the Intent to Terminate, you [ISO should summarize the individual's response to the Intent to Terminate or indicate that the individual did not respond within the allotted time].

Your response does not overcome the grounds for termination. [If the individual's response does not overcome the reason for the termination as outlined in the Notice of Intent to Terminate, the ISO should explain why]. Therefore, your deferred action for childhood arrivals is terminated as of the date of this notice. In addition, your employment authorization is terminated for cause as of the date of this notice.

You must return your Employment Authorization Document (EAD) to USCIS immediately. Fraudulent use of your EAD could result in a referral to law enforcement. Send a copy of this notice and your EAD to:

[Insert Service Center
Address]

DACA 602 – Termination Notice [NTA Issuance]

On [Date], you filed Form I-821D, Consideration of Deferred Action for Childhood Arrivals. USCIS approved your Form I-821D on [Date] deferring your removal from the United States.

On [Date NTA served on alien], [U.S. Citizenship & Immigration Services (USCIS)/Immigration & Customs Enforcement (ICE)] issued you a Notice to Appear (NTA).

Your deferred action as a childhood arrival and your employment authorization automatically terminated as of the date your NTA was issued. You must return your Employment Authorization Document (EAD) to USCIS immediately. Fraudulent use of your EAD could result in a referral to law enforcement. Send a copy of this notice and your EAD to:

[Insert Service Center
Address]

DACA 603 – Termination Notice [Enforcement Priority; Not Automatically Terminated]

On [Date], you filed Form I-821D, Consideration of Deferred Action for Childhood Arrivals. USCIS approved your Form I-821D on [Date] deferring your removal from the United States.

After consulting with U.S. Immigration & Customs Enforcement, USCIS has determined that exercising prosecutorial discretion in your case is not consistent with the Department of Homeland Security's enforcement priorities. Therefore, your deferred action for childhood arrivals is terminated as of the date of this notice. In addition, your employment authorization is terminated for cause as of the date of this notice.

You must return your Employment Authorization Document (EAD) to USCIS immediately. Fraudulent use of your EAD could result in a referral to law enforcement. Send a copy of this notice and your EAD to:

[Insert Service Center
Address]

Appendix I

Notice of Intent to Terminate

On [Date], you filed Form I-821D, Consideration of Deferred Action for Childhood Arrivals. USCIS approved your Form I-821D on [Date] deferring your removal from the United States. A review of your records reveals that [ISO should thoroughly explain why the removal was deferred under DACA in error or that it has come to the attention of USCIS that the individual committed fraud in seeking deferral of removal under DACA. If the decision to issue a Notice of Intent to Terminate is based on fraud, it should be supported by a fully documented SOF and any other relevant documents/information.]

Based on the information outlined above, USCIS is notifying you of its intent to terminate your deferred action for childhood arrivals. A final decision to terminate your deferred action for childhood arrivals will not be made for 33 days. During that time, you may submit any evidence that you feel will overcome the grounds for termination. If your response is not received within the allotted time or if your response to this notice does not overcome the grounds for termination, USCIS will terminate your deferred action for childhood arrivals. If your deferred action for childhood arrivals is terminated, any associated employment authorization granted during the period of your deferred action will be terminated for cause

Termination Notice

On [Date], you were notified that it was the intent of USCIS to terminate your deferred action for childhood arrivals. In response to the Intent to Terminate, you [ISO should summarize the individual's response to the Intent to Terminate or indicate that the individual did not respond within the allotted time].

Your response does not overcome the grounds for termination. [If the individual's response does not overcome the reason for the termination as outlined in the Notice of Intent to Terminate, the ISO should explain why]. Therefore, your deferred action for childhood arrivals is terminated as of the date of this notice. In addition, your employment authorization is terminated for cause as of the date of this notice.

APPENDIX J

NOTICE OF INTENT TO DENY POLICY

1. NOIDs for the following guideline must be sent to HQSCOPSDACA for SPB review, but no longer require local counsel review:
 - Under 31 on 6/15/12
2. Local OCC Legal Review: NOIDS for the following guidelines must be sent to HQSCOPSDACA for SPB review, but no longer require local counsel review **unless** the Center encounters a novel, complex, or sensitive case:
 - CR Since 06/15/2007
 - Physically Present on 6/15/2012
 - Out of Status as of 06/15/2012
3. NOIDs for the following guidelines require local counsel review **prior** to being sent to HQSCOPSDACA for SPB review:
 - Education
 - Criminal, Public Safety & National Security
 - Fraud Concerns
 - All other NOIDs not categorized in Appendix J
4. NOIDs issued on the following templates **do not require** local counsel or SPB review prior to issuance. The SPB will institute a random sampling of casework as a quality assurance measure in the near future on the following templates:
 - Appendix E (NOID Templates) Published 4/4/2013
 - *Appendix E when combined with language in Appendix D (RFE Templates) Published 4/4/2013

***Note:** When an Appendix E NOID is combined with language in Appendix D and it creates a complicated NOID decision, Centers should issue the NOID decision without the Appendix D language. Once the response to the NOID is received and if the reason for the intended denial is overcome, Centers may issue an RFE with the Appendix D call-ups to establish the requestor's eligibility.

Operational Guidance as of April 3, 2013

NOID for DACA	Local OCC Review	SCOPS SPB Review	HQOCC Review Required
Appendix E (NOID Templates) Published 04/04/2013	No.	No. Will implement QA review.	No.
*Appendix E combined with Appendix D (RFE Templates)	No.	No. Will implement QA review.	No.
<p>*Note: When an Appendix E NOID is combined with language in Appendix D and it creates a complicated NOID decision, Centers should issue the NOID decision without the Appendix D language. Once the response to the NOID is received and if the reason for the intended denial is overcome, Centers may issue an RFE with the Appendix D call-ups to establish the requestor's eligibility.</p>			
Under 31 on 6/15/12	No.	Yes.	No.
CR Since 6/15/07	Whenever the Center encounters a novel, complex, or sensitive case.	Yes.	Whenever the Center encounters a novel, complex, or sensitive case.
Physically Present on 6/15/12	Whenever the Center encounters a novel, complex, or sensitive case.	Yes.	Whenever the Center encounters a novel, complex, or sensitive case.
Out of Status as of 6/15/12	Whenever the Center encounters a novel, complex, or sensitive case.	Yes.	Whenever the Center encounters a novel, complex, or sensitive case.
Criminal, Public Safety & NS	Yes.	Yes.	Yes.
Education	Yes.	Yes.	Yes.
Fraud Concerns	Yes.	Yes.	Yes.
All other NOIDs not categorized above.	Yes.	Yes.	Yes.

Operational Guidance as of May 22, 2013			
NOID for DACA	Local OCC Review Required	SCOPS Review Required	HQOCC Review Required
Appendix E (NOID Templates)	No.	No. Will implement QA Review.	No.
*Appendix E combined with Appendix D (RFE Templates)	No.	No. Will implement QA Review.	No.
<p>*Note: When an Appendix E NOID is combined with language in Appendix D and it creates a complicated NOID decision, Centers should issue the NOID decision without the Appendix D language. Once the response to the NOID is received and if the reason for the intended denial is overcome, Centers may issue an RFE with the Appendix D call-ups to establish the requestor's eligibility.</p>			
Under 31 on 6/15/12	No.	Whenever the Center encounters a novel, complex, or sensitive case.	No.
CR Since 6/15/07	Whenever the Center encounters a novel, complex, or sensitive case.	Whenever the Center encounters a novel, complex, or sensitive case.	Whenever local OCC or SCOPS encounters a novel, complex, or sensitive case.
Physically Present on 6/15/12	Whenever the Center encounters a novel, complex, or sensitive case.	Whenever the Center encounters a novel, complex, or sensitive case.	Whenever local OCC or SCOPS encounters a novel, complex, or sensitive case.
Out of Status on 6/15/12	Whenever the Center encounters a novel, complex, or sensitive case.	Whenever the Center encounters a novel, complex, or sensitive case.	Whenever local OCC or SCOPS encounters a novel, complex, or sensitive case.
Education	Whenever the Center encounters a novel, complex, or sensitive case.	Whenever the Center encounters a novel, complex, or sensitive case.	Whenever local OCC or SCOPS encounters a novel, complex, or sensitive case.
Criminal	Whenever the Center encounters a novel, complex, or sensitive case.	Whenever the Center encounters a novel, complex, or sensitive case.	Whenever local OCC or SCOPS encounters a novel, complex, or sensitive case.
Juvenile Delinquency	Yes.	Yes.	Yes.
Public Safety & National Security	Yes.	Yes.	Yes.
Fraud Concerns	Yes.	Yes.	Yes.
Favorable Exercise of Prosecutorial Discretion Not Warranted	Yes.	Yes.	Yes.
All Other NOIDs Not Categorized Above	Whenever the Center encounters a novel, complex, or sensitive case.	Whenever the Center encounters a novel, complex, or sensitive case.	Whenever local OCC or SCOPS encounters a novel, complex, or sensitive case.

APPENDIX K

DEFERRED ACTION FOR CHILDHOOD ARRIVALS DENIAL CALL-UPS

DACA 500 -NOTICE OF DENIAL – REQUESTOR IS DECEASED

USCIS has evaluated the Form I-821D, Consideration of Deferred Action for Childhood Arrivals, filed by [insert name] (“the requestor”) on [insert date].

On [insert date], USCIS received notification that the requestor is now deceased. Please accept our deepest sympathies for your loss.

USCIS is hereby denying the requestor’s Form I-821D. Accordingly, the requestor’s Form I-765, Application for Employment Authorization, has also been denied. Deferred action is a discretionary determination to defer removal action of an individual as an act of prosecutorial discretion. An appeal or motion to reopen/reconsider this decision may not be filed on behalf of the requestor.

DACA 501 -NOTICE OF DENIAL – ACQUIRED LAWFUL STATUS AFTER JUNE 15, 2012

USCIS has evaluated your Form I-821D, Consideration of Deferred Action for Childhood Arrivals. Based on a review of your case, it appears that the following occurred:

On [insert date] you filed Form I-821D. According to information obtained during routine systems checks, it appears that Form [insert USCIS form number and title] that [you filed / was filed on your behalf] was approved on [insert date]. Your status as [insert status acquired after 6/16/2012] is valid since [insert period of validity].

In view of the fact that you are currently in a lawful immigration status, USCIS has, in its unreviewable discretion, determined that deferred action is not appropriate under these circumstances and is hereby denying your Form I-821D. Accordingly, your Form I-765, Application for Employment Authorization, has also been denied. Deferred action is a discretionary determination to defer removal action of an individual as an act of prosecutorial discretion. You may not file an appeal or motion to reopen/reconsider this decision.

DACA 502A -NOTICE OF DENIAL – ICE ALREADY DEFERRED ACTION

USCIS has evaluated your Form I-821D, Consideration of Deferred Action for Childhood Arrivals. Based on a review of your case, it appears that the following occurred:

The record reveals that on [Date ICE deferred action], U.S. Immigration and Customs Enforcement (ICE) deferred action in your case as a childhood arrival until [Date deferred action expires]. ICE notified you that action was deferred on your case and instructed you to request employment authorization from USCIS. On [Date I-821D filed], you submitted Form I-821D to USCIS, together with Form I-765, Application for Employment Authorization.

It was not necessary for you to file Form I-821D with USCIS because ICE has already deferred action on your case. Therefore, USCIS has denied your Form I-821D. The denial of your Form I-821D does not affect the determination that ICE made on your case.

If granted, you will receive your Employment Authorization Document separately by mail.

DACA 502B – NOTICE OF DENIAL - USCIS ALREADY DEFERRED ACTION

USCIS has evaluated your Form I-821D, Consideration of Deferred Action for Childhood Arrivals. Based on a review of your case, it appears that the following occurred:

The record reveals that on [Filing date for approved case], you submitted a Form I-821D (Receipt number XXXXX) to USCIS, together with a Form I-765, Application for Employment Authorization (Receipt number XXXXX). On [Date], USCIS determined that you meet the guidelines for deferred action for childhood arrivals and deferred action on your case until [Date]. USCIS notified you that action was deferred on your case and mailed to you an Employment Authorization Document valid until [Date].

On [Filing date for pending case], you submitted the instant Form I-821D (Receipt number XXXXX) to USCIS, together with a Form I-765 (Receipt number XXXXX). In view of the fact that USCIS has already deferred action on your case, USCIS is hereby denying your Forms I-821D (Receipt number XXXXX) and I-765 (Receipt number XXXXX). The denial of the instant Forms I-821D and I-765 does not affect the previous determination that USCIS made to defer action on your case until [Date].

DACA 503 -NOTICE OF DENIAL – INSUFFICIENT RFE RESPONSE FOR CRIMINAL RECORDS

USCIS has evaluated your Form I-821D, Consideration of Deferred Action for Childhood Arrivals. Based on a review of your case, it appears that the following occurred:

The record reveals that you have been arrested or detained by law enforcement officials. On [Date RFE issued], USCIS sent you a notice requesting you to submit certified court dispositions for all of your arrests, including an arrest(s) specifically identified on the request. In response to the request for evidence, you submitted [indicate what was submitted]. However, the response was insufficient because [indicate why it was insufficient. For example: “the document was not certified by the court”].

USCIS was unable to conduct a sufficient background check on you because you did not provide the requested certified court dispositions. Accordingly, USCIS has determined, in its unreviewable discretion, that you have not demonstrated that you warrant a favorable exercise of prosecutorial discretion and it will not defer action in your matter. Accordingly, your Form I-765, Application for Employment Authorization, has also been denied. Deferred action is a discretionary determination to defer removal action of an individual as an act of prosecutorial discretion. You may not file an appeal or motion to reopen/reconsider this decision.

EXHIBIT F

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

MARTÍN JONATHAN BATALLA VIDAL,
ANTONIO ALARCON, ELIANA
FERNANDEZ,
CARLOS VARGAS, MARIANO
MONDRAGON, and CAROLINA FUNG FENG,
on behalf of themselves and all other similarly
situated individuals, and MAKE THE ROAD
NEW YORK, on behalf of itself, its members, its
clients, and all similarly situated individuals,

Plaintiffs,

v.

ELAINE C. DUKE, Acting Secretary,
Department
of Homeland Security, JEFFERSON
BEAUREGARD SESSIONS III, Attorney
General of the United States, and DONALD J.
TRUMP, President of the United States,

Defendants.

CIVIL ACTION NO. 16-cv-4756

**DEFENDANT’S OBJECTIONS
AND RESPONSES TO
PLAINTIFFS’ FIRST SET OF
REQUESTS FOR ADMISSION TO
ELAINE DUKE, ACTING
SECRETARY OF HOMELAND
SECURITY**

(Garaufis, J.)
(Orenstein, M.J.)

Pursuant to Federal Rules of Civil Procedure 26 and 36 and the Local Rules of this Court Defendant Elaine Duke, in her official capacity as the Acting Secretary of the Department of Homeland Security (“Defendant”), by and through counsel, provides the following Objections and Responses to Plaintiffs’ First Set of Requests for Admission. Defendant’s Objections and Responses are based on information known to Defendant at this time, and are made without prejudice to additional objections should Defendant subsequently identify additional grounds for objection. The information submitted

herewith is being provided in accordance with the Federal Rules of Civil Procedure, which generally permit discovery of matters not privileged that are relevant to the claims or defenses in this civil action. Fed. R. Civ. P. 26(b)(1). Accordingly, Defendant does not, by providing such information, waive any objection to its admissibility on the grounds of relevance, materiality, privilege, competency, or any other appropriate ground.

OBJECTIONS WHICH APPLY TO ALL REQUESTS FOR ADMISSION

1. Separate and apart from the specific objections set forth below, Defendant objects to any discovery taking place in this case to the extent such discovery is brought pursuant to claims purportedly under the Administrative Procedure Act, as resolution of any such claims should be based upon the administrative record compiled by the Department of Homeland Security.

2. Defendant objects to any discovery taking place before resolution of Defendants' forthcoming dispositive motions.

3. Defendant objects to Plaintiffs' Requests for Admission to the extent that they seek (a) attorney work product; (b) communications protected by the attorney-client privilege; (c) information protected by the deliberative-process privilege, the joint defense privilege, common interest privilege, or law enforcement privilege; (d) material the disclosure of which would violate legitimate privacy interests and expectations of persons not party to this litigation; (e) information protected by any form of executive privilege; or (f) any other applicable privilege or protection.

4. Defendant objects to Plaintiffs' Requests for Admission to the extent they assume that certain types of information exist. By providing these objections, Defendant does not hereby imply that information exists that is responsive to Plaintiffs' Requests for

Admission. Each and every response contained herein is subject to the above objections, which apply to each and every response, regardless of whether a specific objection is interposed in a specific response. The making of a specific objection in response to a particular request is not intended to constitute a waiver of any other objection not specifically referenced in the particular response.

5. Defendant specifically reserves the right to make further objections as necessary to the extent that additional issues arise as to the meaning of and/or information sought by discovery.

OBJECTIONS TO DEFINITIONS

6. Defendant objects to the definition of “Defendant” as overly broad and outside of the scope of discovery. Fed. R. Civ. P. 26(b)(1). Defendant interpret the definition of Defendant to mean Elaine C. Duke, Acting Secretary of Homeland Security (DHS), in her official capacity, as well as the following components of DHS: Headquarters, U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE) and U.S. Citizenship and Immigration Services (USCIS). The components listed are relevant as those in which searches for responsive information relevant to decisions about the exercise of DHS’s prosecutorial discretion in the form of deferred action could conceivably be proportional to the likelihood of locating such information and its likely benefit to the litigation.

7. Defendant objects to the definition of “Defendants” as overly broad and outside of the scope of discovery. Fed. R. Civ. P. 26(b)(1). Defendant interpret the definition of Defendants to mean Attorney General Jefferson B. Sessions, III, in his official capacity, as well as the following components of the Department of Justice: the Office of

the Attorney General (OAG), the Office of the Deputy Attorney General (ODAG), the Office of the Associate Attorney General (OASG), the Office of Legal Counsel (OLC), the Civil Rights Division (CRT), the Civil Division (CIV), the Office of the Solicitor General (OSG); and Elaine C. Duke, Acting Secretary of Homeland Security (DHS), in her official capacity, as well as the following components of DHS: Headquarters, U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE) and U.S. Citizenship and Immigration Services (USCIS). The components listed are relevant as those in which searches for responsive information relevant to decisions about the exercise of DHS's prosecutorial discretion in the form of deferred action could conceivably be proportional to the likelihood of locating such information and its likely benefit to the litigation.

8. Defendant objects to the definition of "date" as overbroad and unduly burdensome. Defendant interprets date to mean "the exact date, month, and year, if ascertainable." To the extent an approximation is required, it will be provided and will be designated as such. The approximation will not include a description about "relationship to other events."

9. Defendant objects to the definition of "identify" in reference to an individual as improperly requiring the disclosure of material the disclosure of which would violate legitimate privacy interests and expectations of persons not party to this litigation.

10. Defendant objects to the definition of "identify" in reference to a document because that definition is unduly burdensome and going beyond the requirements of Fed. R. Civ. P. 34 and Local Rule 26.3(c)(4).

11. Defendant objects to the definition of “Department of Homeland Security” as overly broad. Defendant will construe Department of Homeland Security to mean the relevant offices within the following relevant components of the Department of Homeland Security: Headquarters, CBP, ICE and USCIS, which are the components of DHS which are likely to have responsive information.

12. Defendant objects to the definition of “DHS employee” or “DHS employees” as overly broad. DHS employee or employees will be construed to mean any current or former employee, in his or her official capacity as a DHS employee, of a relevant office within a relevant component of DHS: Headquarters, CBP, ICE, and USCIS.

13. Defendant objects to the definition of “DOJ employee” or “DOJ employees” as overly broad. DOJ employee or employees will be construed to mean any current or former employee, in his or her official capacity as a DOJ employee, of OAG, ODAG, OASG, OLC, OSG, CRT, CIV, or ExecSec.

14. Defendant objects to the definition of “USCIS employee” or “USCIS employees” as overly broad. USCIS employee or employees will be construed to mean any current or former employee, in his or her official capacity as a USCIS employee, of a relevant office within USCIS.

15. Defendant objects to the definition of “Trump Administration” on the basis that it is overbroad. Defendant will interpret Trump Administration to mean President Donald Trump in his official capacity as President, as well as any other current or former employee, in his/her official capacity, of the Executive Office of the President since January 20, 2017.

16. Defendant objects to the definition of the phrase “DACA Program” to the extent the definition fails to describe the exercise of DHS’s prosecutorial discretion in the form of deferred action afforded by the DACA policy, *i.e.*, the deferral of immigration enforcement action authorized by law for a temporary period.

17. Defendant objects to the definition of the phrase “DAPA Program” to the extent the definition fails to describe the exercise of DHS’s prosecutorial discretion in the form of deferred action afforded by the DAPA policy had it been implemented, *i.e.*, the deferral of immigration enforcement action authorized by law for a temporary period.

18. Defendant objects to the definition of the phrase “expanded-DACA Program” to the extent the definition fails to describe the exercise of DHS’s prosecutorial discretion in the form of deferred action afforded by the DACA policy, *i.e.*, the deferral of immigration enforcement action authorized by law for a temporary period.

19. Defendant objects to the definition of “DACA termination” as misleading to the extent it includes the actions of the Department of Justice as it relates to the DACA policy, which was administered by another agency. Defendant also objects to the extent the definition purports to “include all actions within the defendants’ agencies to implement the end of DACA,” regardless of context or when those activities may have taken place.

20. Defendant objects to the inclusion of a definition of “present for” as vague in its inclusion of “telephone presence” and “any form of electronic presence.” Defendant will interpret the term “present for” to mean “a participant in a meeting, conversation, or discussion, whether in person, by telephone, by videoconference, or by other live communications method.”

21. Defendant objects to the definition of “discussion” or “discussions” as vague and overbroad to the extent it includes “any communication” in addition to the specified methods set forth in the definition.

22. Defendant objects to the definition of “relating to” and “relate to” as overly broad, particularly in their inclusion of the terms “Setting forth,” “mentioning,” and “referring to.” Defendant will construe “relate to” or “relating to” based on the context of potentially responsive documents to include only those documents “describing,” “discussing,” “commenting upon,” “supporting” or “contradicting” the topic in question to a sufficient extent as to shed light on the parties’ claims or defenses.

23. Defendant objects to the definitions in paragraphs 23-25 as overly broad. Defendant will interpret the requests in accordance with the definitions in Local Rule 26.3(d), or, for terms not defined in the Local Rules, using the plain meaning of the words included in the request.

OBJECTIONS TO INSTRUCTIONS

24. Defendant objects to Instructions 1-2 to the extent they purport to impose requirements beyond those set forth in Fed. R. Civ. P. 36.

25. Defendant objects to Instruction No. 7 to the extent it purports to require Defendant to produce “responsive documents.”

OBJECTIONS TO PLAINTIFFS’ FIRST SET OF REQUESTS FOR ADMISSION

REQUEST NO. 1: Admit that USCIS is aware of the expiration date for the DACA status of every DACA recipient.

OBJECTION TO REQUEST NO. 1: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as vague and undefined to the extent plaintiffs seek to impute “awareness” to a governmental

agency. Defendant further objects to this request to the extent that it assumes a recipient of DACA has a lawful immigration “status,” which is inaccurate.

RESPONSE TO REQUEST NO. 1: Defendant admits Request for Admission (“RFA”) No. 1 only to the extent that USCIS’s routine business practice is to maintain the date that each DACA recipient’s deferred action under DACA has expired, has been terminated, or will expire in either USCIS’s Computer Linked Application Information Management System (CLAIMS 3) database or USCIS’s Electronic Immigration System (ELIS) database. Defendant further states that on occasion, an error may be discovered in the system regarding a recipient’s DACA expiration date, and USCIS corrects such errors as soon as possible following their discovery. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 2: Admit that USCIS has a policy and practice of mailing individualized renewal notices to DACA recipients approximately 180 days before their DACA status expires.

OBJECTION TO REQUEST NO. 2: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request to the extent that it assumes a recipient of DACA has a lawful immigration “status,” which is inaccurate. Defendant objects to this request as vague and undefined to the extent the request is compound, seeking information both about a “policy” and a “practice.” Defendant objects to this request as vague as “individualized” is undefined. The term can be fairly construed as either referring to notices with substantive content that is individually tailored to each recipient, or as referring to notices provided to DACA recipients on an individual basis, without substantive individually tailored content. Defendant will construe this request in the conjunctive. Defendant objects to this request to the extent that it does not define a relevant time period. Defendant will therefore construe this request to apply as of the service date of the requests.

RESPONSE TO REQUEST NO. 2: Defendant denies RFA No. 2.

REQUEST NO. 3: Admit that the policy and practice in #2 has been in place since at least 2015.

OBJECTION TO REQUEST NO. 3: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as vague and undefined to the extent the request is compound, seeking information both about a “policy” and a “practice.” Defendant will construe this request in the conjunctive. Defendant objects to this request to the extent that, as in cross-referenced Request No. 2, it assumes a recipient of DACA has a lawful immigration “status,” which is inaccurate. Defendant objects to this request to the extent that it does not define a relevant time period. Defendant will therefore construe this request to apply as of the service date of the requests. Defendant objects to the request to the extent that it assumes facts not in evidence regarding whether a “policy and practice” has been in place.

RESPONSE TO REQUEST NO. 3: Defendant denies RFA No. 3.

REQUEST NO. 4: Admit that prior to September 5, 2017, USCIS provided individualized renewal notices to some individuals whose DACA eligibility will expire between September 5, 2017 and March 5, 2018.

OBJECTION TO REQUEST NO. 4: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as vague as “individualized” is undefined. The term can be fairly construed as either referring to notices with substantive content that is individually tailored to each recipient, or as referring to notices provided to DACA recipients on an individual basis, without substantive individually tailored content. Defendant objects to this request to the extent that it does not define a relevant time period, including that it is vague and confusing to the extent it implies that USCIS provided individualized renewal notices to DACA recipients relating to the expiration of their DACA between September 5, 2017 and March 5, 2018, when the request can also fairly be construed to be seeking information about whether USCIS ever provided individualized renewal notices to individuals at any time in the past whose DACA renewal status also happens to be expiring between September 5, 2017 and March 5, 2018. Defendant objects to the use of the term “eligibility” in this request to the extent that it implies or assumes that DACA is an immigration benefit as opposed to an exercise of deferral of immigration enforcement action. Defendant will construe this request to be seeking an admission of whether USCIS ever provided renewal notices on an individual basis, but not with substantive content individually tailored, to individuals at any time in the past whose DACA also happens to be expiring between September 5, 2017 and March 5, 2018.

RESPONSE TO REQUEST NO. 4: Defendant admits RFA No. 4 only to the extent that until approximately July 15, 2017, USCIS provided a renewal reminder notice on an individual basis to DACA recipients, including some whose DACA also happens to be expiring between September 5, 2017 and March 5, 2018. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 5: Admit that the renewal notices sent by USCIS to the individuals described in #4 did not state that the deadline for submitting a renewal application is October 5, 2017.

OBJECTION TO REQUEST NO. 5: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as vague as “individualized” is undefined. The term can be fairly construed as either referring to notices with substantive content that is individually tailored to each recipient, or as referring to notices provided to DACA recipients on an individual basis, without substantive individually tailored content. Defendant objects to this request to the extent that it does not define a relevant time period, including that it is vague and confusing to the extent it implies that USCIS provided individualized renewal notices to DACA recipients relating to the expiration of their DACA eligibility between September 5, 2017 and March

5, 2018, when the request can also fairly be construed to be seeking information about whether USCIS ever provided individualized renewal notices to individuals at any time in the past whose DACA renewal status also happens to be expiring between September 5, 2017 and March 5, 2018. Defendant further objects to this request to the extent that it uses terms, such as “application,” that do not apply to a request for DACA which is not an immigration benefit, but rather an exercise of prosecutorial discretion to defer immigration enforcement action. Defendant will construe this request to be seeking an admission of whether renewal notices that USCIS has ever provided to DACA recipients at any time in the past did not state that a deadline for submitting a DACA renewal request is October 5, 2017.

RESPONSE TO REQUEST NO. 5: Defendant admits RFA No. 5 only to the extent that the renewal notices described in Defendant’s Response to RFA No. 4 did not state October 5, 2017 as the deadline for DACA renewal requests because the memorandum entitled, “*Rescission of the June 15, 2012 Memorandum Entitled ‘Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children’*” (“DACA Rescission Memorandum”), dated September 5, 2017, that set October 5, 2017 as the deadline for receipt of certain DACA renewal requests had not yet been issued by Acting Secretary of Homeland Security Elaine Duke. Defendant denies RFA No. 5 to the extent that it suggests that the agency had an affirmative duty to state in the renewal notices sent by USCIS to the individuals described in RFA No. 4 that the deadline for USCIS to receive a renewal request is October 5, 2017. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 6: Admit that USCIS has not provided corrected renewal notices to the individuals described in #4 stating that the deadline for submitting a renewal application is October 5, 2017.

OBJECTION TO REQUEST NO. 6: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request to the extent that it uses terms, such as “application,” that do not apply to a request for DACA which is not an immigration benefit, but rather an exercise of prosecutorial discretion to defer immigration enforcement action. Defendant objects to this request to the extent that it does not define a relevant time period, including that it is vague and confusing to the extent it implies that USCIS provided individualized renewal notices to DACA recipients relating to the expiration of their DACA between September 5, 2017 and March 5, 2018, when the request can also fairly be construed to be seeking information about whether USCIS ever provided individualized renewal notices to individuals at any time in the past whose DACA also happens to be expiring between September 5, 2017 and March 5, 2018. Defendant objects to this request to the extent that it assumes facts not in evidence that any prior USCIS notices were incorrect or otherwise necessitated the provision of a “corrected renewal notice[].”

RESPONSE TO REQUEST NO. 6: Defendant denies RFA No. 6 to the extent that it erroneously assumes that USCIS issued incorrect renewal notices to DACA recipients and that any “correction” to the notices was required. Defendant is without sufficient

information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 7: Admit that USCIS has provided no individual renewal notice to some individuals whose DACA eligibility will expire before March 5, 2018.

OBJECTION TO REQUEST NO. 7: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to the use of the term “eligibility” in this request to the extent that it implies or assumes that DACA is an immigration benefit as opposed to an exercise of deferral of immigration enforcement action.

RESPONSE TO REQUEST NO. 7: Defendant admits RFA No. 7 to the extent that some individuals whose DACA will expire before March 5, 2018 did not receive individual renewal notices. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 8: Admit that providing no individual written notice for DACA renewal is a departure from prior practice.

OBJECTION TO REQUEST NO. 8: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request to the extent that it does not define a relevant time period, either for the time period where USCIS did not provide individual notice or for the time period referenced as “prior practice.”

RESPONSE TO REQUEST NO. 8: Defendant admits RFA No. 8 only to the extent that USCIS provided individual renewal notices to certain DACA recipients through approximately mid July 2017, but stopped providing such renewal notices to any DACA recipients on or about July 15, 2017. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 9: Admit that providing only 30 days’ notice of a DACA renewal deadline is a departure from prior practice.

OBJECTION TO REQUEST NO. 9: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request to the extent that it assumes facts not in evidence, that USCIS provided only 30 days’ notice. Defendant objects to this request to the extent that it does not define a relevant time period referenced as “prior practice.” Defendant objects to this request as vague, confusing, and misleading to the extent that it implies that the multiple forms of notice that the government provided regarding the rescission of DACA is equivalent to the individual renewal notice that certain DACA recipients received in the past while the DACA policy was still in effect.

RESPONSE TO REQUEST NO. 9: Defendant admits RFA No. 9 only to the extent that USCIS generally provided a renewal reminder notice to certain DACA recipients approximately 178-180 days in advance of the most recent expiration date of their DACA

until USCIS ceased issuing such notices to all DACA recipients on approximately July 15, 2017. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 10: Admit that Defendants did not mail the DACA termination memorandum to DACA recipients.

OBJECTION TO REQUEST NO. 10: Defendant incorporates by reference the above objections to the definitions and instructions.

RESPONSE TO REQUEST NO. 10: Defendant admits RFA No. 10 only to the extent that USCIS did not mail the DHS DACA Rescission Memorandum, dated September 5, 2017, to DACA recipients, but Defendant denies that it had an affirmative duty to mail the Memorandum to every current DACA recipient. Defendant further admits that a Notice of Availability of the DACA Rescission Memorandum was published in the Federal Register. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 11: Admit that Defendants did not mail any explanatory material concerning the DACA termination to DACA recipients.

OBJECTION TO REQUEST NO. 11: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as vague and undefined to the extent plaintiffs have failed to define “explanatory material.” Defendant further objects to this Request to the extent that it is not limited in time and does not clarify whether “DACA recipients” includes only current such individuals or past DACA recipients as well.

RESPONSE TO REQUEST NO. 11: Defendant denies RFA No. 11 because USCIS mailed notices to DACA recipients who either had a pending Form I-131, *Application for Travel Document*, based on DACA on September 5, 2017, or who filed such a Form I-131 after September 5, 2017, and such notices explain that the Form I-131 is being administratively closed or rejected and the fee refunded in accordance with the DACA Rescission Memorandum. Defendant also denies RFA No. 11 to the extent that it erroneously assumes that Defendant had a legal obligation to send DACA recipients such information on DACA rescission. Defendant admits that a Notice of Availability of the DACA Rescission Memorandum was published in the Federal Register. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 12: Admit that Defendants did not translate the DACA termination memorandum into Spanish.

OBJECTION TO REQUEST NO. 12: Defendant incorporates by reference the above objections to the definitions and instructions.

RESPONSE TO REQUEST NO. 12: Defendant admits RFA No. 12 only to the extent that DHS did not issue a Spanish language translation of the DACA Rescission Memorandum, dated September 5, 2017. Defendants further deny this request to the extent that it assumes DHS had a legal obligation to translate the DACA Rescission Memorandum into Spanish. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 13: Admit that, if the DACA termination memorandum was translated into Spanish, such Spanish translation was not posted publicly on DHS's website.

OBJECTION TO REQUEST NO. 13: Defendant incorporates by reference the above objections to the definitions and instructions.

RESPONSE TO REQUEST NO. 13: Defendant admits RFA No. 13 only to the extent that DHS did not translate the DACA Rescission Memorandum into Spanish. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 14: Admit that the only information about the DACA termination that Defendants provided in Spanish were a "Frequently Asked Questions" document and a press release.

OBJECTION TO REQUEST NO. 14: Defendant incorporates by reference the above objections to the definitions and instructions.

RESPONSE TO REQUEST NO. 14: Defendant denies RFA No. 14 to the extent that the only information about the DACA rescission that Defendant provided in Spanish were a "Frequently Asked Questions" document and a press release, as USCIS provided information in Spanish about the rescission of DACA on its website and in social media. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 15: Admit that the Spanish translations of the materials referenced in #14 were not immediately available when the English-language materials were published on September 5, 2017.

OBJECTION TO REQUEST NO. 15: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as vague and undefined to the extent plaintiffs have failed to define the phrase "immediately available."

RESPONSE TO REQUEST NO. 15: Defendant denies RFA No. 15 to the extent that it states that information in Spanish about the rescission of DACA on the USCIS and DHS websites was not available on September 5. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 16: Admit that Defendant did not translate the DACA termination memorandum into Korean.

OBJECTION TO REQUEST NO. 16: Defendant incorporates by reference the above objections to the definitions and instructions.

RESPONSE TO REQUEST NO. 16: Defendant admits RFA No. 16 to the extent that DHS did not translate the DACA Rescission Memorandum into Korean. Defendants further deny this request to the extent that it assumes DHS had a legal obligation to translate the DACA Rescission Memorandum into Korean. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 17: Admit that Defendants did not translate explanatory materials regarding the DACA termination into Korean.

OBJECTION TO REQUEST NO. 17: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as vague and undefined to the extent plaintiffs have failed to define “explanatory materials.”

RESPONSE TO REQUEST NO. 17: Defendant admits RFA No. 17 only to the extent that DHS did not translate any materials regarding DACA Rescission into Korean. Defendants further deny this request to the extent that it assumes DHS had a legal obligation to translate any DACA-related materials into Korean. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 18: Admit that Defendants did not translate the DACA termination memorandum into Chinese.

OBJECTION TO REQUEST NO. 18: Defendant incorporates by reference the above objections to the definitions and instructions.

RESPONSE TO REQUEST NO. 18: Defendant admits RFA No. 18 to the extent that DHS did not translate the DACA Rescission Memorandum into Chinese. Defendants further deny this request to the extent that it assumes DHS had a legal obligation to translate the DACA Rescission Memorandum into Chinese. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 19: Admit that Defendants did not translate explanatory materials regarding the DACA termination into Chinese.

OBJECTION TO REQUEST NO. 19: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as vague and undefined to the extent plaintiffs have failed to define “explanatory materials.”

RESPONSE TO REQUEST NO. 19: Defendant admits RFA No. 19 only to the extent that DHS did not translate any materials regarding DACA Rescission into Chinese. Defendants further deny this request to the extent that it assumes DHS had a legal obligation to translate any DACA-related materials into Chinese. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 20: Admit that Defendants did not translate the DACA termination memorandum into Tagalog.

OBJECTION TO REQUEST NO. 20: Defendant incorporates by reference the above objections to the definitions and instructions.

RESPONSE TO REQUEST NO. 20: Defendant admits RFA No. 20 to the extent that DHS did not translate the DACA Rescission Memorandum into Tagalog. Defendants further deny this request to the extent that it assumes DHS had a legal obligation to translate the DACA Rescission Memorandum into Tagalog. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 21: Admit that Defendants did not translate explanatory materials regarding the DACA termination into Tagalog.

OBJECTION TO REQUEST NO. 21: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as vague and undefined to the extent plaintiffs have failed to define “explanatory materials.”

RESPONSE TO REQUEST NO. 21: Defendant admits RFA No. 21 only to the extent that DHS did not translate any materials regarding DACA Rescission into Tagalog. Defendants further deny this request to the extent that it assumes DHS had a legal obligation to translate any DACA-related materials into Tagalog. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 22: Admit that Defendants did not translate the DACA termination memorandum into Vietnamese.

OBJECTION TO REQUEST NO. 22: Defendant incorporates by reference the above objections to the definitions and instructions.

RESPONSE TO REQUEST NO. 22: Defendant admits RFA No. 22 only to the extent that DHS did not translate the DACA Rescission Memorandum into Vietnamese. Defendants further deny this request to the extent that it assumes DHS had a legal obligation to translate the DACA Rescission Memorandum into Vietnamese. Defendant

is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 23: Admit that Defendants did not translate explanatory materials regarding the DACA termination into Vietnamese.

OBJECTION TO REQUEST NO. 23: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as vague and undefined to the extent plaintiffs have failed to define “explanatory materials.”

RESPONSE TO REQUEST NO. 23: Defendant admits RFA No. 23 only to the extent that DHS did not translate any materials regarding DACA Rescission into Vietnamese. Defendants further deny this request to the extent that it assumes DHS had a legal obligation to translate any DACA-related materials into Vietnamese. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 24: Admit that Defendants did not translate the DACA termination memorandum into Portuguese.

OBJECTION TO REQUEST NO. 24: Defendant incorporates by reference the above objections to the definitions and instructions.

RESPONSE TO REQUEST NO. 24: Defendant admits RFA No. 24 only to the extent that DHS did not translate the DACA Rescission memorandum into Portuguese. Defendants further deny this request to the extent that it assumes DHS had a legal obligation to translate the DACA Rescission Memorandum into Portuguese. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 25: Admit that Defendants did not translate explanatory materials regarding the DACA termination into Portuguese.

OBJECTION TO REQUEST NO. 25: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as vague and undefined to the extent plaintiffs have failed to define “explanatory materials.”

RESPONSE TO REQUEST NO. 25: Defendant admits RFA No. 25 only to the extent that DHS did not translate any materials regarding DACA Rescission into Portuguese. Defendants further deny this request to the extent that it assumes DHS had a legal obligation to translate any DACA-related materials into Portuguese. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 26: Admit that a notice of availability of the DACA termination memorandum was not published in the Federal Register until September 18, 2017.

OBJECTION TO REQUEST NO. 26: Defendant incorporates by reference the above objections to the definitions and instructions.

RESPONSE TO REQUEST NO. 26: Defendant admits RFA No. 26 to the extent that a notice of availability of the DACA Rescission Memorandum was not published in the Federal Register until September 18, 2017. Defendant denies this request to the extent that it assumes DHS had a legal obligation to publish the Notice of Availability of the DACA Rescission Memorandum in the Federal Register.

REQUEST NO. 27: Admit that Attorney General Sessions and Acting Secretary Duke jointly made the decision to terminate the DACA program.

OBJECTION TO REQUEST NO. 27: Defendant incorporates by reference the above objections to the definitions and instructions.

RESPONSE TO REQUEST NO. 27: Defendant denies RFA No. 27.

REQUEST NO. 28: Admit that Attorney General Sessions and Acting Secretary Duke jointly made the decision to announce the DACA termination on September 5, 2017.

OBJECTION TO REQUEST NO. 28: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as vague and undefined to the extent it can be construed to apply either to the decision to announce the DACA termination or to announce that termination on September 5, 2017.

RESPONSE TO REQUEST NO. 28: Defendant denies RFA No. 28.

REQUEST NO. 29: Admit that Attorney General Sessions and Acting Secretary Duke jointly made the decision for USCIS to stop accepting DACA applications from individuals without valid DACA as of September 5, 2017.

OBJECTION TO REQUEST NO. 29: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request to the extent that it uses terms, such as “applications,” that do not apply to a request for DACA which is not an immigration benefit, but rather an exercise of prosecutorial discretion to defer immigration enforcement action.

RESPONSE TO REQUEST NO. 29: Defendant denies RFA No. 29.

REQUEST NO. 30: Admit that Attorney General Sessions and Acting Secretary Duke jointly made the decision for USCIS to stop accepting DACA renewals from individuals whose DACA will expire on or after March 6, 2018.

OBJECTION TO REQUEST NO. 30: Defendant incorporates by reference the above objections to the definitions and instructions.

RESPONSE TO REQUEST NO. 30: Defendant denies RFA No. 30.

REQUEST NO. 31: Admit that Attorney General Sessions and Acting Secretary Duke jointly made the decision for USCIS to set a deadline of October 5, 2017, for DACA renewal applications.

OBJECTION TO REQUEST NO. 31: Defendant incorporates by reference the above objections to the definitions and instructions.

RESPONSE TO REQUEST NO. 31: Defendant denies RFA No. 31.

REQUEST NO. 32: Admit that the DACA termination decision is not under continued consideration by DHS.

OBJECTION TO REQUEST NO. 32: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to the phrase “continued consideration” as vague and undefined, as well as calling for a legal conclusion.

RESPONSE TO REQUEST NO. 32: Defendant admits RFA No. 32 only to the extent that the DACA Rescission Memorandum reflects Acting Secretary Duke’s final decision to rescind former Secretary of Homeland Security Janet Napolitano’s June 15, 2012 Memorandum entitled “*Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children*” (June 15, 2012 DACA memorandum), Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 33: Admit that the DACA termination reflects the end of the agency decision-making process concerning the DACA program.

OBJECTION TO REQUEST NO. 33: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to the request to the extent it calls for a legal conclusion. Defendant objects to the request to as vague and undefined as, even with the rescission of the DACA policy, there are numerous agency decisions that will continue to need to be made regarding the DACA policy.

RESPONSE TO REQUEST NO. 33: Defendant admits RFA No. 33 only to the extent that the DHS DACA Rescission Memorandum, dated September 5, 2017, reflects final agency action rescinding the June 15, 2012 DACA memorandum. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 34: Admit that Acting Secretary Duke’s September 5, 2017 memorandum requires DHS to deny all DACA applications from individuals who do not hold DACA as of September 5, 2017.

OBJECTION TO REQUEST NO. 34: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request to the extent that it conflates the DACA policy and deferred action generally. Defendant objects to this request to the extent that it uses terms, such as “applications,” that do not apply to a request for DACA which is not an immigration benefit, but rather an exercise of prosecutorial discretion to defer immigration enforcement action.

RESPONSE TO REQUEST NO. 34: Defendant denies RFA No. 34. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 35: Admit that Acting Secretary Duke’s September 5, 2017 memorandum requires DHS to deny all DACA renewal applications after October 5, 2017.

OBJECTION TO REQUEST NO. 35: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request to the extent that it conflates the DACA policy and deferred action generally. Defendant objects to this request as vague and undefined to the extent that it fails to distinguish between decisions made after October 5, 2017 for renewal requests submitted before October 5, 2017 and decisions made after October 5, 2017 for renewal requests submitted after October 5, 2017. Defendant objects to this request to the extent that it uses terms, such as “applications,” that do not apply to a request for DACA which is not an immigration benefit, but rather an exercise of prosecutorial discretion to defer immigration enforcement action.

RESPONSE TO REQUEST NO. 35: Defendant admits RFA No. 35 only to the extent that the DHS DACA Rescission Memorandum provides that DHS will reject DACA renewal requests received after October 5, 2017; and states that DHS has further directed USCIS to consider on a case-by-case basis DACA renewal requests that are received after October 5, 2017, from residents of Puerto Rico and the U.S. Virgin Islands whose DACA expires between September 5, 2017 and March 5, 2018. Defendant denies that the DACA Rescission Memorandum requires USCIS to deny all DACA renewal requests adjudicated after October 5, 2017. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 36: Admit that Acting Secretary Duke’s September 5, 2017 memorandum limits DACA renewals to those individuals with DACA as of September 5, 2017 whose DACA would expire between September 6, 2017 and March 5, 2018.

OBJECTION TO REQUEST NO. 36: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request to the extent that it conflates the DACA policy and deferred action generally.

RESPONSE TO REQUEST NO. 36: Defendant denies RFA No. 36. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 37: Admit that prior to September 5, 2017, it was the publicly stated policy of DHS to allow DACA applicants to submit renewal applications, rather than full DACA applications, within one year of their expiration date.

OBJECTION TO REQUEST NO. 37: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request to the extent that it uses terms, such as “DACA applicants” and “applications,” that do not apply to a request for DACA which is not an immigration benefit, but rather an exercise of prosecutorial discretion to defer immigration enforcement action. Defendants object to the phrase “full DACA applications” as vague and undefined.

RESPONSE TO REQUEST NO. 37: Defendant admits RFA No. 37 only to the extent that from the time USCIS revised the Form I-821D to begin accepting DACA renewal requests in approximately June 2014, the publicly-stated policy of DHS prior to September 6, 2017 was to allow DACA recipients to submit renewal requests up to one year after their DACA expiration dates. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 38: Admit that prior to September 5, 2017, USCIS accepted and adjudicated renewal applications from DACA applicants whose DACA status had lapsed within one year of their expiration date.

OBJECTION TO REQUEST NO. 38: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request to the extent that it uses terms, such as “applications,” that do not apply to a request for DACA which is not an immigration benefit, but rather an exercise of prosecutorial discretion to defer immigration enforcement action. Defendant further objects to this request to the extent that it is vague and ambiguous to the extent that it is unclear whether the phrase “within one year of their expiration date” applies to “accepted and adjudicated” or only to “whose DACA status had lapsed.”

RESPONSE TO REQUEST NO. 38: Defendant admits RFA No. 38 to the extent that prior to September 6, 2017, USCIS had a general practice of accepting DACA renewal requests up to one year after an individual’s period of deferred action had expired. Defendant denies RFA No. 38 to the extent that it may be construed to mean that USCIS also adjudicated all such DACA renewal requests within one year after the lapse of a recipient’s DACA. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 39: Admit that prior to September 5, 2017, it was the publicly stated policy of DHS to allow initial DACA applicants to be accepted and adjudicated without regard to how long the applicant had been eligible to apply for DACA.

OBJECTION TO REQUEST NO. 39: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request to the extent that it uses terms, such as “applicants,” that do not apply to a request for DACA which is

not an immigration benefit, but rather an exercise of prosecutorial discretion to defer immigration enforcement action.

RESPONSE TO REQUEST NO. 39: Defendant only admits RFA No. 39 to the extent that USCIS had a practice prior to September 6, 2017 of accepting initial DACA requests without regard to how long the requestor may have been able to meet the threshold criteria to request consideration for DACA. Defendant neither admits nor denies that this practice was publicly stated as a policy prior to September 5, 2017. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 40: Admit that prior to September 5, 2017, USCIS accepted and adjudicated initial DACA applications without regard to how long the applicant had been eligible to apply for DACA.

OBJECTION TO REQUEST NO. 40: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request to the extent that it uses terms, such as “applications,” that do not apply to a request for DACA which is not an immigration benefit, but rather an exercise of prosecutorial discretion to defer immigration enforcement action.

RESPONSE TO REQUEST NO. 40: Defendant admits RFA No. 40 to the extent that prior to September 6, 2017, USCIS accepted and adjudicated initial DACA requests from requestors without regard to how long the individual may have met the threshold criteria to request consideration of DACA. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 41: Admit that DACA recipients are immediately subject to apprehension and deportation upon expiration of their DACA status.

OBJECTION TO REQUEST NO. 41: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as vague, undefined, and misleading to the extent that it implies that the expiration of DACA provides, by itself, a basis for an individual to be apprehended and/or deported. Defendant objects to the extent the request implies that no DACA recipient could have received a lawful immigration status prior to the expiration of his or her DACA and thus not be deportable.

RESPONSE TO REQUEST NO. 41: Defendant admits RFA No. 41 only to the extent that any alien who is unlawfully present in the United States is potentially subject to apprehension, removal proceedings, where applicable, and deportation. Defendant further denies this request to the extent that it may be construed to refer to certain DACA requestors who have attained and are maintaining a lawful immigration status by the time their DACA expires or otherwise is terminated. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 42: Admit that, since September 5, 2017, DHS has increased its apprehension and deportation of DACA recipients whose statuses have lapsed.

OBJECTION TO REQUEST NO. 42: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as vague, undefined, and misleading to the extent that it implies that the expiration of DACA status provides, by itself, a basis for an individual to be apprehended and/or deported. Defendant also objects to the request as vague and undefined to the extent it fails to identify the relevant time period being compared to. Defendant objects to the use of the term “apprehension” as undefined to the extent it conflates enforcement actions of the relevant DHS components. Defendant also objects to the phrase “increased its apprehension” as mischaracterizing or failing to fully describe the manner in which individuals with expired DACA are encountered. Defendant further objects to this request to the extent that it assumes a recipient of DACA has a lawful immigration “status,” which is inaccurate.

RESPONSE TO REQUEST NO. 42: Defendant denies RFA No. 42.

REQUEST NO. 43: Admit that an individual who loses DACA status is no longer eligible to apply for employment authorization pursuant to 8 C.F.R. § 274a.12(c)(14).

OBJECTION TO REQUEST NO. 43: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request to the extent it calls for a legal conclusion. Defendant also objects to this request to the extent it conflates DACA with deferred action. Defendant further objects to this request to the extent that it assumes a recipient of DACA has a lawful immigration “status,” which is inaccurate. DACA is an exercise of prosecutorial discretion to defer immigration enforcement action against an individual, not a “status.”

RESPONSE TO REQUEST NO. 43: Defendant admits RFA No. 43 only to the extent that an individual who is not a recipient of DACA or deferred action by means other than the DACA policy would not be eligible to apply for employment authorization pursuant to 8 C.F.R. § 274a.12(c)(14). Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 44: Admit that the DACA termination is likely to have a more than de minimis economic impact on at least one small non-profit.

OBJECTION TO REQUEST NO. 44: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “de minimis economic impact” or “small non-profit.” Defendant objects to this request to the extent it calls for speculation.

RESPONSE TO REQUEST NO. 44: Defendant is without sufficient information to admit or deny RFA No. 44.

REQUEST NO. 45: Admit that the DACA termination is likely to have a more than de minimis economic impact on at least 100 small non-profits.

OBJECTION TO REQUEST NO. 45: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “de minimus economic impact” or “small non-profits.” Defendant objects to this request to the extent it calls for speculation.

RESPONSE TO REQUEST NO. 45: Defendant is without sufficient information to admit or deny RFA No. 45.

REQUEST NO. 46: Admit that the DACA termination is likely to have a more than de minimus economic impact on at least 500 small non-profits.

OBJECTION TO REQUEST NO. 46: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “de minimus economic impact” or “small non-profit.” Defendant objects to this request to the extent it calls for speculation.

RESPONSE TO REQUEST NO. 46: Defendant is without sufficient information to admit or deny RFA No. 46.

REQUEST NO. 47: Admit that the DACA termination is likely to have a more than de minimus economic impact on at least one small business.

OBJECTION TO REQUEST NO. 47: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “de minimus economic impact” or “small business.” Defendant objects to this request to the extent it calls for speculation.

RESPONSE TO REQUEST NO. 47: Defendant is without sufficient information to admit or deny RFA No. 47.

REQUEST NO. 48: Admit that the DACA termination is likely to have a more than de minimus economic impact on at least 100 small businesses.

OBJECTION TO REQUEST NO. 48: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “de minimus economic impact” or “small businesses.” Defendant objects to this request to the extent it calls for speculation.

RESPONSE TO REQUEST NO. 48: Defendant is without sufficient information to admit or deny RFA No. 48.

REQUEST NO. 49: Admit that the DACA termination is likely to have a more than de minimus economic impact on at least 1000 small businesses.

OBJECTION TO REQUEST NO. 49: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “de minimus economic impact” or “small business.” Defendant objects to this request to the extent it calls for speculation.

RESPONSE TO REQUEST NO. 49: Defendant is without sufficient information to admit or deny RFA No. 49.

REQUEST NO. 50: Admit that the DACA termination is likely to have a more than de minimus economic impact on at least 5000 small businesses.

OBJECTION TO REQUEST NO. 50: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “de minimus economic impact” or “small business.” Defendant objects to this request to the extent it calls for speculation.

RESPONSE TO REQUEST NO. 50: Defendant is without sufficient information to admit or deny RFA No. 50.

REQUEST NO. 51: Admit that the DACA termination is likely to have a more than de minimus economic impact on at least one small governmental jurisdiction.

OBJECTION TO REQUEST NO. 51: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “de minimis economic impact” or “small governmental jurisdiction.” Defendant objects to this request to the extent it calls for speculation.

RESPONSE TO REQUEST NO. 51: Defendant is without sufficient information to admit or deny RFA No. 51.

REQUEST NO. 52: Admit that prior to September 5, 2017, DHS did not evaluate the economic impact of terminating DACA on small non-profits.

OBJECTION TO REQUEST NO. 52: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “small non-profits.”

RESPONSE TO REQUEST NO. 52: Defendant admits RFA No. 52 only to the extent Defendant did not conduct an analysis of the rescission of DACA under the Regulatory Flexibility Act prior to September 5, 2017; and further admits that Defendant did not conduct an analysis of the establishment of DACA under the Regulatory Flexibility Act prior to issuance of the June 15, 2012 DACA memorandum. Defendant denies this request to the extent that it suggests that DHS had a legal obligation to evaluate the economic impact of terminating DACA on small non-profits. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 53: Admit that prior to September 5, 2017, DHS did not evaluate the economic impact of terminating DACA on small businesses.

OBJECTION TO REQUEST NO. 53: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “small businesses.”

RESPONSE TO REQUEST NO. 53: Defendant admits RFA No. 53 only to the extent Defendant did not conduct an analysis of the rescission of DACA under the Regulatory Flexibility Act prior to September 5, 2017; and further admits that Defendant did not conduct an analysis of the establishment of DACA under the Regulatory Flexibility Act prior to issuance of the June 15, 2012 DACA memorandum. Defendant denies this request to the extent that it suggests that DHS had a legal obligation to evaluate the economic impact of terminating DACA on small businesses. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 54: Admit that prior to September 5, 2017, DHS did not evaluate the economic impact of terminating DACA on small governmental jurisdictions.

OBJECTION TO REQUEST NO. 54: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “small governmental jurisdictions.”

RESPONSE TO REQUEST NO. 54: Defendant admits RFA No. 54 only to the extent Defendant did not conduct an analysis of the rescission of DACA under the Regulatory Flexibility Act prior to September 5, 2017; and further admits that Defendant did not conduct an analysis of the establishment of DACA under the Regulatory Flexibility Act prior to issuance of the June 15, 2012 DACA memorandum. Defendant denies this request to the extent that it suggests that DHS had a legal obligation to evaluate the economic impact of terminating DACA on small governmental jurisdictions. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 55: Admit that prior to September 5, 2017, DHS did not consider regulatory alternatives to the DACA termination that would reduce the economic impact on small non-profits.

OBJECTION TO REQUEST NO. 55: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request to the extent it implies that Defendant was required to consider regulatory alternatives to the action being challenged in this lawsuit. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “small non-profits.”

RESPONSE TO REQUEST NO. 55: Defendant admits RFA No. 55 only to the extent Defendant did not conduct an analysis of the rescission of DACA under the Regulatory Flexibility Act prior to September 5, 2017; and further admits that Defendant did not conduct an analysis of the establishment of DACA under the Regulatory Flexibility Act prior to issuance of the June 15, 2012 DACA memorandum. Defendant denies this request to the extent that it suggests that DHS had a legal obligation to evaluate the regulatory alternatives of terminating DACA on small non-profits. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 56: Admit that prior to prior to September 5, 2017, DHS did not consider regulatory alternatives to the DACA termination that would reduce the economic impact on small businesses.

OBJECTION TO REQUEST NO. 56: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request to the extent it implies that Defendant

was required to consider regulatory alternatives to the action being challenged in this lawsuit. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “small businesses.”

RESPONSE TO REQUEST NO. 56: Defendant admits RFA No. 56 only to the extent Defendant did not conduct an analysis of the rescission of DACA under the Regulatory Flexibility Act prior to September 5, 2017; and further admits that Defendant did not conduct an analysis of the establishment of DACA under the Regulatory Flexibility Act prior to issuance of the June 15, 2012 DACA memorandum. Defendant denies this request to the extent that it suggests that DHS had a legal obligation to evaluate the regulatory alternatives of terminating DACA on small businesses. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 57: Admit that prior to September 5, 2017, DHS did not consider regulatory alternatives to the DACA termination that would reduce the economic impact on small governmental jurisdictions.

OBJECTION TO REQUEST NO. 57: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request to the extent it implies that Defendant was required to consider regulatory alternatives to the action being challenged in this lawsuit. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “small governmental jurisdictions.”

RESPONSE TO REQUEST NO. 57: Defendant admits RFA No. 57 only to the extent Defendant did not conduct an analysis of the rescission of DACA under the Regulatory Flexibility Act prior to September 5, 2017; and further admits that Defendant did not conduct an analysis of the establishment of DACA under the Regulatory Flexibility Act prior to issuance of the June 15, 2012 DACA memorandum. Defendant denies this request to the extent that it suggests that DHS had a legal obligation to evaluate the regulatory alternatives of terminating DACA on small governmental jurisdictions. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 58: Admit that prior to September 5, 2017, former Secretary Kelly did not certify that the DACA termination would not have a significant economic impact on a substantial number of small non-profits, small businesses, or small governmental jurisdictions.

OBJECTION TO REQUEST NO. 58: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request to the extent it implies that Defendant was required to “certify” as set forth in the request. Defendant objects to the request as

being compound and confusing. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “small non-profits,” “small businesses,” or “small governmental jurisdictions.”

RESPONSE TO REQUEST NO. 58: Defendant admits RFA No. 58 only to the extent Defendant did not conduct an analysis of the rescission of DACA under the Regulatory Flexibility Act prior to September 5, 2017; and further admits that Defendant did not conduct an analysis of the establishment of DACA under the Regulatory Flexibility Act prior to issuance of the June 15, 2012 DACA memorandum. Defendant denies this request to the extent that it suggests that DHS had a legal obligation to certify that the DACA termination would not have a significant economic impact on a substantial number of small non-profits, small businesses, or small governmental jurisdictions. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 59: Admit that prior to September 5, 2017, Acting Secretary Duke did not certify that the DACA termination would not have a significant economic impact on a substantial number of small non-profits, small businesses, or small governmental jurisdictions.

OBJECTION TO REQUEST NO. 59: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request to the extent it implies that Defendant was required to “certify” as set forth in the request. Defendant objects to the request as being compound and confusing. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “small non-profits,” “small businesses,” or “small governmental jurisdictions.”

RESPONSE TO REQUEST NO. 59: Defendant admits RFA No. 59 only to the extent Defendant did not conduct an analysis of the rescission of DACA under the Regulatory Flexibility Act prior to September 5, 2017; and further admits that Defendant did not conduct an analysis of the establishment of DACA under the Regulatory Flexibility Act prior to issuance of the June 15, 2012 DACA memorandum. Defendant denies this request to the extent that it suggests that DHS had a legal obligation to certify that the DACA termination would not have a significant economic impact on a substantial number of small non-profits, small businesses, or small governmental jurisdictions. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 60: Admit that prior to September 5, 2017, DHS did not consider whether one month was a sufficient time for small non-profits to assist their clients in submitting renewal applications for the DACA program.

OBJECTION TO REQUEST NO. 60: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling

for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request to the extent it implies that Defendant was required to consider the topic identified in this request. Defendant objects to this request as vague and confusing to the extent plaintiffs have failed to define the phrase “sufficient time” or “small non-profits.”

RESPONSE TO REQUEST NO. 60: Defendant admits RFA No. 60 only to the extent Defendant did not conduct an analysis of the rescission of DACA under the Regulatory Flexibility Act prior to September 5, 2017; and further admits that Defendant did not conduct an analysis of the establishment of DACA under the Regulatory Flexibility Act prior to issuance of the June 15, 2012 DACA memorandum. Defendant denies this request to the extent that it suggests that DHS had a legal obligation to consider whether one month was a sufficient time for small non-profits to assist their clients in submitting renewal applications. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 61: Admit that prior to September 5, 2017, DHS did not consider whether one month was a sufficient time for small non-profits to assist their members in submitting renewal applications for the DACA program.

OBJECTION TO REQUEST NO. 61: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request to the extent it implies that Defendant was required to consider the topic identified in this request. Defendant objects to this request as vague and confusing to the extent plaintiffs have failed to define the phrase “sufficient time” or “small non-profits.”

RESPONSE TO REQUEST NO. 61: Defendant admits RFA No. 61 only to the extent Defendant did not conduct an analysis of the rescission of DACA under the Regulatory Flexibility Act prior to September 5, 2017; and further admits that Defendant did not conduct an analysis of the establishment of DACA under the Regulatory Flexibility Act prior to issuance of the June 15, 2012 DACA memorandum. Defendant denies this request to the extent that it suggests that DHS had a legal obligation to consider whether one month was a sufficient time for small non-profits to assist their members in submitting renewal applications. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 62: Admit that prior to September 5, 2017, DHS did not consider whether one month was a sufficient time for small businesses, small non-profits, and small governmental jurisdictions to assist their employees in submitting renewal applications for the DACA program.

OBJECTION TO REQUEST NO. 62: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory

Flexibility Act. Defendant objects to this request to the extent it implies that Defendant was required to consider the topic identified in this request. Defendant objects to this request as vague and confusing to the extent plaintiffs have failed to define the phrase “sufficient time,” “small businesses,” “small non-profits,” and “small governmental jurisdictions.”

RESPONSE TO REQUEST NO. 62: Defendant admits RFA No. 62 only to the extent Defendant did not conduct an analysis of the rescission of DACA under the Regulatory Flexibility Act prior to September 5, 2017; and further admits that Defendant did not conduct an analysis of the establishment of DACA under the Regulatory Flexibility Act prior to issuance of the June 15, 2012 DACA memorandum. Defendant denies this request to the extent that it suggests that DHS had a legal obligation to consider whether one month was a sufficient time for small businesses, small non-profits, and small governmental jurisdictions to assist their employees in submitting renewal applications. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 63: Admit that prior to September 5, 2017, DHS made no effort to determine the cost to small businesses, small non-profits, or small governmental jurisdictions of employees who will lose work authorization due to the end of the DACA program.

OBJECTION TO REQUEST NO. 63: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request to the extent it implies that Defendant was required to “determine” the topic identified in this request. Defendant objects to this request as vague and confusing to the extent plaintiffs have failed to define the phrase “small businesses,” “small non-profits,” and “small governmental jurisdictions.”

RESPONSE TO REQUEST NO. 63: Defendant admits RFA No. 63 only to the extent Defendant did not conduct an analysis of the rescission of DACA under the Regulatory Flexibility Act prior to September 5, 2017; and further admits that Defendant did not conduct an analysis of the establishment of DACA under the Regulatory Flexibility Act prior to issuance of the June 15, 2012 DACA memorandum. Defendant denies this request to the extent that it suggests that DHS had a legal obligation to determine the cost to small businesses, small non-profits, or small governmental jurisdictions of employees who will lose work authorization due to the end of the DACA program. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 64: Admit that prior to September 5, 2017, DHS did not assess the costs of rehiring or replacing employees who lose work authorization due to the termination of the DACA program.

OBJECTION TO REQUEST NO. 64: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request to the extent it implies that Defendant was required to “assess” the topic identified in this request. Defendant objects to this request as vague and confusing to the extent plaintiffs have failed to identify “employees who lose work authorization due to the termination of the DACA program.”

RESPONSE TO REQUEST NO. 64: Defendant admits RFA No. 64 only to the extent Defendant did not conduct an analysis of the rescission of DACA under the Regulatory Flexibility Act prior to September 5, 2017; and further admits that Defendant did not conduct an analysis of the establishment of DACA under the Regulatory Flexibility Act prior to issuance of the June 15, 2012 DACA memorandum. Defendant denies this request to the extent that it suggests that DHS had a legal obligation to assess the costs of rehiring or replacing employees who lose work authorization due to the termination of the DACA program. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 65: Admit that prior to September 5, 2017, DHS did not assess the potential costs to small businesses, small non-profits, and small governmental jurisdictions of losing experienced employees due to the termination of the DACA program.

OBJECTION TO REQUEST NO. 65: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request to the extent it implies that Defendant was required to “assess” the topic identified in this request. Defendant objects to this request as vague and confusing to the extent plaintiffs have failed to define the phrase “small businesses,” “small non-profits,” “small governmental jurisdictions,” and “experienced employees.”

RESPONSE TO REQUEST NO. 65: Defendant admits RFA No. 65 only to the extent Defendant did not conduct an analysis of the rescission of DACA under the Regulatory Flexibility Act prior to September 5, 2017; and further admits that Defendant did not conduct an analysis of the establishment of DACA under the Regulatory Flexibility Act prior to issuance of the June 15, 2012 DACA memorandum. Defendant denies this request to the extent that it suggests that DHS had a legal obligation to assess the potential costs to small businesses, small non-profits, and small governmental jurisdictions of losing experienced employees due to the termination of the DACA program. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 66: Admit that pursuant to the 2012 DACA memorandum, applicants for DACA were required to disclose their lack of immigration status as of June 15, 2012, as a condition of consideration for DACA.

OBJECTION TO REQUEST NO. 66: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to the phrase “applicants for DACA” as misleading to the extent DACA status is not an immigration benefit.

RESPONSE TO REQUEST NO. 66: Defendant admits RFA No. 66 only to the extent that the Form I-821D, Form I-765, Form I-765 Worksheet, and the associated instructions for these forms state the information DACA requestors are required to submit in order to request DACA. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 67: Admit that pursuant to the 2012 DACA memorandum, applicants for DACA were required to disclose their current and previous mailing addresses as a condition of consideration for DACA.

OBJECTION TO REQUEST NO. 67: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to the phrase “applicants for DACA” as misleading to the extent DACA is not an immigration benefit.

RESPONSE TO REQUEST NO. 67: Defendant admits RFA No. 67 only to the extent that the Form I-821D, Form I-765, Form I-765 Worksheet, and the associated instructions for these forms state the information DACA requestors are required to submit in order to request DACA. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 68: Admit that pursuant to the 2012 DACA memorandum, applicants for DACA were required to disclose their country of birth as a condition of consideration for DACA.

OBJECTION TO REQUEST NO. 68: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to the phrase “applicants for DACA” as misleading to the extent DACA is not an immigration benefit.

RESPONSE TO REQUEST NO. 68: Defendant admits RFA No. 68 only to the extent that the Form I-821D, Form I-765, Form I-765 Worksheet, and the associated instructions for these forms state the information DACA requestors are required to submit in order to request DACA. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 69: Admit that pursuant to the 2012 DACA memorandum, certain applicants for DACA were required to disclose criminal arrests, charges, or convictions as a condition of consideration for DACA.

OBJECTION TO REQUEST NO. 69: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to the phrase “applicants for DACA” as misleading to the extent DACA is not an immigration benefit. Defendant

objects to this request as vague and confusing to the extent plaintiffs have failed to define the phrase “certain applicants for DACA.”

RESPONSE TO REQUEST NO. 69: Defendant admits RFA No. 69 only to the extent that the Form I-821D, Form I-765, Form I-765 Worksheet, and the associated instructions for these forms state the information DACA requestors are required to submit in order to request DACA. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 70: Admit that pursuant to the 2012 DACA memorandum, applicants for DACA were required to disclose their means of entering the United States as a condition of consideration for DACA.

OBJECTION TO REQUEST NO. 70: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to the phrase “applicants for DACA” as misleading to the extent DACA is not an immigration benefit.

RESPONSE TO REQUEST NO. 70: Defendant admits RFA No. 70 only to the extent that the Form I-821D, Form I-765, Form I-765 Worksheet, and the associated instructions for these forms state the information DACA requestors are required to submit in order to request DACA. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 71: Admit that the information DACA applicants provided with their applications sometimes includes the immigration status, or lack thereof, of third parties, including family members.

OBJECTION TO REQUEST NO. 71: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to the phrase “applicants for DACA” as misleading to the extent DACA is not an immigration benefit. Defendant objects to the request as vague and undefined to the extent plaintiffs failed to provide a definition for the phrase “third parties.”

RESPONSE TO REQUEST NO. 71: Defendant admits RFA No. 71 only to the extent that certain DACA requestors may have submitted supplementary documentation that contains information about third parties, including family members and that such information, on occasion, may have concerned the immigration status of such other individuals. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 72: Admit that the information DACA applicants provided with their applications sometimes includes the country of birth of third parties, including family members.

OBJECTION TO REQUEST NO. 72: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to the phrase “applicants

for DACA” as misleading to the extent DACA is not an immigration benefit. Defendant objects to the request as vague and undefined to the extent plaintiffs failed to provide a definition for the phrase “third parties.”

RESPONSE TO REQUEST NO. 72: Defendant admits RFA No. 72 only to the extent that certain DACA requestors may have submitted supplementary documentation that contains information about third parties, including family members and that such information, on occasion, may have concerned the country of birth information of such other individuals. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 73: Admit that at least one DACA applicant who met the guidelines of the 2012 DACA memorandum was nonetheless denied DACA.

OBJECTION TO REQUEST NO. 73: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to the phrase “applicants for DACA” as misleading to the extent DACA is not an immigration benefit.

RESPONSE TO REQUEST NO. 73: Defendant admits only that USCIS has denied a DACA request from at least one DACA requestor who met the threshold criteria for consideration for DACA outlined in the June 15, 2012 memorandum from former Secretary of Homeland Security Janet Napolitano, *Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children*, and the USCIS DACA FAQs archived at <https://www.uscis.gov/archive/frequently-asked-questions> (last visited October 17, 2017)). Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 74: Admit that DHS policy before September 5, 2017 was not to use the information provided in DACA applications for immigration-enforcement purposes except in narrow circumstances, including to identify fraudulent claims, for national security purposes, to adjudicate DACA requests, or for the investigation or prosecution of a criminal offense.

OBJECTION TO REQUEST NO. 74: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to the extent the request mischaracterizes or otherwise fails to fully describe the policy at issue. Defendant objects to the request as vague and confusing to the extent plaintiffs have failed to define the phrase “immigration-enforcement purposes,” and “narrow circumstances.”

RESPONSE TO REQUEST NO. 74: Defendant admits RFA No. 74 only to the extent that that the current policy on sharing information provided by DACA requestors and recipients is reflected in USCIS DACA FAQs numbers 19, 20, and 26 (archived at <https://www.uscis.gov/archive/frequently-asked-questions> (last visited October 17, 2017)), DHS DACA FAQs numbers 7 and 8 (at <https://www.dhs.gov/news/2017/09/05/frequentlyasked->

[questions-rescission-deferred-action-childhood-arrivals-daca](#) (last visited October 17, 2017)), and the Form I-821D (*Consideration for Deferred Action for Childhood Arrivals*) instructions. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

REQUEST NO. 75: Admit that DHS has changed its policy, since September 2017, regarding the permissible uses of the information provided in DACA applications.

OBJECTION TO REQUEST NO. 75: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to the extent that “applications” is vague and undefined.

RESPONSE TO REQUEST NO. 75: Defendant denies RFA No. 75. Defendant admits only that the current policy is reflected in USCIS DACA FAQs numbers 19, 20, and 26 (archived at <https://www.uscis.gov/archive/frequently-asked-questions> (last visited October 17, 2017)), DHS DACA FAQs numbers 7 and 8 (at <https://www.dhs.gov/news/2017/09/05/frequentlyasked-questions-rescission-deferred-action-childhood-arrivals-daca> (last visited October 17, 2017)), and the Form I-821D instructions. Defendant is without sufficient information to admit or deny any other allegations in this request that may be considered to remain.

Dated: October 18, 2017

Respectfully submitted,

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Acting Assistant Attorney General

BRIDGET M. ROHDE
Acting United States Attorney

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Deputy Assistant Attorney General

JENNIFER D. RICKETTS
Director

JOHN R. TYLER
Assistant Branch Director

/s/ Brad P. Rosenberg
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Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on October 11, 2017, I caused to be served the foregoing DEFENDANT’S OBJECTIONS TO PLAINTIFFS’ FIRST SET OF REQUESTS FOR ADMISSION TO ELAINE DUKE, ACTING SECRETARY OF HOMELAND SECURITY, via e-mail upon:

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Abigail Taylor	abigail.taylor@state.ma.us
Genevieve Nadeau	Genevieve.Nadeau@MassMail.State.MA.US
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Justin Cox	cox@nilc.org

/s/ Brad P. Rosenberg
BRAD P. ROSENBERG

EXHIBIT G

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12 *her official capacity as President of the*
13 *University of California*

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

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

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY and ELAINE DUKE, in her
official capacity as Acting Secretary of the
Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

**DECLARATION OF FERNANDO S.
MENDOZA**

1 STATE OF CALIFORNIA, STATE OF
 2 MAINE, STATE OF MARYLAND, and
 3 STATE OF MINNESOTA,
 4
 5 Plaintiffs,
 6
 7 v.
 8 U.S. DEPARTMENT OF HOMELAND
 9 SECURITY, ELAINE DUKE, in her official
 10 capacity as Acting Secretary of the Department
 11 of Homeland Security, and the UNITED
 12 STATES OF AMERICA,
 13
 14 Defendants.

CASE NO. 17-CV-05235-WHA

9 CITY OF SAN JOSE, a municipal corporation,
 10
 11 Plaintiffs,
 12
 13 v.
 14 DONALD J. TRUMP, President of the United
 15 States, in his official capacity, ELAINE C.
 16 DUKE, in her official capacity, and the
 17 UNITED STATES OF AMERICA,
 18
 19 Defendants.

CASE NO. 17-CV-05329-WHA

16 DULCE GARCIA, MIRIAM GONZALEZ
 17 AVILA, SAUL JIMENEZ SUAREZ,
 18 VIRIDIANA CHABOLLA MENDOZA,
 19 NORMA RAMIREZ, and JIRAYUT
 20 LATTHIVONGSKORN,
 21
 22 Plaintiffs,
 23
 24 v.
 25 UNITED STATES OF AMERICA, DONALD
 26 J. TRUMP, in his official capacity as President
 27 of the United States, U.S. DEPARTMENT OF
 28 HOMELAND SECURITY, and ELAINE
 DUKE, in her official capacity as Acting
 Secretary of Homeland Security,
 Defendants.

CASE NO. 17-CV-05380-WHA

1 COUNTY OF SANTA CLARA and
2 SERVICE EMPLOYEES INTERNATIONAL
3 UNION LOCAL 521,

4 Plaintiffs,

5 v.

6 DONALD J. TRUMP, in his official capacity
7 as President of the United States, JEFFERSON
8 BEAUREGARD SESSIONS, in his official
9 capacity as Attorney General of the United
10 States; ELAINE DUKE, in her official
11 capacity as Acting Secretary of the Department
12 of Homeland Security; and U.S.
13 DEPARTMENT OF HOMELAND
14 SECURITY,

15 Defendants.

CASE NO. 17-CV-05813-WHA

1 I, FERNANDO S. MENDOZA, declare and state as follows:

2 1. I am the Associate Dean of Minority Advising and Programs and Professor of Pediatrics
3 (General Pediatrics) at the Lucile Salter Packard Children's Hospital. I write this declaration as a doctor
4 and an expert in pediatric medicine in support of all Plaintiffs in the related-lawsuits regarding the
5 Deferred Action for Childhood Arrivals program, commonly known as DACA. I have been an academic
6 general pediatrician at Stanford University School of Medicine for 36 years, and have held the rank of
7 Professor for the past 16 years. During that time, I also have held the position of Associate Dean of
8 Minority Advising and Programs (1983 to present), and Chief of the Division of General Pediatrics at
9 the Lucile Packard Children's Hospital (1996-2014). I received my MD in 1975 from Stanford
10 University, School of Medicine, and my Masters of Public Health from Harvard University in 1979. My
11 training in pediatrics was at Stanford University, School of Medicine as a resident from 1975 to 1978,
12 and as a fellow in academic general pediatrics from 1979-1981. Relevant to this declaration is also my
13 experience as a member of the Committee on the Health and Adjustment of Immigrant Children and
14 Families, National Research Council, Institute of Medicine (1996-98).

15 2. Throughout my career of 36 years, I have focused in particular on the physical and mental
16 well-being of immigrant and Mexican-American children. I have taught courses on delivering health
17 care to diverse populations, and promoting well-being in immigrant children and youth. I have published
18 numerous peer-reviewed publications on these issues. A copy of my curriculum vitae is attached
19 (Exhibit A).

20 3. As a faculty member in the Pediatrics Department, I have spent my clinical time treating
21 children and youth in the outpatient and inpatient settings at the Lucile Packard Children's Hospital.
22 Most recently, my clinical time has been as an attending physician in the outpatient clinic of the
23 Gardner-Packard Children's Health Center, a Federally Qualified Health Center run by the Gardner
24 Family Care Corporation in partnership with Lucile Packard Children's Hospital. This clinic serves
25 primarily children and youth from low-income families in our region; many of them come from
26 immigrant families. Overall, my clinical experiences for the past 36 years has been with this population
27 of children and youth, treating acute and chronic illness, providing well child care, and working with
28 families on issues of child wellness.

1 4. In 2017, I co-authored a peer-reviewed study titled "Protecting unauthorized immigrant
2 mothers improves their children's mental health," which was published in *Science*. A copy of that study
3 is attached (Exhibit B). Using Medicaid claims data from the state of Oregon, we found that mothers'
4 DACA eligibility decreased adjustment and anxiety disorder diagnoses by 50% among their U.S. born
5 children. This study suggests that intergenerational benefits can occur when an immigration policy
6 (DACA) positively impacts one generation (mother) in such a way that the impact on the parent's health
7 and wellbeing is felt by the next generation (children), resulting in their improved development and
8 well-being. More specifically, the results of this study indicated that parents' unauthorized status is a
9 substantial stressor to children because of the daily uncertainty of deportation. When this stress is
10 alleviated by a policy such as DACA, normal child development is more likely to occur leading to a
11 lower prevalence of anxiety and adjustment disorders. DACA can prevent a health disparity among U.S.
12 children (a high level of chronic stress) by eliminating a parental disadvantage (fear of deportation) that
13 can impact their U.S. children.

14 5. As a pediatric practitioner, I am familiar with the short-term and long-term health effects of
15 adjustment and anxiety disorder diagnoses for children. A child diagnosed with these disorders can be
16 depressed and withdrawn, be unable to complete schoolwork, lash out at classmates and teachers,
17 behave recklessly, and have trouble sleeping. These are conditions that significantly impair daily
18 functioning and interfere with children's psychological and emotional development. If the cause of the
19 anxiety is not addressed, the subsequent impairment can have long-term effects for school performance
20 and general mental health, including an increased risk for substance abuse (*The Effects of Childhood
21 Stress on Health Across the Lifespan*, Centers for Disease Control and Prevention, 2008).

22 6. One of the greatest stressors to children is the loss of a parent by death, divorce, or in this
23 case, deportation. However, in the case of deportation, the level of stress is heightened by the
24 uncertainty of the event. Think about a young child going to school one day and returning home and not
25 finding their mother. Or having the father leave in the morning, and always thinking, "will this be the
26 last time I see him?" This is the current status of 4 million children who have one undocumented parent.
27 This is the stress and uncertainty that DACA was able to relieve.

28

1 7. Childhood mental health problems are associated with serious challenges later in life.
2 Struggles in school can lead to limited job prospects and long-term reliance on welfare, and adults who
3 experienced trauma during these formative years have higher rates of substance abuse and chronic health
4 problems (CDC: 2008). By curbing acute anxiety in young children, programs like DACA could have
5 cascading effects in improving health and other outcomes across the lifespan. In addition, there are
6 significant implications for cost savings given that it is estimated that at present, we spend \$247 billion
7 for U.S. youth in providing mental health and health services, and dealing with their lost productivity
8 and crime (Preventing mental, emotional, and behavioral disorders among young people: Progress and
9 possibilities. National Research Council and the Institute of Medicine of the National Academies,
10 Washington, DC: National Academies Press; 2009).

11 8. Over the past 12 months, I have observed the effects that uncertainty about parental
12 immigration status has on children. I have been asked to write letters for undocumented parents who
13 have a U.S. child with chronic illness to be used for their request to stay with them in the U.S. I also had
14 to discuss with parents the situation of being deported and not being able to return home to care for their
15 U.S. children. In this situation, I have learned that parents are engaged in obtaining legal documents to
16 entrust their children to other family members or friends, rather than have their children be placed in
17 foster care. I cannot think of anything more stressful for parents and children than having to go through
18 the process of dealing with the breakup of a family. As a pediatrician, my role is to care for all children,
19 including those who have undocumented parents. This involves not only providing health care, but also
20 advocating for children and their families. As such, I believe bringing to light the situation that children
21 with undocumented parents face with regard to their health and wellbeing is important, and a vital first
22 step toward addressing these public health concerns.

23
24 I declare under penalty of perjury under the laws of the United States that the foregoing is
25 true and correct and that this declaration was executed on [Date] in Stanford, California.

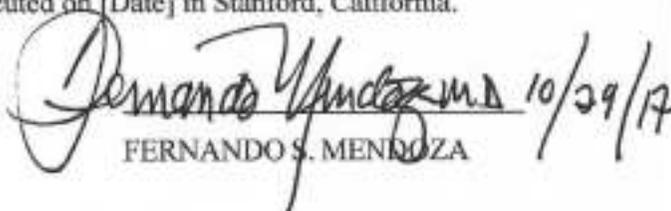
26  10/29/17
27 FERNANDO S. MENDOZA
28

EXHIBIT A

CURRICULUM VITAE

October 2017

FERNANDO S. MENDOZA, M.D., M.P.H.

Current Title: Professor of Pediatrics at the Lucile Salter Packard Children's Hospital, Division of General Pediatrics, Department of Pediatrics,
and
Associate Dean of Minority Advising and Programs
Stanford University, School of Medicine

Business Address: Division of General Pediatrics
Department of Pediatrics
School of Medicine
Stanford University
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Stanford, CA, 94305-5459
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EDUCATION AND TRAINING

B.A., 1971	San Jose State University San Jose, California
M.D., 1975	Stanford University School of Medicine Stanford, California
Internship and Residency in Pediatrics (PL 1,2,3) 1975-1978	Stanford University School of Medicine Stanford, California
M.P.H., 1979	Harvard University School of Public Health Boston, Massachusetts
Robert Wood Johnson Academic General Pediatrics Fellowship, 1979-1981	Stanford University School of Medicine Stanford, California

FACULTY APPOINTMENTS

Assistant Professor of Pediatrics September 1981 to 1990	Stanford University School of Medicine Stanford, California
---	--

Fernando S. Mendoza, MD, MPH

2

Assistant Dean of Student Affairs September 1983 to August 1993	Stanford University School of Medicine Stanford, California
Associate Professor of Pediatrics July 1990 to May 2001	Stanford University School of Medicine Stanford, California
Associate Dean of Minority Advising and Programs September 1993 to present	Stanford University School of Medicine Stanford, California
Division and Service Chief, General Pediatrics (Acting 9/95-8/96) September 1996-2014	Stanford University School of Medicine Stanford, CA Lucile Packard Children's Hospital
Professor of Pediatrics June 2001-present	Stanford University School of Medicine Stanford, CA

BOARD CERTIFICATION

American Board of Pediatrics, December 7, 1980, Certificate# 25342

HONORS

Dean's Scholar, San Jose State University, 1968-1971

Recognition Award, Chicano Latino Medical Student Association, April 1986

Research Excellence Award, National Coalition of Hispanic Health and Human Services Organizations (COSSMHO), September 1986

Henry J. Kaiser Award for Outstanding and Innovation Contribution
In Medical Education, Stanford University School of Medicine, June 1990

Honors Award, Latino Health Affairs Council, March 1992

Outstanding Research Advisor, The Stanford Society of Chicano/Latino Engineers and Scientists, May 1993

Recognition Award, Stanford University Minority Medical Alliance, April 2000

Top Doctor in Silicon Valley in General Pediatrics. San Jose Magazine, 1999-07
Best Doctors in America, 2007-2009

KGO Channel 7, (ABC Affiliate in San Francisco), Hispanic Profile of Excellence

Fernando S. Mendoza, MD, MPH

3

October 2002

Selected as one of the 100 most influential Hispanics in the United States by Hispanic Business Magazine, November 2002

National Hispanic Medical Association, Leadership Award, March 20, 2004

Juan Villagomez Humanitarian Award, California Latino Medical Association, September 2004

Establishment of the Dr. Fernando S. Mendoza Award for exemplary leadership, service and commitment to minority community awarded by LSMA, SNMA, SAIMS; May 2005

Group on Student Affairs-Minority Affairs Section, Service Award, November 2005

100 Most Influential Latinos in Silicon Valley, Mexican American Community Services Agency, June 30, 2007

The Gardner Community Spirit Award, and resolutions of commendations from the City of San Jose, County of Santa Clara, California State Senate, and U.S. Congress, September 2008.

Best Doctors in America 2009-2014

Visiting Professor, Harvard Medical School, October 2009

Visiting Professor, University of California, San Francisco, Philip R. Lee Institute for Health Policy Studies, January 2010

Outstanding Leadership Award for Community Pediatric Services, Ravenswood Family Health Center, March 2012

JE Wallace Sterling "Muleshoe" Alumni Lifetime Achievement Award, May 2012

President's Award for Excellence through Diversity, Stanford University, June 2012

CDC's Health Equity Champion, Fall 2012

Visiting Professor, University of Puerto Rico Health Services Schools, February 2014

Leonard P. Rome CATCH Visiting Professor, Children's National Medical Center April 2014

Ravenswood Family Health Center, Community Service Award, August 2014.

Lucile Packard Children's Hospital Medical Staff Distinguish Service Award, April 2015

Fernando S. Mendoza, MD, MPH

4

Dr. Augustus A. White III and Family Faculty Professionalism Award, Stanford University School of Medicine, June 2015

Dr. Phil DeChavez Mentor of the Year Award, National Latino Medical Student Association April 2016

ACADEMIC ACTIVITIES AND SERVICES

Member, Stanford Center for the Study of Families, Children and Youth, 1983 to 1992

Child Health Advisory Committee
Youth Law Center National Center for Youth Law
1987 to 1992

Director, Stanford Center for Chicano Research
September, 1990 to April, 1993

Co-Director, Inter-University Program for Latino Research
September, 1990 to April, 1993

Co-Director, UCSF/Stanford Academic General Pediatric Fellowship
July 1997 - 2005

PROFESSIONAL MEMBERSHIP

Academic Pediatric Association
American Academy of Pediatrics, Fellow
Association of American Medical Colleges
American Pediatric Society

EDITORIAL MEMBERSHIP

Journal of Medical Education, January 1986 - September 1989

REVIEWER

Pediatrics
Journal of Pediatrics
Archives of Pediatrics and Adolescent Medicine (JAMA Pediatrics)
Academic Pediatrics

PAST AD HOC REVIEWER -

American Journal of Diseases of Children
American Journal of Human Biology
American Journal of Public Health
Child Development
Human Development

Fernando S. Mendoza, MD, MPH

5

Hispanic Journal of Behavioral Sciences
Journal of Adolescent Health
The Journal of the American Medical Association
Public Health Reports

MEDICAL SCHOOL AND HOSPITAL COMMITTEES

Co-Chairman, Minority Admissions Advisory Panel,
Admissions Office, Stanford Medical School, 1983-1990

Committee on Student Performance, Stanford University, School of Medicine, 1983 to
present

Co-Chairman, CPR Committee, Children's Hospital at Stanford,
1986-1989

Member, Utilization Review Committee, Children's Hospital at Stanford, 1986-1990

Member, Medical Executive Committee, Lucile Packard Children's Hospital, 1996- 2014

Co-Chair, Dean's Task Force on Diversity and Societal Citizenship, 2015-2017

Co-Chair, Diversity Cabinet, Stanford University, Medical School 2010-present

NATIONAL and STATE COMMITTEES

Research

Member, National Institutes of Health, Human Development and
Aging Study Section (Subcommittee 1), Division of Research
Grants, 1988-1989; 1993-97

Member, Social Science Advisory Board for Poverty and Race
Research Action Council, 1991 to 1994

Member, Committee on Culture, Health and Society, Social Science
Research Council, 1991

Chairperson, Scientific Advisory Committee to the Interamerican College of Physician
and Surgeons project, "Vacune a Nuestros Niños", 1996

Member, The Committee on the Health and Adjustment of Immigrant Children and
Families, National Research Council, Institute of Medicine, and the Commission on
Behavioral and Social Science and Education. March 26, 1996 through February 26,
1998.

Fernando S. Mendoza, MD, MPH

6

Chair, California Health Interview Survey (CHIS), Child Technical Advisory Committee, UCLA Center for Health Policy Research 1999-2016.

National Advisory Council on Minority Health and Health Disparities, NIMHD, 2016-2020

Medical Education and Public Service

Chairperson, Group on Student Affairs - Minority Affairs Section, Association of American Medical Colleges, Western Region, 1986-1987.

Member, Association of American Medical Colleges, MCAT Evaluation Panel, 1989 to 1996.

Member, National Commission on Substance Abuse on College and University Campuses: Center on Addiction and Substance Abuse at Columbia University; Director, Joseph A. Califano, Jr. January 1993 to 2000.

Member, Health Resources and Services Administration, Bureau of Health Professions' Planning Committee on Minority Faculty Development. September 1994.

Chairperson, 13 School Consortium Minority Affairs Section. 1995-2000.

Vice-President, Hispanic-Serving Health Professions Schools, Inc., 1996-2001

President, Hispanic Serving Health Professions School, Inc., 2001-03

Past President and Executive Board Member, Hispanic Serving Health Professions Schools, Inc. 2003-2013

Board Member, Stanford Medical Alumni Association 2004-10

Board Member and Secretary, Pan American Health and Education Foundation. 2006-2010; Chair, Research Committee 2008-2012

Co-Chair, Vision Council, KIDS IN COMMON, Santa Clara County 2008-present

Member, Diversity Taskforce of the American Pediatric Society, 2011-2016

Co-Chair, Diversity Taskforce, Federation of Pediatric Organizations, 2012- 2014

Member, AAP Task Force on Addressing Bias & Discrimination 2017- present

BIBLIOGRAPHY

JOURNAL ARTICLES

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3. Martorell R, **Mendoza FS**, Castillo RO, Pawson IG, Budge CC. Short and plump physique of Mexican-American Children. *American Journal of Physical Anthropology*, 1987;73:475-487.
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Fernando S. Mendoza, MD, MPH

14

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Fernando S. Mendoza, MD, MPH

17

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Fernando S. Mendoza, MD, MPH

20

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Fernando S. Mendoza, MD, MPH

21

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31. Comparing the Problem of Obesity Among Mexican and Mexican American Children, NICHQ WebQ conference December 2007
32. Comparing the Problem of Childhood Obesity in Mexican American and Mexican Children. Binational Health Meeting, U.S. and Mexico, Santa Fe October 2009
33. Latino Children: Their Health and the Future of the United States. Visiting Diversity Professor, Harvard Medical School October 2009
34. Latino Children: Their Health and the Future of California. Visiting Professor UCSF, Child Health Policy. January 2010.
35. Immigration: Current Issues and the Effect on Children. Invited speaker for the American Academy of Pediatrics Districts V and VII Meeting, New Orleans, July 16, 2011

Fernando S. Mendoza, MD, MPH

22

36. Reducing Immigrant Child Health Disparities. Invite speaker for Pediatrics for the 21st Century Series at the Annual American Academy of Pediatric National Conference, New Orleans, October 2012
37. New American Children: Supporting the Health and Well-Being of Immigrant Children at the Annual American Academy of Pediatric National Conference, New Orleans, October 2012
38. Diversity: Past, Present, and Future. Visiting Professor Grand Rounds, Mount Sinai, Department of Pediatrics, New York, April 2013
39. Immigrant Children: Changing Pediatric Demographics and Practice. Visiting Professor, Texas Children's Hospital, Texas Southwestern Medical Center, May 2013
40. Meeting the Challenge of Diversity Through Organizational Change. Pediatric Academic Society Meeting, May 2013, Washington DC.
41. Training the future generation of minority scholars in the USA: The RAPID model: Building training capacity for addressing the obesity epidemic in the Americas. PACO III June 2013
42. Linking Data Sets and Career Advancement. Hispanic Serving Health Professions School- NIH Workshop on National Data Sets, July 2013
43. Diversity and Inclusion Working Group, Federation of Pediatric Organizations Pediatric Workforce Summit, September 2013.
44. Hispanic Child Health. Visiting Professor, University of Puerto Rico. February 26-28, 2014
45. American's New Children: Supporting the Health and Wellbeing of Children in Immigrant Families. Rome Visiting Professor, Children's National, April 22-24, 2014.
46. FOPO Symposium on the Future of the Pediatric Workforce, Diversity and Inclusion Working Group. Federation of Pediatric Organizations, PAS, May 3 2014 Vancouver, Canada
47. Disparities in early exposure to book sharing within immigrant families. AAP Presidential Plenary Session, May 4, 2014. Vancouver Canada
48. Hispanic Serving Health Professions Schools, Inc. Faculty Development Conference. NIH Bethesda, MD, July 2014
49. Immigrant Children's Health: Key Concepts and Trends. 2014 AAP National Conference and Exhibition, San Diego, CA October 2014

50. Health and Health care Challenges Faced by US Immigrant Children and their Families. APS State of the Art Plenary: The Health and Healthcare of Immigrant Children: Innovative Approaches, Immigration Reform, and Humanitarian Crisis of Unaccompanied Minors Crossing the Border. PAS San Diego April 2015
51. Cultural Competency Training as a Tool to Lessen Unconscious Bias and Improve Health Disparities. Topic Symposium: Health Disparities and Unconscious Bias in the Clinical Setting: An Action-Oriented Approach. PAS San Diego April 2015
52. Unaccompanied Immigrant Children: A Primer for Pediatric Providers. Workshop PAS San Diego 2015.
53. Immigrant Health Update: From Border Crisis to Policy Challenges. AAP District II and VII joint meeting, Fort Worth, Texas June 2015
54. By Focusing on “Diversity” Do We Risk Abandoning Efforts to Increase Underrepresented Minorities in Medicine. AAMC/GDI Annual Meeting, Puerto Rico, San Juan, June 2015
55. “Diversity: Why is it important to Pediatrics.” Keynote Academic Pediatric Association Western Region Meeting, Monterey California, January 16, 2016.
56. “Diversity: Why is it important to Pediatrics”, Grand Rounds, Texas Children’s Hospital, Baylor University School of Medicine. February 12, 2016.
57. “Diversity: Why is it important to Pediatrics”, Grand Rounds, Duke University Department of Pediatrics, October 4, 2016.
58. “How Should Race and Ethnicity Be Used to Report Genetic Variation in Non-Research Setting” Panel Moderator, Workshop on the Use of Race and Ethnicity in Genomics and Biomedical Research, NIH October 24, 2016.
59. Diversity at Stanford Medical School: Past, Present, and Future. Department of Medicine Grand Rounds, Stanford University, School of Medicine. January 2017

POSTERS

1. Mendoza FS, Castillo RO. Growth deficiencies in Mexican-American children in the United States. Society of Pediatric Research, April, 1984, San Francisco, California
2. Willoughby A, Mendoza FS, Duke PM, Williams J, Gross RT. Assessment of teenage parenting. American Pediatric Society, April, 1984, San Francisco, California.

3. Mendoza FS, Saldivar LE, Valdez RO, Castillo RO, Martorell R, Baisden C. Chronic medical conditions and perceived health status among Mexican-American children. The American Pediatric Society/The Society for Pediatric Research, April 30, 1987, Anaheim, California.
4. Takata GS, Mendoza FS, Martorell R, Castillo RO. Health care access problems of Mexican-American children. Western Society for Pediatric Research, February 8, 1990.
5. Pawson IG, Mendoza FS, Martorell R, Baisden K. Maternal perception of offspring size among Hispanics. Ambulatory Pediatric Association, 30th Annual Meeting, May 7-11, 1990, Anaheim, California.
6. Mendoza F, Takata G, Baisden K, Herrera L, Martorell R. The relationship between maternal self-reported health status and maternal report of children's health status among Hispanics. ambulatory Pediatric Association Bi-Regional Meeting, Carmel, California, February 4, 1991.
7. Takata GS, Baisden KL, Mendoza FS . Regional disparities in Mexican-American children's health care access. Western Society for Pediatric Research, Carmel, California, February 5, 1992
8. Lopez, QR, Schetzina, Haiman, A., Mendoza, F. Barriers to Obtaining Health Insurance Among Patients Served by a Mobile Community Health Van. Ambulatory Pediatric Association, May 2003, annual meeting.
9. Laraque D. **Mendoza F**, Dreyer B, Frintner MP, Cull W. Graduating pediatric residents: Who plans to work in underserved areas? Poster presentation at the Pediatric Academic Societies Meeting, Vancouver Canada, (abstract # 754414) May 1-4, 2010.
10. Laraque D. **Mendoza F**, Dreyer B, Frintner MP, Cull W. Cross cultural and linguistic appropriate care. Pediatric residents preparedness. Poster presentation at the Pediatric Academic Societies Meeting, Vancouver Canada, (abstract # 753038) May 1-4, 2010

GRANTS AND AWARDS

Co-Investigator	\$5,000 award from the Stanford Center for the Study of Youth Development, for the Study of Teenage Parenting June 1982 - September 1982
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Fernando S. Mendoza, MD, MPH

25

Principal Investigator	\$1,000 award from the Stanford Center for the Study of Youth Development, for the Study of Nutritional Status of Hispanic Children July 1983 - September 1983
Principal Investigator	\$6,000 award from Kaiser Hospital Foundation for Development of Hispanic Health Database March 1983 - February 1984
Co-Investigator	\$215,285. "The Transactions of Pregnant Adolescents in Prenatal Care" IF Litt, FS Mendoza, WL Heinrichs. Bureau of Health Care Delivery and Assistance - Maternal and Child Health and Crippled Children's Research Grants Program February 1984 - April 1986
Co-Investigator	\$325,044. "Health and Nutritional Status of Mexican-American Children" R Martorell, F Mendoza The Maternal and Child Health and Crippled Children's Services Research Grants Program April 1985 - March 1988
Principal Investigator	\$331,093. "Health Careers Opportunity Program (HCOP)" September 1985 - August 1988
Principal Investigator	\$5,000. "Hispanic Health Database" Area Health Education Center March 1986 - September 1986
Principal Investigator	\$50,000. "The Effects of Poverty on the Health and School Performance of Mexican-American Children" Inter-University Program for Latino Research June 1, 1987 - May 31, 1988
Principal Investigator	\$494,000. "Health and Nutritional Status of U.S. Hispanic Children" FS Mendoza, R Martorell, R Castillo. Continuation Grant of Bureau of Maternal and Child Health and Resources Development April 1, 1988 - March 31, 1993
Principal Investigator	\$20,000. "Chicano/Latino Maternal and Child Health Project" Inter-University Program for Latino Research

Fernando S. Mendoza, MD, MPH

26

	January 1, 1992 - June 30, 1993
Principal Investigator	\$140,358. "Centers of Excellence" Health Resources and Services Admin. Division of Disadvantaged Assistance September 1, 1992 - August 31, 1993
Principal Investigator	\$1,503,760 "Centers of Excellence" Health Resources and Services Admin. Division of Disadvantaged Assistance September 1, 1993- August 31, 1996
Principal Investigator	\$162,000 "COE Bilingual and Bicultural Minority Pre-faculty Fellowship" Health Resources and Services Admin. Office of Minority Health July 1, 1995 to June 30, 1997
Principal Investigator	\$1,500,000 "Centers of Excellence" Health Resources and Services Admin. Division of Disadvantaged Assistance September 1, 1996- August 31, 1999
Principal Investigator	\$714,711 "Health Careers Opportunity Program." Health Resources and Services Admin., Division of Disadvantaged Assistance, September 1, 1996 - August 31, 1999.
Co-Principal Investigator	\$563,651 "Faculty Development in General Internal Medicine and General Pediatrics." Bureau of Health Professions, Health Resources and Services Administration, Public Health Service. 7/1/97- 8/31/00
Co-Principal Investigator	\$2,326,352 "Cancer Risk Factor Prevention for High Risk Children." National Institute of Health, National Cancer Institute. 9/19/97-7/31/01. (P.I. Joel D. Killen, Ph.D.).
Principal Investigator	\$93,219 "Reach Out and Read Program." David and Lucile Packard Foundation. 1998-99.
Principal Investigator	\$1,561,925 "Hispanic Center of Excellence." Health Resources and Services Admin. Division of Disadvantaged Assistance. September 1, 1999- August 31, 2002.

Fernando S. Mendoza, MD, MPH

27

Principal Investigator	\$1,277,087 “Stanford Regional Comprehensive HCOP” Health Resources and Services Admin. Division of Disadvantaged Assistance. September 1, 1999-August 31, 2002.
Principal Investigator	\$98,000 “Reach Out and Read Program.” Lucile S. Packard Foundation for Children. 1999.
Co-Principal Investigator	\$500,000 “Faculty Development in General Internal Medicine and General Pediatrics.” Bureau of Health Professions, Health Resources and Services Administration, Public Health Service. (P.I. Robert Pantell, M.D., UCSF) 7/1/00-6/30/03.
Principal Investigator	\$ 135,000 "Reach Out and Read Program." Peninsula Community Foundation June 1, 2000 - May 31, 2001.
Principal Investigator	\$25,000 "Child Advocacy Fellowship." David and Lucile Packard Foundation. 2000-2001.
Principal Investigator	“Grant Writing Workshop for Hispanic Researchers” Health Care Financing Administration. 5/14/01
Principal Investigator	\$2,270,878 “Center of Excellence.” Health Resources and Services Admin. Division of Disadvantaged Assistance. September 15, 2002-August 31, 2005.
Co-Principal Investigator	\$1,629,789 “Stanford Regional Comprehensive HCOP” Health Resources and Services Admin. Division of Disadvantaged Assistance. September 1, 2002-August 31, 2005.
Principal Investigator	Hispanic Center of Excellence.” Health Resources and Services Admin. Division of Disadvantaged Assistance. September 15, 2005-August 31, 2006.
Co-Principal Investigator	“Stanford Regional Comprehensive HCOP” Health Resources and Services Admin. Division of Disadvantaged Assistance. September 1, 2005-August 31, 2006.

Fernando S. Mendoza, MD, MPH

28

Co-Principal Investigator	“Family-based Nutrition Intervention for Latino Children” National Heart Lung Blood Institute, NIH 2003-07. (P.I. Joel D. Killen, Ph.D.).
Co-Principal Investigator	“Home-based Nutrition Intervention and play Group Exercise for Low Income Latinas” NIH 2006-2010. (P.I. Donna Matheson, Ph.D.)
Co-Principal Investigator	“Ethnic Dance and Screen Time Reduction to Prevent Weight Gain in Latina Girls” NIH 2006-2011. (P.I. Thomas Robinson, M.D., M.P.H.)
Principal Investigator	D34 HP16047 Hispanic Center of Excellence, Health Services and Resources Administration, Bureau of Health Professions. July 2009 to June 2012
Principal Investigator	D34HP16047A0 Hispanic Center of Excellence, Health Services and Resources Administration, Bureau of Health Professions. July 2012-June 2017
Co-Principal Investigator	1 R25 DK96944-01 Research in Academic Pediatrics Initiative on Diversity. NIDDK September 2012- August 2017. P.I. G. Flores, Texas Southwestern University
Co-Principal Investigator	“Undocumented Stauts and Immigrant Families: An Interdisciplinary Impact Evaluation of Deferred Action” Russell Sage Foundation, July 1, 2016- December 31, 2017. P.I. Jens Hainmueller, Ph.D., Stanford University, School of Business.
Principal Investigator	“An Educational Intervention Design to Decrease Implicit Bias in the Practice of Medicine.” Teaching and Mentoring Academy Innovations Grant Program, Stanford University School of Medicine. September 2016- July2017.
Principal Investigator	“The Health and Well-Being of Children in Immigrant Families.” Stanford Child Health Research Institute. May 1, 2017- April 30, 2019.
Principal Investigator	D34HP16047A0 Hispanic Center of Excellence, Health Services and Resources Administration,

Bureau of Health Professions; July 2017 to June 2022

Fellows Trained

1. Glenn Takata, M.D., M.S., Associate Professor of Clinical Pediatric, Children Hospital Los Angeles, USC
2. Noel Rosales, M.D., Associate Clinical Professor, UCSF
3. Anthony Burgos, M.D., M.P.H., Director of Newborn Services, Kaiser Permanente, Long Beach (Assistant Professor of Pediatrics, Division of General Pediatrics, Stanford University, School of Medicine 1997-2011)
4. Lee Sanders, M.D., M.P.H., Associate Professor of Pediatrics, Chief of the Division of General Pediatrics, Stanford University, School of Medicine
5. Elizabeth Stuart, M.D., M.S., Clinical Professor of Pediatrics, Division of General Pediatrics, and Director of Clerkship, Stanford University School of Medicine.
6. Lisa Chamberlain, M.D., M.P.H., Associate Professor of Pediatrics, Division of General Pediatrics, Stanford University, School of Medicine
7. Monte Klautt, M.D. Kaiser Permanente, San Marcos, California
8. Dana Weintraub, M.D., Clinical Assistant Professor, Division of General Pediatrics, Stanford University, School of Medicine
9. Joyce Javier, M.D., M.P.H., Assistant Professor of Clinical Pediatrics, Division of General Pediatrics, Children's Hospital of Los Angeles, USC School of Medicine.
10. Leticia Pelayo, MD, Santa Clara Valley Medical Center
11. Monica Eneriz Weimer, MD. Palo Alto Medical Foundation
12. Jori Bogetz, MD. Assistant Professor, UCSF
13. Victor Cueto, MD Clinical Instructor, Division of General Pediatrics, Stanford

EXHIBIT B

SOCIAL SCIENCE

Protecting unauthorized immigrant mothers improves their children's mental health

Jens Hainmueller,^{1,3,3*}† Duncan Lawrence,^{3,†} Linna Martén,^{3,4,†} Bernard Black,⁵ Lucía Figueroa,^{3,6} Michael Hotard,³ Tomás R. Jiménez,⁷ Fernando Mendoza,⁸ María I. Rodríguez,⁹ Jonas J. Swartz,⁹ David D. Laitin^{1,2}

The United States is embroiled in a debate about whether to protect or deport its estimated 11 million unauthorized immigrants, but the fact that these immigrants are also parents to more than 4 million U.S.-born children is often overlooked. We provide causal evidence of the impact of parents' unauthorized immigration status on the health of their U.S. citizen children. The Deferred Action for Childhood Arrivals (DACA) program granted temporary protection from deportation to more than 780,000 unauthorized immigrants. We used Medicaid claims data from Oregon and exploited the quasi-random assignment of DACA eligibility among mothers with birthdates close to the DACA age qualification cutoff. Mothers' DACA eligibility significantly decreased adjustment and anxiety disorder diagnoses among their children. Parents' unauthorized status is thus a substantial barrier to normal child development and perpetuates health inequalities through the intergenerational transmission of disadvantage.

There is an ongoing, heated debate about the fate of the estimated 11 million unauthorized immigrants living in the United States. One important and often overlooked issue in these policy debates is that unauthorized immigrants are also parents to more than 4 million children who are U.S. citizens by birth (1, 2). How are these children affected by the unauthorized status of their parents? Research has largely focused on the impacts of unauthorized status on the immigrants themselves (3), but we know much less about the potential intergenerational effects of this status on the well being of their offspring (4).

A growing body of research has demonstrated links between parental immigration status and child development (5–10) and generated insights into how it might affect children's health. Children of unauthorized immigrant parents face challenges beyond low socioeconomic status, including parental anxiety, fear of separation, and acculturative stress. Parent-child separations can be harmful to children's health, economic security, and long term development. Virtually all of these studies have been qualitative or correla-

tional because of the difficulties in isolating the causal effects of parents' immigration status and collecting systematic data on large samples of unauthorized immigrants.

Families with unauthorized immigrant parents differ from families with authorized immigrant parents in many confounding characteristics (e.g., education, health care, and poverty) that might generate differences in child outcomes (11–13). This nonrandom selection implies that typical observational studies cannot isolate the causal effect of immigration status. Indeed, a recent consensus statement of the Society for Research on Adolescence (14) concludes that “Nonexperimental or quasiexperimental research with strong causal inference...has been lacking to date in studies of policies and practices related to unauthorized status.”

The study of unauthorized status is further constrained by the difficulty of collecting systematic samples, because unauthorized immigrants are underrepresented in general population surveys (15). Moreover, questions about the unauthorized status of immigrants are typically avoided given concerns about confidentiality and reporting biases (16). Researchers therefore often have to resort to noisy proxies for unauthorized status, such as the identification of individuals as foreign born, Hispanic, or Spanish speaking (17, 18).

We provide causal evidence of the intergenerational impact of parental immigration status on children's health. We focus on the Deferred Action for Childhood Arrivals (DACA) program, which is one of the most extensive policies directed toward unauthorized immigrants in recent decades. The DACA program, announced in 2012 by President Obama, protects recipients from deportation by granting them a 2 year (renewable) deferred action status, while also allow-

ing them to obtain temporary work authorization. More than 780,000 unauthorized immigrants so far have received deferred action through this program (19) (fig. S1). Although DACA recipients arrived in the United States as children, many are now adults and have become parents themselves. An estimated 200,000 children had parents who were eligible for DACA at the time the policy was announced (3). Although some studies have found that DACA recipients have higher rates of employment (20–22) and improved health outcomes (23, 24), the intergenerational effects of DACA are largely unknown.

To address the sampling problem, we used data from Emergency Medicaid, a government program that provides coverage for emergencies and labor and delivery services for low income individuals who are not eligible for Medicaid. The program mainly serves unauthorized immigrants, but lawful permanent residents with less than 5 years of residency can also obtain coverage. Estimates from states such as California and North Carolina indicate that 90 to 99% of Emergency Medicaid recipients are unauthorized immigrants (25, 26). In addition, because U.S. born children of unauthorized immigrants are U.S. citizens, they are eligible for full scope Medicaid benefits and can be tracked with Medicaid claims data.

To overcome the causal identification problem, we applied a regression discontinuity (RD) design (27) that leverages the DACA eligibility criterion (28) stipulating that recipients must have been under age 31 as of 15 June 2012. Hence, a person born on 16 June 1981 meets the DACA age eligibility requirement, whereas a person born on 14 June 1981 does not. The age eligibility criterion was announced when DACA was adopted on 15 June 2012. The Emergency Medicaid enrollment data include the mother's exact date of birth, and this permits us to leverage a quasi-experiment in which DACA eligibility is as good as randomly assigned for those born around the arbitrary birthdate cutoff. We do not observe whether mothers apply for DACA, but given that mothers who were born just before or after the DACA birthdate cutoff are similar in confounding characteristics, we can isolate the intention-to-treat effect of DACA eligibility on the health of their children. Prior studies provide evidence that RD designs that exploit arbitrary cutoff points in eligibility criteria are effective in replicating results from randomized experiments (29–31).

We drew on Medicaid claims data from Oregon to identify 5653 mothers born between 1980 and 1982 who were covered by Emergency Medicaid and gave birth to 8610 children during 2003 to 2015. We then tracked the children's mental health outcomes by using their Medicaid claims. The children in our sample were born in Oregon and are therefore U.S. citizens by birth; 49% are female, 73% are Hispanic, and they were between 0 and 12 years old in 2015 (table S1 provides descriptive statistics).

Although parental DACA eligibility could affect a broad range of child health outcomes, we focused on the impacts on children's mental

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†These authors contributed equally to this work.

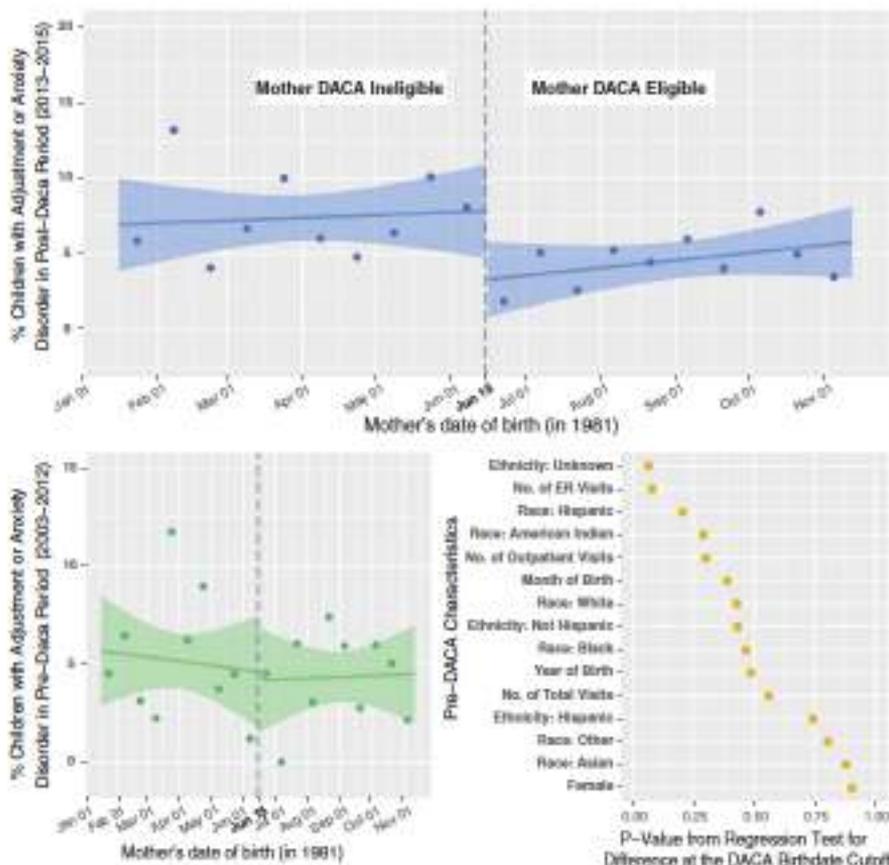


Fig. 1. Results from applying the regression discontinuity design. (Top) In the post DACA period (2013 to 2015), children of DACA eligible mothers (born after 15 June 1981) experienced markedly lower rates of diagnosed adjustment and/or anxiety disorders than children of ineligible mothers (born before 15 June 1981). Lines are average diagnosis rates (with 95% confidence bands) from local linear regressions fitted to the sample of children whose mothers' birthdates were within ± 150 days of the DACA eligibility cutoff ($n = 2260$), and circles are average diagnosis rates within each 15 day birthdate interval. (Bottom left) There was no such difference in children's diagnosis rates in the pre DACA period (2003 to 2012). (Bottom right) There was no statistical evidence for discontinuities in other background characteristics that might confound the comparison at the DACA birthdate eligibility cutoff.

health. Because DACA offered the mothers immediate relief from the risk of deportation, maternal stress might have declined, and their children would no longer have had to fear being separated from them. Therefore, the children's mental well being could have improved (4, 6). Moreover, examining mental health disorders that originate in childhood is important because they are associated with long term health issues, low education, and welfare dependence, which generate considerable private and social costs (32-34).

We focused on disorders that result from external events, rather than genetic or physiological factors. We prespecified all outcomes and analyses, except when otherwise noted, in a pre-registered analysis plan made available at the Evidence in Governance and Politics website under study ID 20170227AC. Our main child outcome is a broad measure of any diagnoses of

adjustment disorder, acute stress disorder, or anxiety disorder, measured using all diagnoses in the International Classification of Diseases 9 (ICD 9) categories 309, 306, and 300 (35).

Adjustment disorder is a reaction to an identified stressor, leading to an inability to function normally. It is diagnosed on the basis of symptoms of anxiety, depressed mood, and conduct disturbances and often results in considerable impairment in important areas of functioning, such as social activities, school performance, and sleep (36, 37). Acute stress disorder can be a precursor to a diagnosis of a more lasting post-traumatic stress disorder (included in the ICD 9 category 309, adjustment disorder). It is characterized by symptoms or behaviors similar to those that arise from exposure to a traumatic or stressful event, but acute stress disorders cannot (by definition) last longer than 1 month (36). Because stress disorder and adjustment disorder

are related, we prespecified both as a combined outcome measure of adjustment disorder. Anxiety disorders are characterized by excessive fear, anxiety, and related behavioral disturbances that can lead to substantial distress or impairment. An external stressor might not be clearly identified, and anxiety disorders can be caused by environmental, genetic, or physiological factors (36).

These mental health disorders in childhood are associated with considerable developmental, psychosocial, and psychopathological complications for children and their families (32). For the children in our sample who were diagnosed with adjustment disorder, acute stress disorder, or anxiety disorder, the first diagnoses occurred on average at 6.7 years of age with a standard deviation of 2.6 years (tables S1 and S2 provide descriptive statistics). Details about the measures, sample, design, and statistical analysis can be found in the materials and methods section of the supplementary materials.

Figure 1 illustrates the main finding and quasi-experimental nature of the RD design. The percent of children diagnosed with adjustment or anxiety disorders during the post DACA period (2013 to 2015) dropped by about 4.5 percentage points ($P = 0.037$; local linear regression) at the birthdate cutoff where mothers become eligible for DACA. This reduction, from 7.8 to 3.3%, provides evidence that mothers' DACA eligibility sharply improved their children's mental health.

The causal logic of the RD design is based on the idea that the DACA birthdate cutoff is an arbitrary date, and, therefore, children of eligible mothers born just before the birthdate cutoff should be similar in all respects, including in possible confounding characteristics, to children of DACA eligible mothers born just after the cutoff. This continuity assumption was corroborated by a series of checks where we tested for discontinuities in pre DACA background characteristics at the DACA birthdate cutoff. The results (Fig. 1, bottom left) demonstrate that there was no discernible difference in the prevalence of disorder diagnoses at the same cutoff date for the pre DACA period (2003 to quarter 2, 2012). The difference in diagnosis rates at the cutoff was an insignificant 0.4 percentage points ($P = 0.812$; local linear regression). Figure 1, bottom right, shows the distribution of P values from similar checks where we tested for discontinuities in other background covariates at the birthdate cutoff, such as the children's ethnicity, race, year of birth, and pre DACA health care utilization (tables S3 and S4). The distribution of P values is consistent with the uniform distribution that we would expect for balance checks in a randomized experiment, indicating that there were no systematic discontinuities in the covariates at the birthdate cutoff. Furthermore, density tests for manipulation of mothers' birthdates revealed no evidence of sorting around the threshold (fig. S2). All tests suggested that our RD design can isolate the causal effects of mothers' DACA eligibility at the birthdate cutoff.

Figure 2 shows the point estimates and confidence intervals for the RD estimates of the intention to treat effects of mothers' DACA eligibility on the children's mental health outcomes, for the combined measure and its separate components (tables S5 and S6 and fig. S3). The estimates are based on prespecified standard local linear regression models fitted to trimmed samples including only children whose mothers' birth dates were within the adaptive mean squared error optimal bandwidths around the birthdate cutoff (38).

We found that mothers' eligibility for DACA protection led to a significant improvement in their children's mental health. Specifically, mothers' DACA eligibility reduced adjustment and anxiety disorder diagnoses in their children by 4.3 percentage points ($P = 0.023$) from a baseline rate of 7.9% among children of ineligible mothers at the threshold. This represents more than a 50% drop in the rate of these disorders, albeit with a wide 95% confidence interval (CI) for the magnitude of the estimated effect, ranging from 0.6 to 7.9 percentage points. When we looked only at adjustment disorders, which are disorders attributable to an identifiable external stressor, the estimated reduction was 4.4 percentage points ($P = 0.013$; 95% CI, 0.9 to 7.8). There was also a reduction in anxiety disorders, which is a more heterogeneous category of mental illness, but it was insignificant at conventional levels ($P = 0.153$; 95% CI, -0.6 to 4.1). Lastly, we found that for the same sample of children, before the DACA program, there were no discernible differences in these mental health diagnoses at the cutoff (Fig. 2, right).

We conducted several checks that supported the robustness of the results, such as varying the bandwidths (fig. S4), using alternative estimation procedures (fig. S5 and table S7), removing children born in the post DACA period (fig. S6 and table S8), redefining the post DACA period to include quarters 3 and 4 of 2012 (fig. S7 and table S9), and using alternative codings of the mental health outcomes based on the Diagnostic and Statistical Manual of Mental Disorders (fig. S8 and table S10; not prespecified). A non prespecified subgroup analysis (fig. S9) suggested that the effect of mothers' DACA eligibility was concentrated among the older children in our sample (ages 6 to 12; table S12), with no discernible effect among younger children (ages 0 to 5; table S11); younger children are generally much less likely to receive mental health diagnoses. We also conducted a non prespecified subgroup analysis by gender (fig. S10 and tables S13 and S14) and found that the effect of mothers' DACA eligibility on adjustment disorders was slightly more pronounced among male children, but the effect for males was not statistically significantly different from that for females ($P = 0.209$; local linear regression).

We also confirmed that there were no discernible differences in diagnoses at the same birthdate cutoff among children of mothers who were covered by standard Medicaid at the time that they gave birth (fig. S11 and table S15). These

mothers should not be affected by DACA eligibility, given that standard Medicaid in Oregon is open only to low income U.S. citizens and long term lawful permanent residents. This check again underscores that in the absence of changes in DACA eligibility, there is no evidence of confounders associated with having a mother who is born just before or after the cutoff date that could explain the observed post DACA difference in child mental health outcomes.

Because health care utilization could be affected by immigration status (9), we also checked for the possibility that the drop in diagnoses reflects a DACA induced change in health care visits, which could affect the probability of detection of mental health disorders. We found no support for this. Mothers' DACA eligibility had no discernible impact on their children's health care utilization during the post DACA period, as measured either by the total number of visits, the number of emergency room (ER) and urgent care visits, or the number of outpatient visits (fig. S12 and table S16). Consistent with this, in a non prespecified analysis, we also found that the effects of mothers' DACA eligibility on child mental health were similar when we restricted the sample to children who had at least one health care visit in the post DACA period (fig. S13 and table S17).

Our results provide causal evidence supporting the theory that parental unauthorized immigration status has important intergenerational effects on the well being and development of children in immigrant families (4, 6). Protecting unauthorized immigrants from deportation led to immediate and sizable improvements in the

mental health of their U.S. citizen children. This suggests that parents' unauthorized status is a substantial stressor that stymies normal child development and perpetuates health inequalities by transferring parental disadvantages to children.

Our findings have important implications for immigration and health care policy. As decision makers evaluate whether to maintain, cancel, or expand the DACA program, our results suggest that a broader consideration is needed, one that goes beyond the impacts for recipients alone and takes into account the intergenerational consequences of deferred action for the health of unauthorized immigrants' children, most of whom are U.S. citizens (2). Early childhood exposure to stress and adversity does not only cause poor health and impaired development in the short term; the issues can also persist into adulthood. Anxiety and psychosocial stress are identified as risk factors for depression, substance abuse, cardiovascular diseases, and obesity (32, 34, 39, 40). Treatment of mental disorders also carries considerable economic costs to society. They account for the highest total health care expenditures of all children's medical conditions (41) and are associated with poor long term outcomes for school performance and welfare reliance (33, 42). By reducing mental health problems, deferred action has important multiplier effects through improving the future prospects of the children of unauthorized immigrants.

Our results imply that expanding deferred action to the millions of unauthorized immigrant parents who do not meet the current DACA eligibility criteria could further promote the

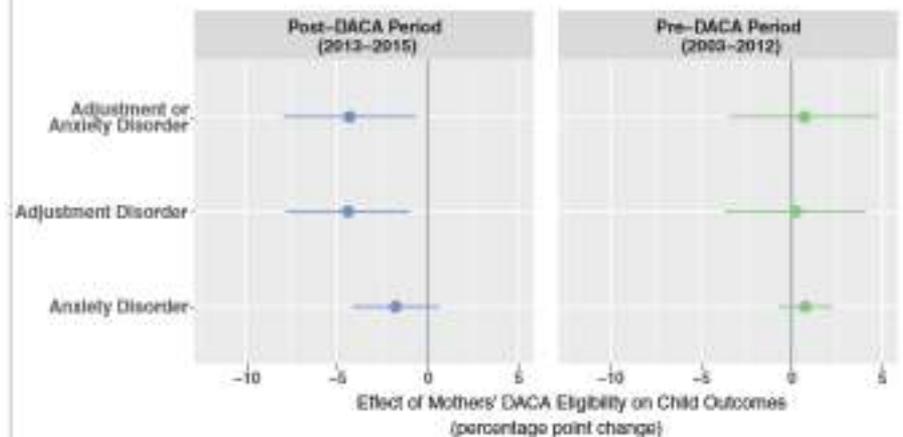


Fig. 2. Effect of mothers' DACA eligibility on their children's mental health. (Left) Mothers' DACA eligibility reduced child mental health disorders in the post DACA period. (Right) There were no systematic, preexisting differences in the pre DACA period. Circles with lines represent effect estimates with 95% confidence intervals from the regression discontinuity design, based on local linear regressions fitted to samples of children whose mothers' birthdates were within a symmetric bandwidth of days around the DACA eligibility cutoff. The size of the bandwidth was determined by an adaptive bandwidth selection algorithm for each outcome. The bandwidths and sample sizes for the three outcomes in the post DACA period (top to bottom) are ± 199 days around the cutoff ($n = 3039$ children), ± 180 days ($n = 2341$), and ± 132 days ($n = 2002$); for the pre DACA period (top to bottom) the bandwidths and sample sizes are ± 108 days ($n = 1325$), ± 109 days ($n = 1338$), and ± 211 days ($n = 2745$).

health and well being of this next generation of American citizens. Moreover, it is reasonable to expect that permanent legal status or a path way to citizenship would have an equal, if not greater, effect on improving children's health.

Our study also has implications for health policy research. Unauthorized immigration is an important policy issue, but researchers have struggled to generate a reliable evidence base. Although we recognize the limitations of evaluating health outcome data from one state, our sampling strategy of using Emergency Medicaid mothers and Medicaid children provides an effective way to overcome some of the challenges in collecting systematic data from the unauthorized population. This approach opens the door for future studies to examine the impacts of an array of local, state, and federal policies that affect unauthorized immigrant parents and that may have health consequences for their children.

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- 300, 308, and 309, respectively. These categories include several subcategories of diagnoses. For example, we observed 13 subcategories under category 309 (adjustment reaction), such as 309.0 (adjustment disorder, depressed mood), 309.21 (separation anxiety disorder), 309.24 (adjustment disorder, anxiety), 309.3 (adjustment disorder, disturbance of conduct), and 309.81 (post-traumatic stress disorder). Table S2 in the supplementary materials provides a list of all subcategories, as well as descriptive statistics.
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SUPPLEMENTARY MATERIALS

www.sciencemag.org/content/357/6355/3041/suppl/DC1
 Materials and Methods
 Supplementary Text
 Figs. S1 to S13
 Tables S1 to S17
 References (43, 44)
 Preregistered Analysis Plan
 5 May 2017; accepted 1 August 2017
 Published online 31 August 2017
 10.1126/science.aan6853

Downloaded from <http://science.sciencemag.org/> on October 23, 2017

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

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

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY and ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

DECLARATION OF JENS HAINMUELLER AND DUNCAN LAWRENCE

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STATE OF CALIFORNIA, STATE OF MAINE, STATE OF MARYLAND, and STATE OF MINNESOTA,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05235-WHA

CITY OF SAN JOSE, a municipal corporation,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, ELAINE C. DUKE, in her official capacity, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05329-WHA

DULCE GARCIA, MIRIAM GONZALEZ AVILA, SAUL JIMENEZ SUAREZ, VIRIDIANA CHABOLLA MENDOZA, NORMA RAMIREZ, and JIRAYUT LATTHIVONGSKORN,

Plaintiffs,

v.

UNITED STATES OF AMERICA, DONALD J. TRUMP, in his official capacity as President of the United States, U.S. DEPARTMENT OF HOMELAND SECURITY, and ELAINE DUKE, in her official capacity as Acting Secretary of Homeland Security,

Defendants.

CASE NO. 17-CV-05380-WHA

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COUNTY OF SANTA CLARA and
SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
States; ELAINE DUKE, in her official
capacity as Acting Secretary of the Department
of Homeland Security; and U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

CASE NO. 17-CV-05813-WHA

1 of Emergency Medicaid recipients are unauthorized immigrants. In addition, because U.S.-born
2 children of unauthorized immigrants are U.S. citizens, they are eligible for full-scope Medicaid
3 benefits (if meeting all requirements) and can be tracked with Medicaid claims data. We limited our
4 sample to children whose mothers were under age 31 as of June 15, 2012—a date tied to the DACA
5 eligibility criterion announced when DACA was adopted on June 15, 2012. Our data did not reflect
6 whether mothers apply for DACA, but given that mothers who were born just before or after the
7 DACA birthdate cutoff are similar in confounding characteristics, we can isolate the intention-to-treat
8 effect of DACA eligibility on the health of their children.

9 5. Using this sampling criteria, we used Medicaid claims data from Oregon to identify 5,653
10 mothers born between 1980 and 1982 who were covered by Emergency Medicaid and gave birth to
11 8,610 children between 2003 and 2015. We then tracked the children’s mental health outcomes by
12 using their Medicaid claims. The children in our sample were born in Oregon and are therefore U.S.
13 citizens by birth; 49% are female, 73% are Hispanic, and they were between 0 and 12 years old in
14 2015.

15 6. Although parental DACA eligibility could affect a broad range of child health outcomes,
16 we focused on the impacts on children’s mental health. Because DACA offered the mothers
17 immediate relief from the risk of deportation, maternal stress might have declined, and their children
18 would no longer have had to fear being separated from them. Therefore, the children’s mental well-
19 being could have improved. Moreover, examining mental health disorders that originate in childhood
20 is important because they are associated with long-term health issues, low education, and welfare
21 dependence, which generate considerable private and social costs. Our main child outcome is a broad
22 measure of any diagnoses of adjustment disorder, acute stress disorder, or anxiety disorder, measured
23 using all diagnoses in the International Classification of Diseases 9 (ICD-9) categories 309, 308, and
24 300:

- 25 a. Adjustment disorder is a reaction to an identified stressor, leading to an inability to
26 function normally. It is diagnosed on the basis of symptoms of anxiety, depressed
27 mood, and conduct disturbances and often results in considerable impairment in
28

1 cardiovascular diseases, and obesity. Treatment of mental disorders also carries considerable
2 economic costs. Prior research indicates that they account for the highest total health care
3 expenditures of all children's medical conditions and that they are associated with poor long-term
4 outcomes for school performance and welfare reliance. By reducing mental health problems,
5 deferred action can therefore have important multiplier effects through improving the future
6 prospects of the children of unauthorized immigrants.

7 13. Conversely, the termination of DACA is likely to erode the mental health gains we
8 measured and lead to corresponding economic and public health costs in both the short-term and long
9 term.

10
11 We declare under penalty of perjury under the laws of the United States that the foregoing is
12 true and correct and that this declaration was executed on October 23, 2017 in Stanford, California.

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16 JENS HAINMUELLER

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19 DUNCAN LAWRENCE

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EXHIBIT A

Curriculum Vitae

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Current Positions

Full Professor, Department of Political Science, Stanford University, 2016-present.
Full Professor (by courtesy), Graduate School of Business, Stanford University, 2016-present

Academic Affiliations

Founder and Faculty Co-Director, Stanford Immigration Policy Lab, 2014-present
Faculty Associate, Institute for Quantitative Social Science, Harvard University, 2009-present
Faculty Fellow, WZB Berlin Social Research Center, 2013-15
Faculty Fellow, Centre for Research and Analysis of Migration, University College London, 2013-present
Faculty Affiliate, Stanford Europe Center, 2014-present
Faculty Affiliate, Stanford Center for Comparative Studies in Race and Ethnicity, 2015-present
Member, Experiments on Governance and Politics (EGAP)

Previous Positions

Associate Professor, Department of Political Science, Stanford University, 2014-2016.
Associate Professor (by courtesy), Graduate School of Business, Stanford University, 2014-2016.
Associate Professor, Department of Political Science, Massachusetts Institute of Technology, 2012-2013.
Assistant Professor, Department of Political Science, Massachusetts Institute of Technology, 2009-2012.

Education

Ph.D., Government, Harvard University, 2009.
M.P.A., Master of Public Administration, Harvard University, Kennedy School of Government, 2005.
M.Sc., International Political Economy (with Distinction), London School of Economics, 2003.
DAAD Research Fellow, Political Science Department, Brown University, 2001-2002.
B.A., *Zwischenprüfung* (Summa Cum Laude), Tübingen University, 2001.

Impact Factor

Google Scholar Citations: 6,248
Google Scholar h-index: 29
Google Scholar i10-index: 47

Selected Awards and Honors

Andrew Carnegie Fellow 2016-2017. Awarded by the Carnegie Corporation of New York to the country's most creative thinkers to support research on challenges to democracy and international order.
Halbert White Info-Metrics Prize 2016. Awarded by the Info-Metrics Institute for scholars across disciplines who have creatively used info-metrics methods in their respective disciplines, with the potential for significant impact in those disciplines.
Warren Miller Prize 2015. Awarded by the Society of Political Methodology for the best work appearing in *Political Analysis* the preceding year.
Emerging Scholar Award 2014. Awarded by the Society for Political Methodology to honor a researcher, within ten years of their PhD, who is making notable contributions to the field of political methodology.
Political Analysis Editors' Choice Award 2014. Given to papers that the Editors see as providing an especially significant contribution to political methodology.
Warren Miller Prize 2013. Awarded by the Society of Political Methodology for the best work appearing in *Political Analysis* the preceding year.
Best Paper on the study of elections, public opinion, and voting behavior 2013. Awarded by the American Political Science Association.
Best Paper on the study of labor in politics 2012. Awarded by the American Political Science Association.

Robert H. Durr Award 2012 awarded by the Midwest Political Science Association for the best paper applying quantitative methods to a substantive problem in political science.

Senator Charles Sumner Prize 2009. Awarded by Harvard faculty for the best dissertation from the legal, political, historical, economic, social, or ethnic approach.

Robert H. Durr Award 2008 awarded by the Midwest Political Science Association for the best paper applying quantitative methods to a substantive problem in political science.

Gosnell Prize for Excellence in Political Methodology 2007. Awarded by the Society of Political Methodology for the best work in political methodology presented at any political science conference during the preceding year.

Publications

Peer Reviewed Articles

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35. “Catalyst or Crown: Does Naturalization Promote the Long-Term Social Integration of Immigrants?” (with D. Hangartner and G. Pietrantuono). *American Political Science Review*. pp. 1-21. doi: 10.1017/S0003055416000745.
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10. “Attitudes toward Highly Skilled and Low Skilled Immigration: Evidence from a Survey Experiment” (with M. Hiscox). *American Political Science Review*. 104 (1): 61-84. 2010.

9. “MPs for Sale: Estimating Returns to Office in Post-War British Politics” (with A. Eggers). *American Political Science Review*. 103 (4): 513-533. 2009. Winner of the Robert H. Durr 2008 award for the best paper applying quantitative methods to a substantive problem in political science.
8. “Synthetic Control Methods for Comparative Case Studies of Aggregate Interventions: Estimating the Effect of California’s Tobacco Control Program” (with A. Abadie and A. Diamond). *Journal of the American Statistical Association*. 105(490): 493-505. 2010. Winner of the Gosnell Prize for Excellence in Political Methodology. Among JASA’s 10 most cited articles in 2009-11.
7. “Opium for the Masses: How Free Foreign Media can Stabilize Authoritarian Regimes” (with H. Kern). *Political Analysis*. 17: 377-399. 2009.
6. “Incumbency as a Source of Spillover Effects in Mixed Electoral Systems: Evidence from a Regression-Discontinuity Design” (with H. Kern). *Electoral Studies*. 27 (2): 213-227. 2008.
5. “Phylogenetic analysis and structural predictions of human adenovirus penton proteins as a basis for tissue-specific adenovirus vector design” (with I. Madisch, S. Hofmayer, C. Moritz, A. Grintzalis, P. Pring-Akerblom, and A. Heim) *Journal of Virology* 81(15): 8270-81. 2007.
4. “Educated Preferences: Explaining Individual Attitudes Toward Immigration in Europe” (with M. Hiscox). *International Organization*. 61(2): 399-442. 2007.
3. “Electoral Balancing, Divided Government, and Midterm Loss in German Elections” (with H. Kern). *Journal of Legislative Studies*. 12 (2): 127-149. 2006.
2. “Learning to Love Globalization: The Effects of Education on Individual Attitudes Toward International Trade” (with M. Hiscox). *International Organization*. 60 (2) 469-498. 2006.
1. “Why do Europeans fly safer? The politics of airport security in Europe and the US” (with M. Lemnitzer). *Terrorism and Political Violence*. 15 (4): 1-36. 2003.

Book Chapters

- B.2 “Voter Attitudes towards High- and Low-Skilled Immigrants: Evidence from Survey Experiments” (with M. Hiscox, reprinted APSR manuscript) in *Immigration and Public Opinion in Liberal Democracies*. G. P. Freeman, R. Hansen, D. L. Leal (eds.). Routledge Research in Comparative Politics. 2012.
- B.1 “Wahlkreisarbeit zahlt sich doppelt aus - Zur Wirkung des Amtsinhaberstatus einer Partei auf ihren Zweitstimmenanteil bei den Bundestagswahlen 1949 bis 1998” (with H. Kern und M. Bechtel) in *Jahrbuch für Handlungs- und Entscheidungstheorie*. 11-47. 2006. T. Bräuninger and J. Behnke (eds.). Wiesbaden: Verlag für Sozialwissenschaft.

Software

- S.6 *interflex Package* (with Y. Xu and J. Mummolo). *interflex* is a statistical software that implements multiplicative interaction models with diagnostics and visualization. *interflex* is available as an R library and a Stata routine.
- S.5 *Synth Package* (with A. Abadie and A. Diamond). *Synth* is a statistical software that implements synthetic control methods for causal inference in comparative case studies. *Synth* is available as an R library, MATLAB code, and a Stata routine.
- S.4 *ebalance Package*. *ebalance* is a statistical software that implements entropy balancing. *ebalance* is available as an R library and as a Stata routine.
- S.3 *KRLS Package* (with C. Hazlett). *KRLS* is a statistical software that implements Kernel Regularized Least Squares. *KRLS* is available as an R library, MATLAB code, and a Stata routine.
- S.2 *Conjoint Survey Design Tool* (with A. Strezhnev, D. Hopkins, and T. Yamamoto). The Conjoint Survey Design Tool assists researchers in creating conjoint experiments that can be readily incorporated into pre-existing web survey software.
- S.1 *cjoint* (with A. Strezhnev, E. Berwick, D. Hopkins, and T. Yamamoto). The *cjoint* R package implements the Average Marginal Component-specific Effects (AMCE) estimator for conjoint experiments.

Jens Hainmueller

5

Work in Progress

Under Review

“How Much Should We Trust Estimates from Multiplicative Interaction Models? Simple Tools to Improve Empirical Practice” (with J. Mummolo and Y. Xu)

”The Ideological Basis of the Grexit Debate” (with K. Bansak, M. Bechtel and Y. Margalit). 2015.

“The Socially Conscious Consumer? Field Experimental Tests of Consumer Support for Fair Labor Standards” (with M. Hiscox). 2014. Winner of the American Political Science Association’s Labor Project Best Paper award for the best paper on the study of labor in politics.

“Buying Green? Field Experimental Tests of Consumer Support for Environmentalism” (with M. Hiscox). 2014.

Selected Grants

Robert Wood Johnson Foundation \$70,150. Assessing the fiscal and health consequences of providing prenatal care to undocumented and recently arrived immigrants.

Russell Sage Foundation \$109,065. Impact of Undocumented Status.

Ford Foundation \$800,000. Core Support Immigration Policy Lab.

Andrew Carnegie Fellow \$200,000.

Swiss National Science Foundation, Impact of Asylum Policies on Refugee Integration \$280,000.

New York Community Trust \$300,000.

Robin Hood Foundation \$800,000.

UPS Endowment Fund \$60,000.

FSI Policy Implementation Lab Seed Funding \$35,000.

Time Sharing Experiments in the Social Sciences, Conjoint Voting Study.

Swiss National Science Foundation, Mass Support for Financial Bailouts \$245,000.

Swiss National Science Foundation, Effects of Citizenship Project \$200,000.

Russell Sage Foundation, Value of Citizenship Pilot Project \$35,000.

WZB Research Grant, Wissenschaftszentrum Berlin EUR 35’000.

Swiss National Science Foundation, Local Xenophobia Project \$220,000.

NBER Africa Project \$65,000.

Humanity United Foundation, Fair Trade Project \$235,000.

Humanity United Foundation, Consumer Demand for Ethical Products \$20,000.

Professional Experience

Statistical consultant, International Finance Corporation, The World Bank Group.

Statistical consultant, German Federal Labor Market Agency.

Statistical consultant, German Research Institute for Labor Market Policy (IAB).

Advising Ph.D. Students

Main Dissertation Advisor

Yiqing Xu, Assistant Professor, University of California San Diego (graduated 2015)

Chad Hazlett, Assistant Professor, University of California Los Angeles (graduated 2013)

Mathilde Emeriau, ongoing

Kirk Bansak, ongoing

Dissertation Committee Member

Francisco Garfias, Assistant Professor, University of California San Diego (graduated 2016)

Jeremy Ferwerda, Assistant Professor, Dartmouth College (graduated 2015)

Greg Distelhorst, Assistant Professor, Oxford University Said Business School (graduated 2013)

Michael Sances, Assistant Professor, University of Memphis (graduated 2013)

Lucas Puente, Policy Analyst, Thumbtack, Inc (graduated 2015)

Tannis Thorlakson, ongoing

Jens Hainmueller

6

Teaching

Political Methodology I: Regression, Stanford

- Autumn 2015-16 (Overall Rating: 4.8 out of 5)
- Autumn 2014-15 (Overall Rating: 4.5 out of 5)

Political Methodology II: Causal Inference, Stanford

- Winter 2015-16 (Overall Rating: 4.7 out of 5)
- Winter 2014-15 (Overall Rating: 4.4 out of 5)
- Spring 2013-14 (Overall Rating: 4.8 out of 5)

Empirical Methods in Political Economy, Fall 2013, MIT

Quantitative Research Methods II: Advanced Empirical Methods, MIT

- Spring 2012 (Overall Rating: 6.9 out of 7)
- Spring 2011 (Overall Rating: 4.7 out of 5)
- Spring 2010 (Overall Rating: 4.9 out of 5)

Quantitative Research Methods I: Regression, MIT

- Fall 2011 (Overall Rating: 6.4 out of 7)
- Fall 2010 (Overall Rating: 4.8 out of 5)
- Fall 2009 (Overall Rating: 4.0 out of 5)

Designing and Implementing Field Experiments, 2012, MIT. Overall rating: 4.8 out of 5.

EXHIBIT B

Duncan Lawrence

Curriculum Vitae

Education

- 2007–2013 **PhD/MA**, *University of Colorado*, Boulder, CO.
Political Science
- 2000–2004 **BA**, *Hamilton College*, Clinton, NY.
World Politics

Professional Experience

- 2014–Present **Executive Director**, IMMIGRATION POLICY LAB, STANFORD UNIVERSITY, Stanford, CA.
- 2012–2017 **Co-Founder**, TELLURIDE RESEARCH GROUP, LLC, Denver, CO.
- 2013–2014 **Associate**, ROCKY MOUNTAIN INSTITUTE, Boulder, CO.
- 2011–2012 **Graduate Instructor**, UNIVERSITY OF COLORADO, Boulder, CO.
- 2011 **Research Methods Mentor/Field Survey Coordinator**, UNIVERSITY OF COLORADO, Arequipa, Peru.
- 2008–2011 **Research Assistant**, UNIVERSITY OF COLORADO, Boulder, CO.
- 2007–2011 **Teaching Assistant**, UNIVERSITY OF COLORADO, Boulder, CO.
- 2006–2007 **Medical Interpreter**, EL PUENTE, Jackson, WY.

Publications

Peer Reviewed Articles

8. "Expanding Prenatal Care to Unauthorized Immigrant Women and the Effects on Infant Health" (with J. Swartz, J. Hainmueller, and M. Rodriguez) *Obstetrics and Gynecology*. 2017.
7. "Protecting unauthorized immigrant mothers improves their children's mental health" (with J. Hainmueller et al.) *Science*. 2017.
6. "Providing driver's licenses to unauthorized immigrants in California improves traffic safety." (with H. Leuders and J. Hainmueller) *Proceedings of the National Academy of Sciences*. 114(16):4111-4116, 2017.
5. "When lives are put on hold: Lengthy asylum processes decrease employment among refugees." (with D. Hangartner and J. Hainmueller) *Science Advances*, 2(8):e1600432, 2016.
4. "More trees, more poverty? The socioeconomic effects of tree plantations in Chile, 2001–2011." (with K. Andersson, J. Zavaleta, and M. R. Guariguata) *Environmental Management*, 57(1):123–136, 2016.

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3. "Crossing the cordillera: Immigrant attributes and Chilean attitudes." *Latin American Research Review*, 50(4):154–177, 2015.
2. "Local cohesion and radical right support: The case of the Swiss People's Party." (with J. Fitzgerald) *Electoral Studies*, 30(4):834–847, 2011.
1. "Immigration Attitudes in Latin America: Culture, Economics, and the Catholic Church." *The Latin Americanist*, 55(4), 143-170, 2011.

Grants

Co-Principal Investigator

- 2017 STANFORD CHILD HEALTH RESEARCH INSTITUTE, \$100,000.
- 2017 STANFORD CENTER FOR CLINICAL AND TRANSLATIONAL RESEARCH AND EDUCATION, \$20,000.
- 2016 ROBERT WOOD JOHNSON FOUNDATION - EVIDENCE FOR ACTION, \$70,150.
- 2016 RUSSELL SAGE FOUNDATION, \$109,065.

Lab Research/Core Support

- 2016 FORD FOUNDATION, \$400,000.
- 2016 NATIONAL SCIENCE FOUNDATION, \$149,978.
- 2016 ROBIN HOOD FOUNDATION, \$800,000.
- 2016 NEW YORK COMMUNITY TRUST, \$350,000.
- 2015 UPS ENDOWMENT FUND, \$60,110.

Fellowships

- 2013 Fulbright Scholar – Chile
- 2011 University of Colorado Department of Recreation Services Graduate Fellowship
- 2008–2011 University of Colorado Department of Political Science Summer Research Fellowship
- 2009 CARTSS Scholars Grant (co-investigator)
- 2005 Fulbright English Teaching Fellowship – Argentina

Awards and Honors

- 2012 Best Graduate Instructor, Department of Political Science, University of Colorado Boulder
- 2004 Phi Beta Kappa Honor Society
- 2004 Pi Sigma Alpha Honor Society
- 2004 Constantine Karamanlis Award – Outstanding Senior Concentrator in World Politics
- 200–2004 Dean's List

Teaching Experience

- Instructor International Political Economy (2011,2012); Global Development (2012)

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Teaching Assistant Comparative Politics (2007–2010); Topics in Political Data Analysis (2010)
Experiential Education Instructor Hamilton College Outdoor Leadership Program (2001–2004); Hulbert Outdoor Center (2004); Wilderness Ventures (2004, 2006)

■ Skills

Intermediate \LaTeX , R, Smartsheets, Asana
Advanced Google Apps, Microsoft Office, Stata, Zotero

EXHIBIT C

SOCIAL SCIENCE

Protecting unauthorized immigrant mothers improves their children's mental health

Jens Hainmueller,^{1,3,3*}† Duncan Lawrence,^{3,†} Linna Martén,^{3,4,†} Bernard Black,⁵ Lucía Figueroa,^{3,6} Michael Hotard,³ Tomás R. Jiménez,⁷ Fernando Mendoza,⁸ María I. Rodríguez,⁹ Jonas J. Swartz,⁹ David D. Laitin^{1,2}

The United States is embroiled in a debate about whether to protect or deport its estimated 11 million unauthorized immigrants, but the fact that these immigrants are also parents to more than 4 million U.S.-born children is often overlooked. We provide causal evidence of the impact of parents' unauthorized immigration status on the health of their U.S. citizen children. The Deferred Action for Childhood Arrivals (DACA) program granted temporary protection from deportation to more than 780,000 unauthorized immigrants. We used Medicaid claims data from Oregon and exploited the quasi-random assignment of DACA eligibility among mothers with birthdates close to the DACA age qualification cutoff. Mothers' DACA eligibility significantly decreased adjustment and anxiety disorder diagnoses among their children. Parents' unauthorized status is thus a substantial barrier to normal child development and perpetuates health inequalities through the intergenerational transmission of disadvantage.

There is an ongoing, heated debate about the fate of the estimated 11 million unauthorized immigrants living in the United States. One important and often overlooked issue in these policy debates is that unauthorized immigrants are also parents to more than 4 million children who are U.S. citizens by birth (1, 2). How are these children affected by the unauthorized status of their parents? Research has largely focused on the impacts of unauthorized status on the immigrants themselves (3), but we know much less about the potential intergenerational effects of this status on the well being of their offspring (4).

A growing body of research has demonstrated links between parental immigration status and child development (5–10) and generated insights into how it might affect children's health. Children of unauthorized immigrant parents face challenges beyond low socioeconomic status, including parental anxiety, fear of separation, and acculturative stress. Parent-child separations can be harmful to children's health, economic security, and long term development. Virtually all of these studies have been qualitative or correla-

tional because of the difficulties in isolating the causal effects of parents' immigration status and collecting systematic data on large samples of unauthorized immigrants.

Families with unauthorized immigrant parents differ from families with authorized immigrant parents in many confounding characteristics (e.g., education, health care, and poverty) that might generate differences in child outcomes (11–13). This nonrandom selection implies that typical observational studies cannot isolate the causal effect of immigration status. Indeed, a recent consensus statement of the Society for Research on Adolescence (14) concludes that "Nonexperimental or quasiexperimental research with strong causal inference...has been lacking to date in studies of policies and practices related to unauthorized status."

The study of unauthorized status is further constrained by the difficulty of collecting systematic samples, because unauthorized immigrants are underrepresented in general population surveys (15). Moreover, questions about the unauthorized status of immigrants are typically avoided given concerns about confidentiality and reporting biases (16). Researchers therefore often have to resort to noisy proxies for unauthorized status, such as the identification of individuals as foreign born, Hispanic, or Spanish speaking (17, 18).

We provide causal evidence of the intergenerational impact of parental immigration status on children's health. We focus on the Deferred Action for Childhood Arrivals (DACA) program, which is one of the most extensive policies directed toward unauthorized immigrants in recent decades. The DACA program, announced in 2012 by President Obama, protects recipients from deportation by granting them a 2 year (renewable) deferred action status, while also allow-

ing them to obtain temporary work authorization. More than 780,000 unauthorized immigrants so far have received deferred action through this program (19) (fig. S1). Although DACA recipients arrived in the United States as children, many are now adults and have become parents themselves. An estimated 200,000 children had parents who were eligible for DACA at the time the policy was announced (3). Although some studies have found that DACA recipients have higher rates of employment (20–22) and improved health outcomes (23, 24), the intergenerational effects of DACA are largely unknown.

To address the sampling problem, we used data from Emergency Medicaid, a government program that provides coverage for emergencies and labor and delivery services for low income individuals who are not eligible for Medicaid. The program mainly serves unauthorized immigrants, but lawful permanent residents with less than 5 years of residency can also obtain coverage. Estimates from states such as California and North Carolina indicate that 90 to 99% of Emergency Medicaid recipients are unauthorized immigrants (25, 26). In addition, because U.S. born children of unauthorized immigrants are U.S. citizens, they are eligible for full scope Medicaid benefits and can be tracked with Medicaid claims data.

To overcome the causal identification problem, we applied a regression discontinuity (RD) design (27) that leverages the DACA eligibility criterion (28) stipulating that recipients must have been under age 31 as of 15 June 2012. Hence, a person born on 16 June 1981 meets the DACA age eligibility requirement, whereas a person born on 14 June 1981 does not. The age eligibility criterion was announced when DACA was adopted on 15 June 2012. The Emergency Medicaid enrollment data include the mother's exact date of birth, and this permits us to leverage a quasi-experiment in which DACA eligibility is as good as randomly assigned for those born around the arbitrary birthdate cutoff. We do not observe whether mothers apply for DACA, but given that mothers who were born just before or after the DACA birthdate cutoff are similar in confounding characteristics, we can isolate the intention-to-treat effect of DACA eligibility on the health of their children. Prior studies provide evidence that RD designs that exploit arbitrary cutoff points in eligibility criteria are effective in replicating results from randomized experiments (29–31).

We drew on Medicaid claims data from Oregon to identify 5653 mothers born between 1980 and 1982 who were covered by Emergency Medicaid and gave birth to 8610 children during 2003 to 2015. We then tracked the children's mental health outcomes by using their Medicaid claims. The children in our sample were born in Oregon and are therefore U.S. citizens by birth; 49% are female, 73% are Hispanic, and they were between 0 and 12 years old in 2015 (table S1 provides descriptive statistics).

Although parental DACA eligibility could affect a broad range of child health outcomes, we focused on the impacts on children's mental

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†These authors contributed equally to this work.

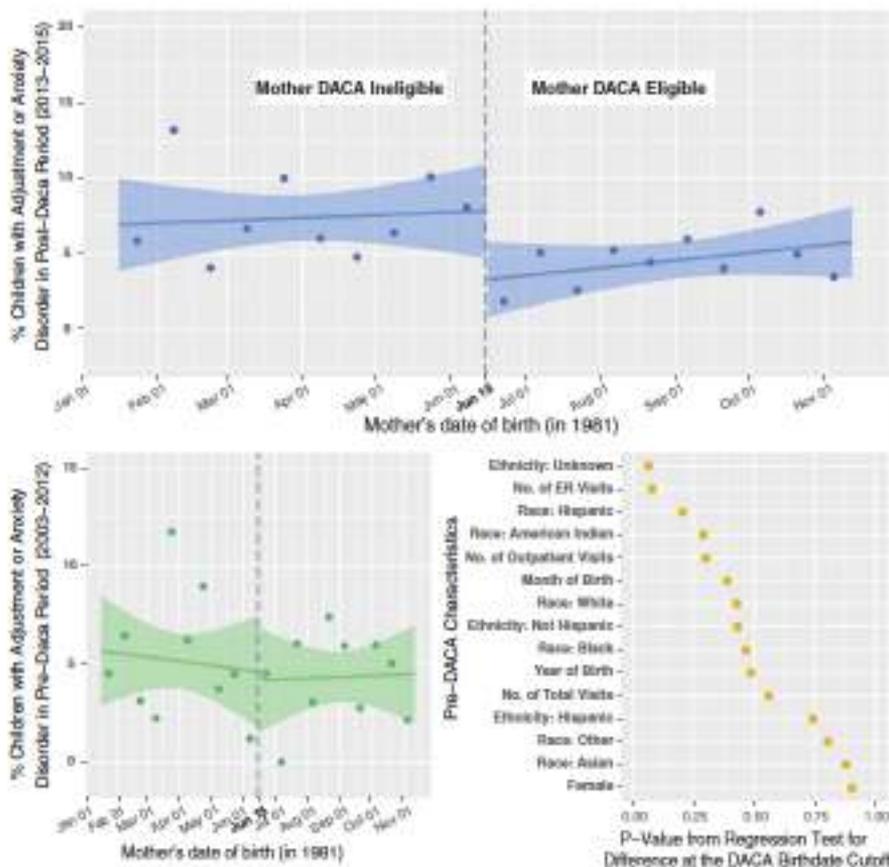


Fig. 1. Results from applying the regression discontinuity design. (Top) In the post DACA period (2013 to 2015), children of DACA eligible mothers (born after 15 June 1981) experienced markedly lower rates of diagnosed adjustment and/or anxiety disorders than children of ineligible mothers (born before 15 June 1981). Lines are average diagnosis rates (with 95% confidence bands) from local linear regressions fitted to the sample of children whose mothers' birthdates were within ± 150 days of the DACA eligibility cutoff ($n = 2260$), and circles are average diagnosis rates within each 15 day birthdate interval. (Bottom left) There was no such difference in children's diagnosis rates in the pre DACA period (2003 to 2012). (Bottom right) There was no statistical evidence for discontinuities in other background characteristics that might confound the comparison at the DACA birthdate eligibility cutoff.

health. Because DACA offered the mothers immediate relief from the risk of deportation, maternal stress might have declined, and their children would no longer have had to fear being separated from them. Therefore, the children's mental well being could have improved (4, 6). Moreover, examining mental health disorders that originate in childhood is important because they are associated with long term health issues, low education, and welfare dependence, which generate considerable private and social costs (32-34).

We focused on disorders that result from external events, rather than genetic or physiological factors. We prespecified all outcomes and analyses, except when otherwise noted, in a pre-registered analysis plan made available at the Evidence in Governance and Politics website under study ID 20170227AC. Our main child outcome is a broad measure of any diagnoses of

adjustment disorder, acute stress disorder, or anxiety disorder, measured using all diagnoses in the International Classification of Diseases 9 (ICD 9) categories 309, 306, and 300 (35).

Adjustment disorder is a reaction to an identified stressor, leading to an inability to function normally. It is diagnosed on the basis of symptoms of anxiety, depressed mood, and conduct disturbances and often results in considerable impairment in important areas of functioning, such as social activities, school performance, and sleep (36, 37). Acute stress disorder can be a precursor to a diagnosis of a more lasting post-traumatic stress disorder (included in the ICD 9 category 309, adjustment disorder). It is characterized by symptoms or behaviors similar to those that arise from exposure to a traumatic or stressful event, but acute stress disorders cannot (by definition) last longer than 1 month (36). Because stress disorder and adjustment disorder

are related, we prespecified both as a combined outcome measure of adjustment disorder. Anxiety disorders are characterized by excessive fear, anxiety, and related behavioral disturbances that can lead to substantial distress or impairment. An external stressor might not be clearly identified, and anxiety disorders can be caused by environmental, genetic, or physiological factors (36).

These mental health disorders in childhood are associated with considerable developmental, psychosocial, and psychopathological complications for children and their families (32). For the children in our sample who were diagnosed with adjustment disorder, acute stress disorder, or anxiety disorder, the first diagnoses occurred on average at 6.7 years of age with a standard deviation of 2.6 years (tables S1 and S2 provide descriptive statistics). Details about the measures, sample, design, and statistical analysis can be found in the materials and methods section of the supplementary materials.

Figure 1 illustrates the main finding and quasi-experimental nature of the RD design. The percent of children diagnosed with adjustment or anxiety disorders during the post DACA period (2013 to 2015) dropped by about 4.5 percentage points ($P = 0.037$; local linear regression) at the birthdate cutoff where mothers become eligible for DACA. This reduction, from 7.8 to 3.3%, provides evidence that mothers' DACA eligibility sharply improved their children's mental health.

The causal logic of the RD design is based on the idea that the DACA birthdate cutoff is an arbitrary date, and, therefore, children of ineligible mothers born just before the birthdate cutoff should be similar in all respects, including in possible confounding characteristics, to children of DACA eligible mothers born just after the cutoff. This continuity assumption was corroborated by a series of checks where we tested for discontinuities in pre DACA background characteristics at the DACA birthdate cutoff. The results (Fig. 1, bottom left) demonstrate that there was no discernible difference in the prevalence of disorder diagnoses at the same cutoff date for the pre DACA period (2003 to quarter 2, 2012). The difference in diagnosis rates at the cutoff was an insignificant 0.4 percentage points ($P = 0.812$; local linear regression). Figure 1, bottom right, shows the distribution of P values from similar checks where we tested for discontinuities in other background covariates at the birthdate cutoff, such as the children's ethnicity, race, year of birth, and pre DACA health care utilization (tables S3 and S4). The distribution of P values is consistent with the uniform distribution that we would expect for balance checks in a randomized experiment, indicating that there were no systematic discontinuities in the covariates at the birthdate cutoff. Furthermore, density tests for manipulation of mothers' birthdates revealed no evidence of sorting around the threshold (fig. S2). All tests suggested that our RD design can isolate the causal effects of mothers' DACA eligibility at the birthdate cutoff.

Figure 2 shows the point estimates and confidence intervals for the RD estimates of the intention to treat effects of mothers' DACA eligibility on the children's mental health outcomes, for the combined measure and its separate components (tables S5 and S6 and fig. S3). The estimates are based on prespecified standard local linear regression models fitted to trimmed samples including only children whose mothers' birth dates were within the adaptive mean squared error optimal bandwidths around the birthdate cutoff (38).

We found that mothers' eligibility for DACA protection led to a significant improvement in their children's mental health. Specifically, mothers' DACA eligibility reduced adjustment and anxiety disorder diagnoses in their children by 4.3 percentage points ($P = 0.023$) from a baseline rate of 7.9% among children of ineligible mothers at the threshold. This represents more than a 50% drop in the rate of these disorders, albeit with a wide 95% confidence interval (CI) for the magnitude of the estimated effect, ranging from 0.6 to 7.9 percentage points. When we looked only at adjustment disorders, which are disorders attributable to an identifiable external stressor, the estimated reduction was 4.4 percentage points ($P = 0.013$; 95% CI, 0.9 to 7.8). There was also a reduction in anxiety disorders, which is a more heterogeneous category of mental illness, but it was insignificant at conventional levels ($P = 0.153$; 95% CI, -0.6 to 4.1). Lastly, we found that for the same sample of children, before the DACA program, there were no discernible differences in these mental health diagnoses at the cutoff (Fig. 2, right).

We conducted several checks that supported the robustness of the results, such as varying the bandwidths (fig. S4), using alternative estimation procedures (fig. S5 and table S7), removing children born in the post DACA period (fig. S6 and table S8), redefining the post DACA period to include quarters 3 and 4 of 2012 (fig. S7 and table S9), and using alternative codings of the mental health outcomes based on the Diagnostic and Statistical Manual of Mental Disorders (fig. S8 and table S10; not prespecified). A non prespecified subgroup analysis (fig. S9) suggested that the effect of mothers' DACA eligibility was concentrated among the older children in our sample (ages 6 to 12; table S12), with no discernible effect among younger children (ages 0 to 5; table S11); younger children are generally much less likely to receive mental health diagnoses. We also conducted a non prespecified subgroup analysis by gender (fig. S10 and tables S13 and S14) and found that the effect of mothers' DACA eligibility on adjustment disorders was slightly more pronounced among male children, but the effect for males was not statistically significantly different from that for females ($P = 0.209$; local linear regression).

We also confirmed that there were no discernible differences in diagnoses at the same birthdate cutoff among children of mothers who were covered by standard Medicaid at the time that they gave birth (fig. S11 and table S15). These

mothers should not be affected by DACA eligibility, given that standard Medicaid in Oregon is open only to low income U.S. citizens and long term lawful permanent residents. This check again underscores that in the absence of changes in DACA eligibility, there is no evidence of confounders associated with having a mother who is born just before or after the cutoff date that could explain the observed post DACA difference in child mental health outcomes.

Because health care utilization could be affected by immigration status (9), we also checked for the possibility that the drop in diagnoses reflects a DACA induced change in health care visits, which could affect the probability of detection of mental health disorders. We found no support for this. Mothers' DACA eligibility had no discernible impact on their children's health care utilization during the post DACA period, as measured either by the total number of visits, the number of emergency room (ER) and urgent care visits, or the number of outpatient visits (fig. S12 and table S16). Consistent with this, in a non prespecified analysis, we also found that the effects of mothers' DACA eligibility on child mental health were similar when we restricted the sample to children who had at least one health care visit in the post DACA period (fig. S13 and table S17).

Our results provide causal evidence supporting the theory that parental unauthorized immigration status has important intergenerational effects on the well being and development of children in immigrant families (4, 6). Protecting unauthorized immigrants from deportation led to immediate and sizable improvements in the

mental health of their U.S. citizen children. This suggests that parents' unauthorized status is a substantial stressor that stymies normal child development and perpetuates health inequalities by transferring parental disadvantages to children.

Our findings have important implications for immigration and health care policy. As decision makers evaluate whether to maintain, cancel, or expand the DACA program, our results suggest that a broader consideration is needed, one that goes beyond the impacts for recipients alone and takes into account the intergenerational consequences of deferred action for the health of unauthorized immigrants' children, most of whom are U.S. citizens (2). Early childhood exposure to stress and adversity does not only cause poor health and impaired development in the short term; the issues can also persist into adulthood. Anxiety and psychosocial stress are identified as risk factors for depression, substance abuse, cardiovascular diseases, and obesity (32, 34, 39, 40). Treatment of mental disorders also carries considerable economic costs to society. They account for the highest total health care expenditures of all children's medical conditions (41) and are associated with poor long term outcomes for school performance and welfare reliance (33, 42). By reducing mental health problems, deferred action has important multiplier effects through improving the future prospects of the children of unauthorized immigrants.

Our results imply that expanding deferred action to the millions of unauthorized immigrant parents who do not meet the current DACA eligibility criteria could further promote the

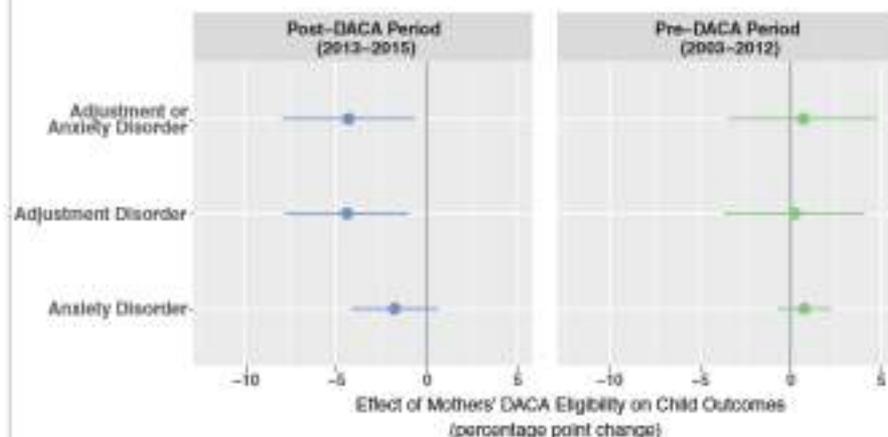


Fig. 2. Effect of mothers' DACA eligibility on their children's mental health. (Left) Mothers' DACA eligibility reduced child mental health disorders in the post DACA period. (Right) There were no systematic, preexisting differences in the pre DACA period. Circles with lines represent effect estimates with 95% confidence intervals from the regression discontinuity design, based on local linear regressions fitted to samples of children whose mothers' birthdates were within a symmetric bandwidth of days around the DACA eligibility cutoff. The size of the bandwidth was determined by an adaptive bandwidth selection algorithm for each outcome. The bandwidths and sample sizes for the three outcomes in the post DACA period (top to bottom) are ± 199 days around the cutoff ($n = 3039$ children), ± 180 days ($n = 2341$), and ± 132 days ($n = 2002$); for the pre DACA period (top to bottom) the bandwidths and sample sizes are ± 108 days ($n = 1325$), ± 109 days ($n = 1338$), and ± 211 days ($n = 2745$).

health and well being of this next generation of American citizens. Moreover, it is reasonable to expect that permanent legal status or a path way to citizenship would have an equal, if not greater, effect on improving children's health.

Our study also has implications for health policy research. Unauthorized immigration is an important policy issue, but researchers have struggled to generate a reliable evidence base. Although we recognize the limitations of evaluating health outcome data from one state, our sampling strategy of using Emergency Medicaid mothers and Medicaid children provides an effective way to overcome some of the challenges in collecting systematic data from the unauthorized population. This approach opens the door for future studies to examine the impacts of an array of local, state, and federal policies that affect unauthorized immigrant parents and that may have health consequences for their children.

REFERENCES AND NOTES

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ACKNOWLEDGMENTS

This research was funded by a grant from the Russell Sage Foundation (grant no. 931612). We also acknowledge funding from the Ford Foundation for operational support of the Stanford Immigration Policy Lab. For helpful advice, we thank K. Bansak, V. G. Corcos, A. Hohmuedler, and J. Wang. Replication code is available through Harvard Dataverse (<https://dataverse.harvard.edu/dataset.xhtml?persistentId=doi:10.7930/DVN/SEEDAP>). A preregistered analysis plan is available at the Evidence and Governance in Politics website under study ID 20170227AC (<http://egap.org/design/registrations/>). The analysis plan is also reprinted in the supplementary materials. The Institutional Review Boards at Stanford University (protocol 40907) and Oregon Health & Science University (protocol 15633) approved this research.

SUPPLEMENTARY MATERIALS

www.sciencemag.org/content/357/6355/3041/suppl/DC1
 Materials and Methods
 Supplementary Text
 Figs. S1 to S13
 Tables S1 to S17
 References (43, 44)
 Preregistered Analysis Plan
 5 May 2017; accepted 1 August 2017
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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

20 THE REGENTS OF THE UNIVERSITY OF
21 CALIFORNIA and JANET NAPOLITANO,
22 in her official capacity as President of the
23 University of California,

23 Plaintiffs,

24 v.

25 U.S. DEPARTMENT OF HOMELAND
26 SECURITY and ELAINE DUKE, in her
27 official capacity as Acting Secretary of the
28 Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

**DECLARATION OF VIRIDIANA
CARRIZALES**

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STATE OF CALIFORNIA, STATE OF MAINE, STATE OF MARYLAND, and STATE OF MINNESOTA,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05235-WHA

CITY OF SAN JOSE, a municipal corporation,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, ELAINE C. DUKE, in her official capacity, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05329-WHA

DULCE GARCIA, MIRIAM GONZALEZ AVILA, SAUL JIMENEZ SUAREZ, VIRIDIANA CHABOLLA MENDOZA, NORMA RAMIREZ, and JIRAYUT LATTHIVONGSKORN,

Plaintiffs,

v.

UNITED STATES OF AMERICA, DONALD J. TRUMP, in his official capacity as President of the United States, U.S. DEPARTMENT OF HOMELAND SECURITY, and ELAINE DUKE, in her official capacity as Acting Secretary of Homeland Security,

Defendants.

CASE NO. 17-CV-05380-WHA

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COUNTY OF SANTA CLARA and
SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
States; ELAINE DUKE, in her official
capacity as Acting Secretary of the Department
of Homeland Security; and U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

CASE NO. 17-CV-05813-WHA

1 I, Viridiana Carrizales, declare and state as follows:

2 1. I am over the age of 18. I have personal knowledge of the matters stated herein, and if
3 called as a witness, I could and would testify competently thereto.

4 2. I am the Managing Director of DACA Corps Member Support at Teach For America
5 (TFA).

6 3. Teach For America finds, develops, and supports a diverse network of leaders who
7 expand opportunity for children from classrooms, schools, and every sector and field that shapes the
8 broader systems in which schools operate. We recruit remarkable and diverse individuals to become
9 teachers in low-income communities. They commit to teach for two years and are hired by our partner
10 public schools across the country. During these two years, they are called TFA corps members. Since
11 1990, when our program began, we have brought over 56,000 talented teachers and leaders to
12 classrooms in low-income communities across America, including in the States of California,
13 Maryland, and Minnesota.

14 4. Teach For America is a tax-exempt organization under section 501(c)(3) of the Internal
15 Revenue Code. While we operate in 53 regions within 36 states and the District of Columbia, and are
16 qualified to do business in 42 states and D.C., we are only incorporated in one state, Connecticut,
17 where we were incorporated as a nonprofit corporation in 1989. TFA is managed and controlled by a
18 Board of Directors; a Chief Executive Officer supervises, manages and controls the general day-to-
19 day administration of TFA, subject to the oversight of the Board. Our headquarters is in New York
20 City.

21 5. Deferred Action For Childhood Arrivals (DACA) allows qualified young adults to apply
22 for DACA status and receive renewable, two-year work permits and temporary relief from
23 deportation. DACA is life-altering for young immigrants, who are able to work, obtain driver's
24 licenses, get health insurance, open bank accounts and provide for their families.

25 6. As one of our nation's leading recruiters of teachers in receipt of DACA for public
26 schools, Teach For America has an interest in maintaining DACA because it allows talented, diverse
27 college graduates to serve as teachers and leaders.

28

1 7. In 2013, Teach For America was among the first organizations to recruit college
2 graduates with DACA status into the workforce. Our first DACA cohort consisted of two teachers
3 hired in one district.

4 8. Since 2013, our DACA cohort has grown. Nationwide, as of the first day of school in
5 2017, 188 Teach For America alumni and corps members with DACA status are working in
6 classrooms to expand educational opportunities for more than 10,000 students in 11 states, including
7 California. Another 10 DACA alumni are promoting equity in the nonprofit, corporate, and higher
8 education sectors, including one enrolled in medical school and four on staff at Teach For America.

9 9. In the State of California, there are currently 28 DACA TFA corps members and 25
10 DACA TFA alumni. All 53 corps members and alumni impact thousands of students in California.

11 10. In keeping with TFA's mission, our DACA teachers work in shortage-area subjects and
12 hard-to-staff schools. Some examples: Miriam teaches reading and math at a STEM-focused middle
13 school in Los Angeles, where she uses project-based lessons to instill a love of STEM learning in her
14 students. Her aim is to help more students from low-income communities graduate prepared for
15 STEM colleges and careers by providing them early opportunities to learn and apply math and science
16 in age-appropriate, real-life scenarios. For example, in a recent lesson on ratios, students used applied
17 STEM skills to make homemade ice cream. Jose teaches 7th grade math in Los Angeles. He works to
18 instill a love for math in his students on a daily basis, and aims to incorporate its relevance to their
19 lives in his lessons. For example, last year, students in Jose's class read about women and people of
20 color in STEM, researched a STEM career they would be interested in pursuing in the future, and
21 applied rational number concepts they had learned throughout the trimester to argue the importance of
22 diversity in STEM related fields. These are just two examples--many of our DACA teachers are
23 bilingual, focused on STEM, or they bring Ivy League educations to the classroom. Many others serve
24 as role models and navigators for students who face the intersecting challenges of poverty and
25 undocumented status.

26 11. If DACA ends, or the administration stops approving or renewing DACA applications,
27 DACA teachers and leaders, including over 200 TFA alumni and corps members with DACA status,
28 would lose their ability to work and would be at risk of deportation—a far cry from the pathway to

1 citizenship these individuals deserve. Ending DACA would severely undercut TFA's national effort
2 to increase academic success among all students, but particularly undocumented students, since we've
3 learned that DACA teachers provide tremendous help to undocumented youth as they navigate the
4 barriers they face; students would lose the chance to connect with teachers who mirror their life
5 experiences and act as remarkable role models.

6 12. Ending DACA without a solution in place would have other far-reaching impacts on our
7 students and communities. Many K-12 students in the United States are undocumented or have one
8 undocumented parent at home. If DACA is rescinded, they will lose the legal pathway to driver's
9 licenses, jobs, and higher education. They could be separated from their families or deported to
10 countries they've never known as home.

11 13. Teach For America is proud of the impact our DACA leaders have made on our corps,
12 communities, and country. We will continue to provide them legal assistance and financial support
13 during this time of uncertainty.

14
15 I declare under penalty of perjury under the laws of the United States that the foregoing is
16 true and correct and that this declaration was executed on October 11, 2017 in San Antonio,
17 Texas.

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21 VIRIDIANA CARRIZALES

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

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

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY and ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

DECLARATION OF DEIRDRE O'BRIEN

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STATE OF CALIFORNIA, STATE OF MAINE, STATE OF MARYLAND, and STATE OF MINNESOTA,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05235-WHA

CITY OF SAN JOSE, a municipal corporation,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, ELAINE C. DUKE, in her official capacity, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05329-WHA

DULCE GARCIA, MIRIAM GONZALEZ AVILA, SAUL JIMENEZ SUAREZ, VIRIDIANA CHABOLLA MENDOZA, NORMA RAMIREZ, and JIRAYUT LATTHIVONGSKORN,

Plaintiffs,

v.

UNITED STATES OF AMERICA, DONALD J. TRUMP, in his official capacity as President of the United States, U.S. DEPARTMENT OF HOMELAND SECURITY, and ELAINE DUKE, in her official capacity as Acting Secretary of Homeland Security,

Defendants.

CASE NO. 17-CV-05380-WHA

1 COUNTY OF SANTA CLARA and
2 SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

3 Plaintiffs,

4 v.

5 DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
6 BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
7 States; ELAINE DUKE, in her official
capacity as Acting Secretary of the Department
8 of Homeland Security; and U.S.
DEPARTMENT OF HOMELAND
9 SECURITY,

10 Defendants.

CASE NO. 17-CV-05813-WHA

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I, Deirdre O'Brien, declare and state as follows:

1. I am the vice president of People at Apple Inc. ("Apple") and have worked at the company for nearly 30 years. The vice president of People is responsible for leading all human resource functions, including talent development and analytics, recruiting, benefits, compensation, business support, and employee training. I have personal knowledge of the facts stated in this declaration and, if called upon to do so, I could and would testify to these facts.

2. Apple employs nearly 40,000 people in California and over 81,000 people across the United States. These figures do not include temporary employees or contractors.

3. Apple and its customers have benefited and continue to benefit in many ways from the Deferred Action for Childhood Arrivals ("DACA") program. Apple currently employs over 250 DACA holders in 28 states. These talented and entrepreneurial people fill important and varied roles across the company, including in operations, research and development, administration, sales and marketing, and retail. Apple and its customers have benefitted greatly from their intelligence, ambition, creativity, resilience, and hard work. These employees are important contributors to Apple's unique culture. That unique culture enables employees throughout Apple to do the best work of their lives and excel at creating the most innovative products and providing the very best customer service.

4. Many of Apple's DACA holder employees also possess language skills, insight, and cultural knowledge that are essential to allowing Apple to serve its diverse customer base in the best way possible. For example, AppleCare provides support to more than 100 million customers each year in more than 30 languages. AppleCare's U.S.-based employees support 11 languages with 160 skills related to Apple's products and services. AppleCare employees, including DACA recipients, are critical to ensuring Apple's customers get the most out of the products they have grown to love and depend upon. Aside from speaking to customers directly, AppleCare teams help to create and deliver training programs, pilot new and innovative approaches to customer support, provide important feedback on internal and customer-facing tools, and ensure that product feedback is provided to Apple's engineering teams.

1 5. Apple currently employs 70 DACA recipients in California. These employees work in
2 a wide variety of roles, including as Hardware Development Engineers, Software Engineers,
3 Software Technicians, Retail Store Geniuses, Technical Specialists, Technical Customer Service and
4 Support Specialists, Operations Specialists, Quality Assurance/Quality Control Engineers, and iAd
5 Account Managers.

6 6. Apple has invested heavily in recruiting, training, and retaining employees with
7 DACA status.

8 7. Apple will be harmed significantly if it can no longer benefit from the hard work,
9 creativity, and intelligence of its employees with DACA status. From a practical standpoint, Apple
10 will be forced to incur the cost, disruption, and delays associated with reallocating human resources;
11 searching for, recruiting, interviewing, and hiring new employees; training new employees; and
12 integrating new hires into Apple's unique culture. Apple will also be deprived of the benefits of the
13 considerable investments that it made in recruiting, hiring, and training these talented young people.

14 8. But if Apple could no longer employ its people with DACA status, Apple would be
15 hurt in ways that go far beyond these practical harms. Inclusion and diversity are part of Apple's
16 core values and fundamental to its ability to innovate. By virtue of their personal experiences,
17 employees with DACA status bring with them unique skills, knowledge, perspectives, and cultural
18 understandings. By excluding DACA holders and other immigrants, Apple and our nation as a whole
19 will be harmed—in ways big and small—and deprived of these important benefits.

20 9. Indeed, rescinding DACA attacks one of Apple's core values as a business—the belief
21 that equal opportunities should be available for all, regardless of background. As Apple's CEO Tim
22 Cook recently explained, "More than any country in the world, this country is strong because of our
23 immigrant background and our capacity and ability . . . to welcome people from all kinds of
24 backgrounds." Apple believes that inclusivity and diversity are essential to recruiting and retaining a
25 talented workforce, fostering innovation, and developing the highest-quality products for consumers
26 around the world. Rescinding DACA makes the United States and companies based here, including
27 Apple, less attractive to the talented and ambitious people who come here to find success and build
28 successful careers. In the same way, rescinding DACA interferes with Apple's ability to accomplish

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its important business goals and uphold its core values, harming both Apple and its hard-working and talented employees and partners.

10. Because rescinding DACA causes such significant harms to Apple's values, its business, and its customers, Tim Cook joined hundreds of America's leading executives on August 31, 2017, and sent a letter to President Trump emphasizing the benefits of DACA and urging him to preserve the program. That letter explains, among other things, that "Dreamers are vital to the future of our companies and our economy" and part of America's "global competitive advantage." A copy of this letter is attached to this declaration as "Exhibit A."

11. The "Dreamers" who work at Apple embody the American Dream and the best aspects of our American values. They were brought to this country as young children, and most cannot remember a time when they did not call our nation home. We have been told by the Dreamers that they deeply love our country. They grew up in our cities and towns, and earned degrees from colleges and universities across the country. They work hard and they pay taxes. They contribute tremendously to Apple and its success, to our customers and communities, and to the American economy. Their determination, resilience, and hard work inspire me and countless other Apple employees who are privileged to call them coworkers and friends. It is essential that we not only allow the Dreamers to stay in this country, but that we welcome them and tell them that we want them to be here. Their lives and their stories embody what is best about our country.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct, and that this declaration was executed on September 21, 2017 in Cupertino, California.

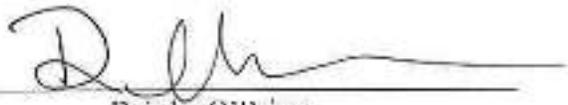

Deirdre O'Brien

EXHIBIT A

OPEN LETTER FROM Leaders of American Industry

August 31, 2017

To: President Donald J. Trump

To: Speaker Paul Ryan; Leader Nancy Pelosi; Leader Mitch McConnell; and Leader Charles E. Schumer

As entrepreneurs and business leaders, we are concerned about new developments in immigration policy that threaten the future of young undocumented immigrants brought to America as children.

The Deferred Action for Childhood Arrivals (DACA) program, which allows nearly 800,000 Dreamers the basic opportunity to work and study without the threat of deportation, is in jeopardy. All DACA recipients grew up in America, registered with our government, submitted to extensive background checks, and are diligently giving back to our communities and paying income taxes. More than 97 percent are in school or in the workforce, 5 percent started their own business, 65 percent have purchased a vehicle, and 16 percent have purchased their first home. At least 72 percent of the top 25 Fortune 500 companies count DACA recipients among their employees.

Unless we act now to preserve the DACA program, all 780,000 hardworking young people will lose their ability to work legally in this country, and every one of them will be at immediate risk of deportation. Our economy would lose \$460.3 billion from the national GDP and \$24.6 billion in Social Security and Medicare tax contributions.

Dreamers are vital to the future of our companies and our economy. With them, we grow and create jobs. They are part of why we will continue to have a global competitive advantage.

We call on President Trump to preserve the DACA program. We call on Congress to pass the bipartisan DREAM Act or legislation that provides these young people raised in our country the permanent solution they deserve.

Business leaders wishing to add their name to this letter can do so by [registering here](#).

SIGNATORIES

Name	Title	Company
Audley Logan Sr.	President	3-C Technology, LLC
Paul Fox	Partner	310 Architects & Interiors, Inc.
Joe Thomas	Owner	4t Management and Maintenance
Angela Stergis	CEO	92Seven
Jack Armstong	President	Acumen, LLC
Rob Dhoble	CEO	Adherent Health
Aaron Bell	CEO	AdRoll
Francisco Torres-Aranda, Jr.	Founder & President	Advanced-Tec Materials, LLC
Max Levchin	Chairman & CEO	Affirm

Name	Title	Company
Jeffrey S. Collins	Vice President and General Counsel	After School App
Martin H. Richenhagen	President & CEO	AGCO Corporation
Shamilla Mansingh	President	AHM Contractors Corp
Brian Chesky	Co-Founder, CEO, Head of Community	Airbnb
Kevin P. Ryan	Chairman & CEO	Alleycorp and MongoDB
Jeff Bezos	CEO	Amazon
Tim Sullivan	President & CEO	Ancestry.com
Magdalena I. King	General Manager	Antlers at Vail
Myles Kleeger	President	Appboy
Tim Cook		Apple
Alden Bruce Badger	Chairman and CEO	Aqueous Solutions Global
Nia Ogletree	CEO	Arielle Management Group, LLC
Gonzalo de la Melena Jr.	President & CEO	Arizona Hispanic Chamber of Commerce
Steven Zylstra	President & CEO	Arizona Technology Council
Jack Davis	Owner	Audit Resources, LLC
Andrew Anagnost	President and Chief Executive Officer	AutoDesk Inc.

Name	Title	Company
Zaheer Faruqi	Owner	Aventure Aviation
Andrea Guzman	Owner	Ayuda Hispana LLC
Robert Cheetham	CEO	Azavea
Jay Steinmetz	CEO	Barcoding Inc.
Ujjwal Gupta	Co-Founder/COO	BenchPrep
Jeremy Levine (Partner, Bessemer Ventures)		
Tamara Drangstveit	DOJ Accredited Rep	Bethany Immigration Services
Rosalyn Ryan	CEO	Bicgen Foundation
Richard Basile	CEO	BioPontis Alliance for Rare Diseases
Bernard Yoo	CEO	Bombfell Inc.
Elyse D. Cherry	CEO	Boston Community Capital, Inc
Henrik Johansson	CEO	Boundless Network
Aaron Levie	CEO	Box
Jim Breyer	Founder and CEO	Breyer Capital
Andy Feinberg	CEO	Brightcove Inc.
Brit Morin	Founder and CEO	Brit + Co
Charlie O'Donnell	Partner	Brooklyn Bridge Ventures

Name	Title	Company
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Alex Torrenegra	CEO	Bunny, Inc
Gary Chahil	CEO	C.C.I Inc
Dr. Andrew P Mallon PhD GPharmC	CEO	Calista Therapeutics
Stas Gayshan	Managing Director	Cambridge Innovation Center
Timothy Rowe	CEO	Cambridge Innovation Center
Brian Dacey	President	Cambridge Innovation Center
Thomas Karwaki	President	Capital Dynamics LLC
Fred Schmidt	Director of International Affairs	Capital Factory
Kevin Jones	CEO	Cardinal Resources Inc
Jonathan Schwartz	CEO	CareZone Inc.
Carl Young	Owner	Carl Young Floral
Philip Krim	CEO	Casper
Bill Kunkler	Executive Vice President	CC Industries
Ira Combs	CEO	CCH Inc.
Ellen Shaffer	Co-Director	Center for Policy Analysis
Geoffrey Hueter	CTO	Certona Corporation

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Dave Borders Jr.	GC	Chegg
Samuel C. Scott III	Chairman	Chicago Sister Cities International Program
Melanie Chischilly	CEO	Chischilly Designs
Chuck Robbins	CEO	Cisco Systems
Andrew Rasiej	Co-Founder	Civic Hall
Fritz Lanman	CEO	ClassPass Inc.
Joseph Bollin	President	Clean Energy Solutions
Gayle Gaines	President	Clean Energy Solutions
Dr Renee Entzminger	CEO	Clinical Alliance Partners
Mike Olson	Founder and Chief Strategy Officer	Cloudera
Hila Raz	CEO & Co-Founder	Coalition
Wendy Jameson	Co-Founder & CEO	Colnatec
Othman Laraki	President	Color Genomics
Jeff Wasden	President	Colorado Business Roundtable
Lindsay Baker	President	Comfy
Robert Bertrand	President/CEO	Concord Servicing Corporation

Name	Title	Company
Patty Johnson	President	Connections Marketing & Communications
Javier Cota	CEO	Cotax LLC DBA SuperTax Svc
Joyce Nelson	Owner	Coz
Carole and Gordon Segal	Co-Founders, Crate and Barrel	Crate and Barrel
Dr. Thomas Ross	CEO	Critical Medical Solutions Inc
Courtney Spence	Founder & CEO	CSpence Group
John Reing	Chief Human Resources Officer	CSRA
Robert Glaser	Principal	Cushman & Wakefield PICOR
Brook Kohn	Co-Founder & CEO	DACA Time
Marie McGrath	CEO	Demand Lighting USA
Jeff Bleich	CEO	Dentons Diplomatic Solutions
A. Gabriel Esteban, PhD	President	DePaul University
Michael Guthrie	CEO	Detroit Chassis LLC
Diana Bello	Creative Director and Owner	Diana Bello Studio LLC
Dan Springer	CEO	DocuSign
Donna M. Carroll	President	Dominican University
Drew Houston	CEO & Co-Founder	Dropbox

Name	Title	Company
Michael Giles	Owner	Dynamic Capabilities LLC
Andy Wildenberg	President	E3 Power
David Wenig	President & CEO	eBay
Robert West	CEO	Echelon One
Vibhu Mittal	CEO	Edmodo
Jacob Schatz	SVP & General Counsel	Electronic Arts
Trini Garibay	President	ELITE
Anthony E. Hargrove	CEO	Ella Austin Community Center
Laurene Powell Jobs		Emerson Collective
William Recker	Chair Emeritus	Energy Innovation Center
Nanxi Li	CEO/Founder	Enplug
Mahi Inampudi	Vice President of Product and Technology	ENVOY Global
Edward Doughty	Managing Director	Epic Capital Wealth Management
Kathleen Cook	Owner	Esso Skin Care
Jose Luis Prado	President and CEO	Evans Food Group
Seth Cassel	President and Partner	EveryMundo
Anton Diego	Founder	EveryMundo

Name	Title	Company
John Rowe	Chairman Emeritus	Excelon Corporation
Mark Zuckerberg	Founder & CEO	Facebook
Sheryl Sandberg	COO	Facebook
Christina Shatzen	Director of Marketing and Communications	Fast Forward
Craig Gaylord	CEO	Fiesta Foods
Kami Hinger	Partner	FireTest Company
James Park	CEO	Fitbit
Julio Fuentes	President & CEO	Florida State Hispanic Chamber of Commerce
John Dohm	President	Florida Transatlantic Holdings
Jeff Busgang	Partner	Flybridge
Bruce Heyman	Ambassador	Former US Ambassador to Canada
Trevor Cornwell	President	Forum280, Inc.
Ivy Allen	President & CEO	Foundation for the Mid South
Jeff Glueck	CEO	Foursquare
Scott Osborn	President and Co-Owner	Fox Run Vineyards
Glen Popple	CEO	Fractured Imagination, LLC
Dilawar Syed	President	Freshworks

Name	Title	Company
Ryan Matzner	Co-Founder	Fueled Collective
Todd Schulte	President	FWD.us
Jake Schwartz	CEO	General Assembly
Steven A. Denning	Chairman	General Atlantic
Mary Barra	CEO	General Motors
Robert Hohman	CEO	Glassdoor
Arthur H. Jackson Jr. MBA	CEO	Global AHJ Group
John Cszaszar	CEO	Global Capital Funding Group, LLC
Patrice Iverson-Summer	President	Global Trading Resources, Inc.
Saeid Kamalpour	President	Globink
Rob Solomon	CEO	GoFundMe
Sundar Pichai	CEO	Google Inc.
Donald Graham	Chairman	Graham Holdings Company
Tim O'Shaughnessy	CEO	Graham Holdings Company
Cris Mercado	Founder	Grant Answers
Luis A. Rodriguez	President & CEO	Greater Austin Hispanic Chamber of Commerce
Loren Kruger	CEO	Green Plastic Pallets

Name	Title	Company
Mark M. Greenough	President	Greenough Consulting Group
Reid Hoffman	Partner	Greylock Partners
Deborah Quazzo	President	GSV Acceleration Fund
Yenvy Truong	Co-Founder	HealthSnap Solutions
Keith Alperin	CEO	Helium Foot Software
Meg Whitman	CEO	Hewlett-Packard Enterprise
Mary C Howe	President	Howe Corporation
M. S. Hunter	President	Hunter Hawk Inc
Charles Blum	President	IAS Group Ltd.
Terrie Hellman	President	ICHC
Alan W. Cramb	President	Illinois Institute of Technology
Mark Harris	President & CEO	Illinois Science & Technology Coalition
Fred Hoch	CEO	Illinois Technology Association
Alan Schaaf	CEO	Imgur Inc
Geoff Mamlet	Executive Chairman	Impact Hub Boston
Ed Moore	President	Independent Colleges & Universities of Florida
David Mandelbrot	CEO	Indiegogo

Name	Title	Company
James Bost	CEO	Insight Research
Amy Rao	CEO	Integrated Archive Systems, Inc.
Mary Motsenbocker	President	International Tourism Marketing
Sinan Kanatsiz	Chairman	Internet Marketing Association (IMA)
Don Swift	President	iON Oklahoma Publishing
Ken Blow	President & CEO	ISG Illumination Systems, LLC
Trisha Degg	VP, Talent Programs & Executive Director	ITA and TechForward
Anurag Kumar	CEO	iTexico
Steve Jones	President	Jaap-Orr/Green Energy Enterprises
Jason Finkelman	Owner	Jason Finkelman Law
Harry Kargman	CEO	Kargo Global
Brook Byers	Partner	Kleiner Perkins
John Doerr	Partner	Kleiner Perkins
Amol Sarva	CEO	Knotel
Jeff Kurz	Principal	Kurz Group, Inc.
Martin B. Anstice	President and CEO	Lam Research Corporation
Louise noeth	President	LandSpeed Productions

Name	Title	Company
Raul Font	Executive Director	Latino Community Development Agency
Daniel Stewart	Managing Partner	Law Office of Daniel Stewart, PLLC
Michael R. Jarecki	Principal	Law Office of Michael R. Jarecki, LLC
Robert D. Ahlgren	Owner	Law Office of Robert D Ahlgren and Associ
Leah Duckett	Owner	Law Office of Robert D Ahlgren and Associ
Kathleen M. Vannucci	Owner	Law Office of Robert D Ahlgren and Associ
Kate Lincoln-Goldfinch	Owner	Lincoln-Goldfinch Law
Jed Smith	Chairman of the Board	Linden Lab
Jeff Weiner	CEO	LinkedIn
David Suarez	Vice President	Los Comales Restaurants
John Zimmer	Co-Founder	Lyft
Logan Green	Co-Founder	Lyft
Jason Rosenthal	CEO	Lytro, Inc.
Delano Wilson	CEO	M*A*C*S* LLC
Pompello D. Rivera	President & Owner	M&L Contractor LLC
Julian Martinez	COO	MaestroConference
Noramay	Co-Founder & General Partner	Make in LA

Name	Title	Company
James Corrigan	CEO	Manage Operations
Eric Gundersen	CEO	Mapbox
Chris Lien	Chief Executive Officer	Marin Software Incorporated
Arne Sorenson	President and CEO	Marriott International
Mike Fernandez	Chairman	MBF Healthcare Partners
Fiona McEntee	Managing Attorney	McEntee Law Group
Scott Heiferman	Co-Founder & CEO	Meetup
Matthew Meltzer	Partner	Meltzer Hellrung LLC
Brad Smith	President & Chief Legal Officer	Microsoft Corporation
Satya Nadella	CEO	Microsoft Corporation
Sarah Miyazawa LaFleur	Founder & CEO	MMLaFleur
Mark O'Neill	CTO	MMLaFleur
Sameer Soleja	CEO	Molecule Software
Michael Townsend	President & Owner	MRT Management Group
Michael Kempner	CEO	MWWPR
Faquiry Diaz-Cala	Executive Chairman	mxHero Inc
Alex Nogales	President and CEO	National Hispanic Media Coalition

Name	Title	Company
Reed Hastings	CEO	Netflix
Patrick Lo	CEO/Chairman	NETGEAR
Shafqat Islam	CEO	NewsCred
Jared Kalmanson	General Counsel	NewsCred
Sergio Suarez	President and Co-Founder	North American Institute for Mexican Advan
Morton Schapiro	President	Northwestern University
Jacob Babcock	Founder & CEO	NuCurrent
Erik K. Grimmelmann	President	NY Tech Alliance
Boyede O. Sobitan	Co-Founder/CEO	Oja Express
David Castillo	President	Oklahoma City Hispanic Chamber of Comm
Tom Hurvis	Founder and Chairman	Old World Industries, LLC
Alex Kazerani	Chairman and CEO	OpenPath Security Inc
Mark Orlando	Owner	Orlando Network Services
Kay Ospital	Owner	Ospital Farms
Shradha Agarwal	President & Founder	Outcome Health
Rishi Shah	CEO & Founder	Outcome Health
Paul Metselaar	Chairman and CEO	Ovation Travel

Name	Title	Company
Elie Gordis	Executive Vice President and General Counsel	Ovation Travel
David Zalesne	President	Owen Steel Company
Elliott Ozment	Founder and Managing Attorney	Ozment Law
Kristen Sunday	COO	Paladin
Naveen Chopra	CFO and Interim CFO	Pandora Media
Amir Rubin	CEO	Paracosm
Frances Arazi	President & CEO	Pastourelle, LLC
Jack Conte	CEO	Patreon
Dan Schulman	CEO	PayPal Holdings, Inc.
W Mark Clark	President & CEO	Pima Council on Aging
Russ Yelton	CEO	Pinnacle Transplant Technologies
Katie Bethell	Founder and Executive Director	PL+US
Brian Sugar, Lisa Sugar	Lisa and Brian Sugar, Founders, President and CEO of POPSUGAR Inc.	POPSUGAR Inc.
Rosemarie Withee	President & CEO	Portal Integrators LLC
Bastian Lehmann	Co-Founder and CEO	Postmates
Penny Pritzker	Chairman	PSP Capital and Former US Secretary of Co

Name	Title	Company
Konrad Feldman	CEO & Co-Founder	Quantcast
John Palizzi	President & CEO	Quantum Renewable Energy, Inc.
Patti Smith	Co-Founder and Chief Marketing Officer	Querium
Kim Scott	Author and Co-Founder	Radical Candor
George Bousis	Founder & CEO	Raise
David Wilcox	CEO	ReachScale
Rob Glaser	Founder, Chairman and CEO	RealNetworks, Inc.
Ric Elias	Co-Founder/CEO	Red Ventures
Yamili Quezada	Owner	Rising Time Investments
John Paul Demirdjian	COO	Road to Status
John Bauschard	Founder	Road to Status
Javad Khazaeli	Co-Founder	Road to Status
Robert Acquaye	CEO	Robden Enterprises
David D. Hiller	President and CEO	Robert R. McCormick Foundation
Robert Roche	Founder & President	Roche Enterprises
Edi Demaj	Co-Founder, COO & Managing Partner	RocketFiber

Name	Title	Company
Cathy Rodriguez	CEO	Sacramento Hispanic Chamber of Commerce
Marc Benioff	Chairman & CEO	Salesforce
Amy Weaver	President, Legal & General Council	Salesforce
Alison Phillips	Communications Director	San Diego Regional Chamber of Commerce
Edgar Rincon	Owner	Servicios Latinos LLC
Blanca Rincon	Services Specialist/Manager	Servicios Latinos LLC
Jon Oringer	CEO	Shutterstock
Samir Mayekar	Co-Founder and CEO	SiNode Systems
Greg Siskind	Partner	Siskind Susser, PC
Lynn Susser	Partner	Siskind Susser, PC
Jamie Alford	Founder and CEO	Ski White Diamond
Jennifer Smith	Managing Partner	Smith Immigration
Greg Smith	President	Smith Sterling
Evan Spiegel	CEO	Snap
James Harrison	President	Soda Strippers International
Roy Lee	CEO & President	Solutions Learning, Inc.
Bijan Sabet	Co-Founder and General Partner	Spark Capital

Name	Title	Company
Felicia Bruce	CEO	Spirit Enterprises
Harrison Tang	CEO	Spokeo
Rob Shepardson	Partner and Co-Founder	SS+K
Kevin Johnson	president & chief executive officer	Starbucks Coffee Company
Erika Lucas	Founder & CEO	StitchCrew
James Quarles	CEO	Strava
Patrick Collison	CEO	Stripe
John Nahm	Managing Partner	Strong Ventures
Nikolay Borisov	Founder & CEO	SuBB Startup Business Box
Larry Augustin	CEO	SugarCRM
Winthrop H. Smith, Jr.	Chairman & CEO	Summit Ventures NE, LLC
Kiin Yang	CEO	Superior Carbontech and Solutions Sdn Bhd
Francisco Ibarra	CEO	Supermercados Morelos
Zander Lurie	CEO	SurveyMonkey Inc.
Susan Crown	Chairman & Founder	Susan Crown Exchange Inc.
Ron Conway	Founder	SV Angel
Christine Swanson	Attorney at Law	Swanson Law Offices

Name	Title	Company
Jatin Nahar	CEO	SynergyTop LLC
Daniel James Scott	Executive Director	Tampa Bay Tech Forum
Brenda Hernandez	VP of Operations	Tango Public Relations
Jorge Hernandez	President	Tango Public Relations
Stacy Bown-Philpot	CEO	TaskRabbit
Gregory Alfred Stevens	Managing Director	TechBridge Project
Linda Moore	President and CEO	TechNet
Terry Howerton	CEO	TechNexus
David Brown	Co-CEO	Techstars
Jill Salzman	Founder	The Founding Moms - IL
Laurie L. Bergner	Board Member	The Immigration Project
Millie Herrera	President	The Miami Group & Associates
Alex Nogales	CEO	The National Hispanic Media Coalition
JB Pritzker	Co-Founder and Managing Director	The Pritzker Group
Dr. Bryan Traubert	Chairman	The Pritzker Traubert Family Foundation (P
Steve Townsend	President & CEO	The Record Xchange
Michelle Stevens	Founder	The Refill Shoppe, Inc.

Name	Title	Company
		Slack
Paola Mendoza	Co-Founder	The Soze Agency
Michael Skolnik	Co-Founder	The Soze Agency
John M. Lynn	Managing Partner	The Studio Project
Ann Marchant	CEO	The Walker Marchant Group (WVG)
Robert Mitchell	Partner	Three Rivers Energy Development
Marco Zappacosta	CEO	Thumbtack
David Cascino	CEO	Thunderclap, Inc.
Christie Hubley	Owner	Tinker Art Studio
Richard Barnard	President & CEO	Tio Chuy's Autosales
Lamine Zarrad	CEO	Tokken
Gregory E. Torrez	President	Torrez International
Tracy Dinunzio	Founder/CEO	Tradesy
Stephen Kaufer	President and Chief Executive Officer	TripAdvisor Inc.
Peter Reichard	Partner	Tryon Capital LLC
David Karp	CEO	Tumblr
Andre Haddad	CEO	Turo, Inc.

Name	Title	Company
Jeff Lawson	Co-Founder & CEO	Twilio Inc.
Jack Dorsey	CEO	Twitter
Thuan Pham	Chief Technology Officer	Uber
Glenn F. Tilton	Former Chairman	United Airlines
Stephane Kasriel	CEO	Upwork Utah Hotel and Lodging Association
		Utah Restaurant Association
Chris Romer	President & CEO	Vail Valley Partnership
Ronald Garcia	CEO	Vardex Laser Solutions LLC
Brian Frumberg	Founder	Venture Out
Erin Abrams	VP of Legal Affairs	Via
Daniel Ramot	CEO	Via
Sandy Hessler	CEO	Vibrancy Consulting
John Saylor	Chairman	Virginia-Washington, DC District Export Co
Alfred F. Kelly, Jr.	CEO	Visa Inc.
Barbara Steinfeld	President	Visit Tri-Valley
Diane von Furstenburg		

Name	Title	Company
Barbara Grogan	Founder and former CEO	Western Industrial Contractors
Bettina Bennett	CEO	Whichbox Media
John Atkinson	Managing Partner	Willis Towers Watson
Lindsey McNeny	President	Window to the Wild
Robert Wist	President	Wist Office Products
Claudia Williams	CEO	WonderWorld
Mohan Ramaswamy	Partner, Strategy	Work & Co
Aneel Bhusri	CEO	Workday
James P. Shaughnessy	Senior Vice President, General Counsel & Secretary	Workday
Sam Altman	Co-Founder	Y Combinator
Zab Mendez	Owner	Z's Marketing Alliance
Sumithra Jagannath	President	ZED Digital

EXHIBIT K

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11 *University of California and Janet Napolitano, in*
12 *her official capacity as President of the*
13 *University of California*

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Service Employees International Union Local 521

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY and ELAINE DUKE, in her
official capacity as Acting Secretary of the
Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

DECLARATION OF JONATHAN
SCHWARTZ

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STATE OF CALIFORNIA, STATE OF MAINE, STATE OF MARYLAND, and STATE OF MINNESOTA,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05235-WHA

CITY OF SAN JOSE, a municipal corporation,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, ELAINE C. DUKE, in her official capacity, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05329-WHA

DULCE GARCIA, MIRIAM GONZALEZ AVILA, SAUL JIMENEZ SUAREZ, VIRIDIANA CHABOLLA MENDOZA, NORMA RAMIREZ, and JIRAYUT LATTHIVONGSKORN,

Plaintiffs,

v.

UNITED STATES OF AMERICA, DONALD J. TRUMP, in his official capacity as President of the United States, U.S. DEPARTMENT OF HOMELAND SECURITY, and ELAINE DUKE, in her official capacity as Acting Secretary of Homeland Security,

Defendants.

CASE NO. 17-CV-05380-WHA

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COUNTY OF SANTA CLARA and
SERVICE EMPLOYEES INTERNATIONAL,
UNION LOCAL 521,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
States; ELAINE DUKE, in her official
capacity as Acting Secretary of the Department
of Homeland Security; and U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

CASE NO. 17-CV-05813-WHA

1 I, Jonathan Schwartz, declare:

2 1. I am over the age of eighteen and competent to testify.

3 2. I am the Chief Legal & Corporate Affairs Officer at Univision Communications Inc.
4 (Univision). I have been employed by Univision since 2012. In my role, I oversee the Legal &
5 Corporate Affairs Department, which includes the following areas: Legal and Business Affairs,
6 Corporate Compliance, Government Relations, Corporate Social Responsibility, Community
7 Empowerment, Global Security, Media Rights Management & Content Protection, Standards &
8 Practices, and Advertising Review.

9 3. Univision is the leading media company serving Hispanic America and the rising
10 multicultural mainstream of the United States. Univision's workforce reflects the audience it serves,
11 including DACA beneficiaries, their families, and their communities. The government's decision to
12 terminate DACA means that a segment of Univision's employees will eventually lose their work
13 authorization. As a direct consequence of the government's decision, therefore, Univision will lose the
14 benefit of these employees' immeasurable contributions to the Company. And because these employees
15 uniquely contribute to Univision's operations, the Company cannot adequately replace them. Moreover,
16 in hiring and training replacements, Univision will incur both business disruptions and financial losses.
17 Additionally, the loss of DACA beneficiaries in our workforce will result in significant harm in the form
18 of diminished connection with the communities we serve and reduced diversity of thought and point of
19 view in the content we produce.

20 4. Univision employs approximately 660 employees in the state of California, and a total of
21 approximately 4,630 employees across the country in our corporate, network, local TV, radio, and
22 digital operations. Univision's mission is to inform, empower, and entertain the Hispanic American
23 population and rising multicultural mainstream.

24 5. Univision began as a small Spanish-language TV station in San Antonio, Texas. Over its
25 more than 50-year history, Univision's broadcast and cable TV, digital, and radio offerings have grown
26 to become the foremost destination for Hispanic America and the rising multicultural mainstream,
27 reaching an estimated 108 million average monthly-unduplicated media consumers. We engage
28 audiences via our portfolio of 123 local TV and radio stations (in Arizona, California, Florida, Illinois,

1 New York, North Carolina and Texas, among other states), and 17 broadcast, cable and digital networks
2 and partnerships. In recent years, we have expanded our efforts to reach English speaking Hispanics and
3 young multicultural audiences through our investment in the El Rey network and the launch of the
4 Fusion Media Group, which includes such properties as FusionTV, the Gizmodo Media Group (and its
5 digital-first platforms Gizmodo, Jalopnik, Jezebel, Deadspin, Lifehacker, Kotaku, Splinter, and the
6 Root), and a stake in The Onion.

7 6. Univision has a unique relationship with its audience, whose members rely on us for
8 news and information on critical matters such as immigration and DACA. Univision's news content has
9 often been described as a "lifeline" for the Hispanic community. In addition, Univision provides a
10 platform for—and gives a voice to—traditionally underrepresented communities in America. We do
11 this through not only our media properties, but also through our Corporate Social Responsibility (CSR)
12 and Social Impact initiatives. Among Univision's CSR priorities are several projects focused on
13 education and youth development, informing and empowering Hispanic America through a multitude of
14 health and wellness initiatives, increasing diversity in media, and providing training opportunities for
15 young people to learn coding and other necessary skills to enter STEAM (science, technology,
16 engineering, art, and math) careers.

17 7. Univision may have up to 60 employees, ranging across our entire company, who are
18 beneficiaries of the DACA program and affected by the government's decision. (Like many other
19 companies, Univision has not yet been able to confirm the exact number of its employees who have
20 DACA status.) From the talent in front of and behind the camera, to the sharp creative minds that make
21 our business run, to energized interns who are the Company's future – hard-working DACA
22 beneficiaries are essential to creating and disseminating the news, entertainment, and services that
23 Univision provides to millions of Americans every day.

24 8. Univision engages in expressive activity and depends on the unique perspectives and
25 creative contributions of its content producers and the employees who support them. Some of
26 Univision's DACA beneficiary employees are directly involved in producing content that helps shape
27 Univision's expressive activity. These employees provide a distinct perspective both as individual
28 voices and because their experiences as individuals who first came to the United States as children give

1 them valuable insights into the culture and issues of interest to many of Univision's viewers. Their
2 experiences as young immigrants help Univision better serve both the immigrant and non-immigrant
3 communities that make up Univision's core audiences. The value of these employees to Univision thus
4 goes well beyond their economic contributions.

5 9. As a news operation, Univision will be harmed by the elimination of DACA. The ending
6 of the program will make DACA beneficiaries, including DACA beneficiaries with family members
7 who may be in the United States without status, less likely to come forward to appear on news programs,
8 provide commentary on public affairs, and otherwise speak up on such issues as social justice and
9 community affairs for fear that they or their families may be deported. This would not only hamper
10 news coverage but, as seen in other countries, create a dearth of reliable information, lead to the
11 dissemination of misinformation, and stifle the award-winning efforts of Univision's investigative
12 journalism teams.

13 10. Congress has recognized the unique importance of having the world's most talented
14 journalists working in the United States, regardless of their country of birth, in providing for media and
15 employment-based visas. Univision can avail itself of these visa processes if it seeks to hire a journalist
16 from any other country in the world. But with the rescission of DACA, Univision will not be able to
17 avail itself of these processes with respect to the skilled young persons who are already living in the
18 United States with DACA status, even though they have unique talents and abilities and have been
19 trained at our colleges and universities and have received U.S. journalism degrees. Without DACA,
20 Univision would be unable to hire journalists from this talented set of individuals.

21 11. For all these reasons, Univision stands by the hundreds of thousands of young people—
22 including our own DACA beneficiary employees—who are impacted by the government's decision to
23 terminate DACA. They have done everything asked of them by the government under DACA; they are
24 active and contributing members of society who go to school, serve in the military, and work in
25 thousands of civilian jobs—including at Univision—across our nation. Simply put, they should be able
26 to stay in the United States—the only country most of them have ever known.

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I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on October 30, 2017, at New York, New York.



Jonathan Schwartz, Esq.

EXHIBIT L

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY and ELAINE DUKE, in her
official capacity as Acting Secretary of the
Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

**DECLARATION OF ALAN ESSIG, MEG
WIEHE, AND MISHA HILL**

1 STATE OF CALIFORNIA, STATE OF
 2 MAINE, STATE OF MARYLAND, and
 3 STATE OF MINNESOTA,
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 5 Plaintiffs,
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 7 v.
 8
 9 U.S. DEPARTMENT OF HOMELAND
 10 SECURITY, ELAINE DUKE, in her official
 11 capacity as Acting Secretary of the Department
 12 of Homeland Security, and the UNITED
 13 STATES OF AMERICA,
 14
 15 Defendants.

CASE NO. 17-CV-05235-WHA

9 CITY OF SAN JOSE, a municipal corporation,
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 11 Plaintiffs,
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 13 v.
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 15 DONALD J. TRUMP, President of the United
 16 States, in his official capacity, ELAINE C.
 17 DUKE, in her official capacity, and the
 18 UNITED STATES OF AMERICA,
 19
 20 Defendants.

CASE NO. 17-CV-05329-WHA

16 DULCE GARCIA, MIRIAM GONZALEZ
 17 AVILA, SAUL JIMENEZ SUAREZ,
 18 VIRIDIANA CHABOLLA MENDOZA,
 19 NORMA RAMIREZ, and JIRAYUT
 20 LATTHIVONGSKORN,
 21
 22 Plaintiffs,
 23
 24 v.
 25
 26 UNITED STATES OF AMERICA, DONALD
 27 J. TRUMP, in his official capacity as President
 28 of the United States, U.S. DEPARTMENT OF
 HOMELAND SECURITY, and ELAINE
 DUKE, in her official capacity as Acting
 Secretary of Homeland Security,
 Defendants.

CASE NO. 17-CV-05380-WHA

1 We, Alan Essig, Meg Wiehe, and Misha Hill, declare:

2 1. We are tax policy experts working for the Institute on Taxation and Economic Policy
3 (ITEP). ITEP is a non-profit, nonpartisan research organization that provides in-depth analyses on the
4 effects of federal, state, and local tax policies. ITEP's mission is to ensure the nation has a fair and
5 sustainable tax system that raises enough revenue to fund our common priorities, including education,
6 health care, infrastructure, and public safety. ITEP researchers use a microsimulation tax model to
7 produce distributional and revenue analyses of current tax systems and proposed changes at the federal,
8 state, and local level.

9 2. Alan Essig has been the Executive Director of ITEP since April 2017. He holds a
10 master's degree from the Nelson A. Rockefeller College of Public Affairs and Policy at the State
11 University of New York at Albany and an undergraduate degree from the State University of New York
12 at Buffalo. Attached as Exhibit A is a true and correct copy of Alan Essig's curriculum vitae.

13 3. Meg Wiehe is the Deputy Director of ITEP. She has worked with ITEP since 2010. Meg
14 is nationally recognized expert on state and local taxation. She studies, writes, and provides
15 commentary and insight to a wide range of audiences on historical and current trends in state tax and
16 budget policy. In particular, her analyses focus both on how tax and budget policies affect low- and
17 moderate-income families as well as the intersection of fiscal policies and state and local governments'
18 ability to fund basic public priorities, including education, infrastructure, and health care. Meg has
19 conducted hundreds of revenue and distributional analyses of proposed tax changes in more than 40
20 states using ITEP's microsimulation tax model. She also is a lead author of ITEP's flagship report, *Who*
21 *Pays? A Distributional Analysis of the Tax Systems in All Fifty States*. Meg holds a Master of Public
22 Administration from the Maxwell School at Syracuse University and a Bachelor of Arts in
23 Anthropology from the University of Virginia. Attached as Exhibit B is a true and correct copy of Meg
24 Wiehe's curriculum vitae.

25 4. Misha Hill has been a State Policy Fellow at ITEP since 2016. She holds a Master of
26 Public Policy from The George Washington University and Bachelor of Arts in Hispanic Studies from
27 the University of Pennsylvania. Attached as Exhibit C is a true and correct copy of Misha Hill's
28 curriculum vitae.

1 5. According to U.S. Citizenship and Immigration Services (USCIS), the agency that
2 administers Deferred Action for Childhood Arrivals (DACA), as of September 4, 2017, approximately
3 689,800 young people who were brought to the United States as children without documentation are
4 currently enrolled in DACA.¹ This population estimate from USCIS takes into account the latest
5 estimates of former DACA recipients who have become lawful permanent resident (about 40,000) and
6 those who were granted DACA but failed to reapply or whose reapplication was denied (about 70,000).
7 The Migration Policy Institute, a non-profit, non-partisan think tank that analyzes the movement of
8 people worldwide, estimates an additional 617,000 individuals are eligible for DACA but not currently
9 enrolled.²

10 6. We used the above estimates of the current population receiving and eligible for, but not
11 receiving DACA, in each state to estimate the annual aggregate state and local tax contributions of the
12 DACA-eligible population.³

13 7. Young undocumented immigrants eligible for or enrolled in DACA, like all people living
14 and working in the U.S., pay state and local income, property, sales, and excise taxes. We estimate that
15 the population currently enrolled in DACA contributes more than \$1.25 billion in state and local taxes.
16 Further, the population eligible for DACA but not currently enrolled contributes an additional \$497.6
17 million in state and local taxes. This brings the total contribution of the DACA-eligible population to
18 just under \$1.8 billion annually in state and local taxes. The following assumptions were made to
19 calculate the sales and excise, income, and property taxes of the DACA-eligible population:

20 a. Taxpaying units and employment status:

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22
23 ¹ “Approximate Active DACA Recipients.” Available at:
24 https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_population_data.pdf.

25 ² Migration Policy Institute, “Deferred Action for Childhood Arrivals (DACA) Data Tools.” Available:
26 <http://www.migrationpolicy.org/programs/data-hub/deferred-action-childhood-arrivals-daca-profiles#overlay-context=events>.

27 ³ ITEP released a report in April 2017 that used USCIS data from September 2016. This analysis uses
28 the same methodology with the most currently available population figures.

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- i. ITEP’s analysis treats each DACA-eligible immigrant who is working as a single taxpaying unit.
- ii. The employment rate of immigrants depends on legal status.
- iii. A 2017 national survey of 3,063 DACA recipients found that 91.4 percent of respondents were employed.⁴ DACA enrollees pay the same income taxes (in states with income taxes) as other lawfully present individuals. DACA enrollees receive a temporary social security number which allows them to file federal and state income taxes and, additionally payroll taxes are deducted from their paychecks.
- iv. The previously mentioned national survey also found that prior to obtaining DACA, only 44% of survey respondents were employed. Our analysis assumes that 44% of the population that is eligible for DACA but not currently enrolled are employed.

b. Income of DACA-eligible population

- i. Immigrant wages change depending on legal status. Undocumented workers earn \$22,029 a year on average and granting DACA increases wages by 8.5 percent, according to a 2014 report by the Center for American Progress.⁵ The average wages applied to the estimated DACA working population in ITEP’s analysis are:
 - \$23,901 for the DACA-eligible population working and enrolled in the program.

⁴ “Results of Tom K. Wong et al., 2017 National DACA Study.” Center for American Progress, <https://cdn.americanprogress.org/content/uploads/2017/08/27164928/Wong-Et-Al-New-DACA-Survey-2017-Codebook.pdf>.

The April 2017 ITEP report used employment figures from the 2016 survey.

⁵ Wong’s 2017 survey found a higher average salary for the DACA-eligible population enrolled and working (\$36,232) than the Center for American Progress report. Thus, by using an average salary of \$23,901, this analysis provides a conservative tax contribution estimate.

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- \$22,029 for the DACA-eligible population working, but not enrolled in the program.

c. Estimated effective tax rates (taxes as share of income) for sales, income, and property taxes paid by DACA-eligible population in each state.

- i. ITEP’s microsimulation computer model is a sophisticated program that applies the state and local tax laws in each state (including sales, excise, income, and property tax laws) to a statistically valid database of tax returns to generate estimates of the effective tax rates paid by taxpayers at various income levels under state and local tax law. In January of 2015, ITEP released the 5th edition of *Who Pays?* which estimates the effect of the state and local tax laws as of January 2015 on taxpayers at 2012 income levels. This report applies effective tax rates calculated in the 2015 *Who Pays?* report to the DACA eligible population with some modifications in states with major tax changes since *Who Pays?* was published.

d. The methodology used to calculate the contributions of the DACA-eligible population differs from the methodology used to calculate the contributions of all undocumented immigrants. The primary differences are that we assume a higher average income and employment rate for the DACA-eligible population. Thus the state and local tax contributions of the DACA-eligible population are not proportional to their share of the undocumented population.

8. We estimate that the population currently enrolled in DACA contribute \$242.4 million in state and local income taxes annually. The population that is eligible for but not enrolled in DACA contributes an additional \$44.5 million bringing the total contributions of the DACA-eligible population to \$286.9 million in state and local income taxes annually.

- a. Eligible immigrants enrolled in DACA are required to pay personal income taxes using a temporary social security number. Thus, this study assumes the 626,437 DACA-enrolled workers are fully complying with state personal income taxes. Personal income tax effective rates in each state were applied accordingly. Various studies have estimated

1 between 50 and 75 percent of undocumented immigrants currently pay personal income
2 taxes predominantly using Individual Tax Identification (ITIN) numbers or with false
3 social security numbers. This analysis assumes a 50 percent compliance rate for DACA-
4 eligible immigrants who are not enrolled and applies 50 percent compliance if DACA
5 protections are lost. Personal income tax effective rates in each state were applied to 50
6 percent of the estimated income.

7 b. Enrolled DACA recipients are eligible to receive the federal Earned Income Tax
8 Credit (EITC) and the state versions of the credit as well, however state EITC benefits
9 were not included in this study for two reasons: 1) all DACA-eligible workers are treated
10 as single taxpaying units and 2) the average income of the enrolled DACA population is
11 above the EITC income eligibility amounts for single workers. The impact of state
12 EITCs was also left out of the other policy options given that DACA-eligible immigrants
13 not enrolled in the program are ineligible for the credit.

14 9. We estimate the population currently enrolled in DACA contributes \$281.1 million in
15 state and local property taxes. The population eligible for not enrolled in DACA contributes an
16 additional \$131.9 million bringing the total \$413 million annually in state and local property taxes. The
17 DACA-eligible population pays property taxes either directly as homeowners, or indirectly through
18 higher rents as tenants.

19 a. The first step in calculating property taxes was to identify the share of DACA-eligible
20 immigrants who are homeowners or renters in each state. This analysis used state-by-
21 state data from the Migration Policy Institute to estimate homeownership rates for
22 undocumented immigrants in each state. The ITEP model assumes that for renters, half
23 of the cost of the property tax paid initially by owners of rental properties is passed
24 through to renters.

25 10. We estimate the population currently enrolled in DACA contributes \$726.1 million state
26 and local sales and excise taxes. The population eligible but not enrolled in DACA contributes an
27 additional \$321.2 million bringing the total contributions of the DACA-eligible population to over \$1
28 billion annually in state and local sales and excise taxes. The DACA-eligible population, like anyone

1 purchasing goods or services, pays consumption taxes directly at the point of sale on taxable items.

2 a. Sales and excise taxes are collected by retailers every time a purchase is made on a
3 taxable good or service. It is reasonable to assume that DACA eligible immigrants pay
4 sales and excise taxes at similar rates to U.S. citizens and legal immigrants with similar
5 incomes, thus the estimated rates in ITEP's *Who Pays?* for each state were applied to the
6 various estimated DACA-eligible population incomes.

7 11. A useful way to compare taxes paid across income levels is the effective tax rate. This is
8 the total of all taxes paid - income, property, and sales and excise - as a share of income. The DACA-
9 eligible population pays an average effective tax rate of 8.3%. ITEP's 2015 report, *Who Pays: A*
10 *Distributional Analysis of the Tax Systems in All Fifty States* found that the middle 20% of taxpayers
11 pays on average an effective tax rate of 9.4%, and the top 1% of taxpayers pays just 5.4% of their
12 income in taxes.⁶ This means the DACA-eligible population pays state and local taxes at a similar rate
13 to middle income taxpayers across the country.

14 12. We also estimate that if DACA protections were lost, the population would continue to
15 contribute to state and local revenues, but at much lower levels. We estimate a total loss of \$696 million
16 in state and local tax revenues.

17 a. DACA protections increase state and local tax contributions because they increase
18 employment rates, increase average salaries, and increase the share paying state personal
19 income taxes from 50 to 100 percent. Surveys of DACA recipients found that after
20 receiving DACA protections respondents were employed at higher rates and earned
21 higher wages. This is likely because the work authorizations and deferral from
22 deportation provided by DACA allow recipients to better compete with legally present
23 workers, pursue advanced degrees, and protects them from wage theft by unscrupulous
24 employers. Thus, a loss of DACA protections would eliminate the revenue gained from
25 the increased salaries DACA affords.

26 13. There are residents of every state who are eligible for or enrolled in DACA, which means
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28 ⁶ Carl Davis, et al., *Who Pays? A Distributional Analysis of the Tax Systems in All 50 States, 5th ed.*,
Institute on Taxation and Economic Policy, Jan. 2015, www.whopays.org.

1 every state revenue stream could be harmed by the loss of DACA protections. Some examples relevant
2 to this case are below:

3 a. In California, approximately 197,900 residents are currently enrolled in DACA. They
4 contribute \$358.3 million in state and local taxes. An additional 181,100 residents are
5 eligible for but not enrolled in DACA. They contribute \$136.8 million bringing the total
6 contributions of the 379,000 DACA-eligible California residents to \$495.1 million in
7 state and local taxes annually. If DACA protections were lost, the contributions of
8 California's total DACA-eligible population would decrease by \$208.7 million to \$286.4
9 million.

10 i. Those currently enrolled in DACA in California contribute \$222.9 million in sales
11 and excise taxes. Those eligible for but not enrolled in DACA contribute an
12 additional \$90.3 million bringing the total sales and excise tax contributions of
13 California's total DACA-eligible population to \$313.2 million.

14 ii. Those currently enrolled in DACA contribute \$41 million in state personal
15 income taxes. Those eligible for but not enrolled in DACA contribute an
16 additional \$8.3 million bringing the total personal income tax contribution of
17 California's total DACA-eligible population to \$49.3 million.

18 iii. Those currently enrolled in DACA contribute \$94.3 million in property taxes.
19 Those eligible for but not enrolled in DACA contribute an additional \$38.2
20 million bringing the total property tax contributions of California's total DACA-
21 eligible population to \$132.5 million.

22 iv. Santa Clara County has the twelfth largest DACA-eligible population of counties
23 nationwide. Approximately 15,000 Santa Clara residents are currently enrolled in
24 DACA.⁷ They contribute \$14.8 million in state taxes (personal income tax and
25 state sales tax) and \$12.4 million to local taxes (property taxes and local sales
26 taxes). An additional 13,700 are eligible but not enrolled bringing the total

27 _____
28 ⁷ "State and County Estimates of DACA-Eligible Populations," Migration Policy Institute,
<https://www.migrationpolicy.org/programs/data-hub/deferred-action-childhood-arrivals-daca-profiles>.

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DACA-eligible population to 28,700. The population that is eligible but not enrolled contributes \$5.4 million in state and \$5 million in local taxes.

Altogether, the total DACA-eligible population in Santa Clara County contributes \$20.2 million in state and \$17.4 million in local taxes.

b. In Maine, approximately 40 residents are currently enrolled in DACA. They contribute over \$67,600 in state and local taxes. An additional 60 residents are eligible for but not enrolled in DACA. They contribute over \$41,100 bringing the total contributions of the 100 DACA-eligible Maine residents to over \$108,700 in state and local taxes annually. If DACA protections were lost, their contributions would decrease by \$40,300 to \$68,400.

i. Those currently enrolled in DACA contribute \$32,000 in sales and excise taxes. Those eligible but not enrolled contribute an additional \$26,000 in sales and excise taxes bringing the total sales and excise tax contributions of Maine’s DACA-eligible population to \$58,000.

ii. Those currently enrolled in DACA contribute \$23,000 in state personal income taxes. Those eligible but not enrolled contribute an additional \$5,000 in personal income taxes bringing the total personal income tax contributions of Maine’s DACA-eligible population to \$28,000.

iii. Those currently enrolled in DACA contribute \$11,000 in property taxes. Those eligible but not enrolled contribute an additional \$9,000 in property taxes bringing the total property tax contributions of Maine’s DACA-eligible population to \$20,000.

c. In Maryland, approximately 8,100 residents are currently enrolled in DACA. They contribute \$18.1 million in state and local taxes. An additional 15,900 residents are eligible for but not enrolled in DACA. They contribute \$15.5 million bringing the total contributions of the 24,000 DACA-eligible Maryland residents to \$33.6 million in state and local taxes annually. If DACA protections were lost, their contributions would

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decrease by \$10.3 million to \$23.3 million.

- i. Those currently enrolled in DACA contribute \$7.5 million in sales and excise taxes. Those eligible but not enrolled contribute an additional \$8.5 million in sales and excise taxes bringing the total sales and excise tax contributions of Maryland’s DACA-eligible population to \$16 million in sales and excise taxes.
- ii. Those currently enrolled in DACA contribute \$7.4 million in state income taxes. Those eligible but not enrolled contribute an additional \$2.3 million in income taxes bringing the total state income tax contributions of Maryland’s DACA-eligible population to \$9.7 million.
- iii. Those currently enrolled in DACA contribute \$3.2 million in property taxes. Those eligible but not enrolled contribute an additional \$4.4 million in property taxes bringing the total property tax contributions of Maryland’s DACA-eligible population to \$7.6 million.

d. In Minnesota, approximately 5,550 residents are currently enrolled in DACA. They contribute \$10.8 million in state and local taxes. An additional 4,500 residents are eligible for but not enrolled in DACA. They contribute \$3.3 million bringing the total contributions of the 10,000 DACA-eligible residents to \$14.1 million in state and local taxes annually. If DACA protections were lost, their contributions would decrease by \$6.8 million to \$7.3 million.

- i. Those currently enrolled in DACA contribute \$5.5 million in sales and excise taxes. Those eligible but not enrolled contribute an additional \$2 million bringing the total sales and excise tax contributions of Minnesota’s DACA-eligible population to \$7.5 million.
- ii. Those currently enrolled in DACA contribute \$3.5 million in state income taxes. Those eligible but not enrolled contribute an additional \$640,000 bringing the total state income tax contributions of Minnesota’s DACA-eligible population to \$4.1 million.

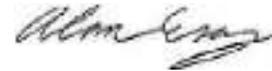
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iii. Those currently enrolled in DACA contribute \$1.8 million in property taxes. Those eligible but not enrolled contribute an additional \$671,000 bringing the total property tax contributions of Minnesota’s DACA-eligible population to just under \$2.5 million.

14. For all the foregoing reasons, in our professional opinions, rescinding DACA would reduce the state and local tax contributions of the population eligible for DACA by at least half. This would hamper state and local revenues and hurt their economies.

We declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of our knowledge.

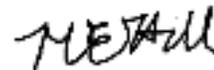
Executed on October 26, 2017, at Washington, DC.



Alan Essig



Meg Wiehe



Misha Hill

EXHIBIT A

Alan Essig
5914 Highgate Avenue
East Lansing, Michigan 48823
770-402-4630
aessig1959@gmail.com

WORK EXPERIENCE

Executive Director **2017-Present**
Institute on Taxation and Economic Policy

The Institute on Taxation and Economic Policy (ITEP) is a non-profit, non-partisan research organization that provides timely, in-depth analyses on the effects of federal, state, and local tax policies. Responsibilities include building and managing an annual budget of over \$1.8 million and a staff of twelve, including analysts, communication staff, and administrative staff.

Principal **2016-2017**
Essig Gehl Consulting

Essig Gehl Consulting worked with non-profits to maximize their policy and advocacy impact through high-quality policy research and effective advocacy strategies. Responsibilities included the research and writing of policy reports as well as developing educational materials for a public education campaign.

Executive Director **2015**
Michigan Consumers for Healthcare

Michigan Consumers for Healthcare (MCH) was a nonprofit organization with a statewide mission focused on making affordable, quality healthcare a reality for all in Michigan. Upon taking over leadership of MCH it became apparent that the organization was not financially viable. Working with the Board of Directors, and to save the underlying mission of MCH, it was decided to merge MCH with an organization (Michigan League for Public Policy (MLPP)) with a similar mission and a stronger financial base. Working with the Executive Director and board of MLPP and the board of MCH, the merger was successfully completed by January 1, 2016.

Founding Executive Director **2004-2015**
Georgia Budget and Policy Institute

The Georgia Budget and Policy Institute (GBPI) is an independent, nonprofit, nonpartisan organization that engages in research and education on the fiscal and economic health of the state of Georgia. GBPI studies tax and budget issues with an emphasis on the impact on low and moderate income Georgians. Areas of policy focus include healthcare (Medicaid, public health, implementation of Affordable Care Act), education (early childhood, K-12, higher education), anti-poverty and social safety net, economic development, and tax policy. Responsibilities included building and managing an annual budget of over \$1 million and a staff

of ten, including policy analysts, communication staff, development staff, and administrative staff.

Specific responsibilities included:

- Establishment of GBPI's research priorities and agenda.
- Researched and wrote policy reports and briefs concerning overall tax and budget policy.
- Oversaw organizational development and strategic planning, including capacity building.
- Worked with Development Director and appropriate Board committee to craft GBPI's long-term and annual development plan. Cultivated relationships with foundation representatives and other major donors, including foundations, corporations, and individuals.
- Write and delivered speeches and presentations in various venues, as well as represented GBPI at conferences and other relevant functions.
- In conjunction with Communications Director, implemented communications strategic plan by serving as main press spokesperson for organization and writing Op-Ed's and blogs.
- Built and maintained relationships with various politicians, policymakers, opinion leaders, and others involved in the legislative process. Wrote and presented legislative analysis, critique, and testimony.
- Built and maintained relationships with advocacy partner organizations, as well as coalitions.
- Ensured effective involvement of Board of Directors and brought appropriate matters before the Board for input, review, and/or approval.

Senior Research Associate

2000-2004

Georgia State University
Andrew Young School of Policy Studies
Fiscal Research Center

Researched and prepared public policy research reports and briefs in regards to taxes, state budget policy and process, economic development, Medicaid and other social welfare issues.

Committee Aide

2003

Georgia House of Representatives Appropriations Committee

During 4-month legislative session was loaned as staff to Georgia House of Representatives. Responsibilities included advising Speaker and Chair of Appropriations Committee as to policy and budgetary issues in regards to state budget with emphasis on the Department of Community Health and the Department of Human Resources.

Deputy Policy Director

2001-2002

Office of the Governor
State of Georgia

As loaned senior staff to the Governor, helped formulate policy in the areas of health and human services, including child welfare, public health, mental health, developmental disabilities, aging, Medicaid, economic development, taxes, and technology. Provided oversight to the Departments of Human Resources, Community Health, Industry Trade and Tourism, Community Affairs, Labor, and the Georgia Technology Authority.

Committee Aide
Georgia State Senate Appropriations Committee

2000 and 2001

During 4 month legislative session in 2000 and 2001 was loaned as staff to Georgia State Senate. Responsibilities included advising Lt. Governor and Chair of Appropriations Committee as to policy and budgetary issues in regards to state budget with a specific emphasis on the Department of Community Health and the Department of Human Resources.

Assistant Commissioner
Office of Policy and Government Services
Georgia Department of Human Resources (DHR)

1997-1999

The Office of Policy and Government Services consists of the Office of Communications, Office of Fraud and Abuse, Office of Legal Services, and Office of Constituent Services and Intergovernmental Relations. Provided overall supervision to directors of the Offices and responsible for over 120 employees.

Legislative liaison to Georgia General Assembly and managed DHR legislation. Worked with the Commissioner and Division Directors to define the Department's position on legislation. Represented DHR with legislators and at legislative committee meetings. Liaison for DHR with Governor's Office on policy and legislative matters.

Assisted the Commissioner on policy related areas. Identified the issues involved for each policy area and worked on strategies to resolve the issues.

Director, Deputy Director and Policy Analyst
Georgia State Senate Research Office

1993 -1997

Deputy Director (1996 - 1997) assisted the Director in the day to day operations of the office and staffed the Appropriations Committee.

Director during the 1996 legislative session, responsible for the day to day operations of office with staff of 10, and staffed the Appropriations Committee.

Policy Analyst (1993 - 1995) conducted research and analysis for the following committees: Appropriations, Finance and Public Utilities, and Retirement. Advised the Lieutenant Governor and the Chair of Appropriations Committee as to policy and budgetary issues in regards to state budget.

Deputy Director
Budgetary Responsibility Oversight Committee (BROC)

1995

Asked by Lieutenant Governor to serve in the newly created BROC office. BROC was created to assist the Governor's Office of Planning and Budget and the Department of Audits in the performance of legislatively required program and policy evaluations. Assisted the Director in hiring of initial staff and organizing initial evaluation projects.

Operations Analyst

1989 - 1993

Georgia Department of Labor

Performed evaluations of the effectiveness of programs funded under the Job Training Partnership Act including program design, program participation, coordination of services and impact of program policy. Designed mechanism to analyze state's return on investment for job training programs, created internal tracking system used to monitor job training programs, and managed ongoing \$2.5 million contract for survey research.

Policy Consultant

1991

Governor's Commission on Effectiveness and Economy in Government

Selected by the Commissioner of the Department of Labor to comply with the Governor's directive to serve on the Governor's Commission as Policy Consultant for the Economic Development Task Force. Recommended organizational and policy changes to save over \$2 million, provided implementation plan to reorganize the Governor's Economic Development Council, and provided analytical and administrative support to task force.

Legislative Budget Analyst

1986 - 1989

New York State Senate Finance Committee (Minority Staff)

Analyzed budgetary and legislative issues for the New York State Departments of Labor, Civil Service, Economic Development and the Public Employees' Pension System. Analyzed the New York City budget and made recommendations to Senate Minority Leader regarding state aid and tax issues affecting New York City. Assisted Senators and staff on agency appropriations, grants in aid, and state and federal legislation.

EDUCATION

Masters of Public Administration

1985

Rockefeller College of Public Affairs and Policy
State University of New York at Albany
Major: Public Management

Bachelor of Arts

1981

State University of New York at Buffalo
Major: History

AWARDS

Named one of the 100 Most Influential Georgians by *Georgia Trend Magazine* in 2011, 2012, 2013, and 2014.

EXHIBIT B

MEG WIEHE

9 2 4 Green Street, Durham, NC 2 7 7 0 1
(6 1 7) 2 3 0 - 3 6 2 4 • m e g w i e h e @ g m a i l . c o m

EDUCATION

Maxwell School of Syracuse University, *Masters of Public Administration*, June 2006

University of Virginia, *Bachelor of Arts, Anthropology*, May 1998. *Graduated with High Distinction*

WORK EXPERIENCE

Institute on Taxation and Economic Policy (ITEP)

Durham, NC/Washington, DC

Deputy Director (2016-present); State Tax Policy Director (2010-2016t)

- Responsible for planning, managing, and implementing ITEP's state and federal tax policy programmatic work. This includes setting organizational goals and priorities, tracking policy developments in all 50 states and the federal level, ensuring ITEP is informing and influencing key tax debates, and building and maintaining key partnerships.
- Serve as a spokesperson for ITEP, elevating the organization's profile through media interviews, presentations, and meetings with policymakers and funders.
- Along with Executive Director, oversee ITEP's fundraising program including grant proposal and report writing, maintaining relationships with funders, and cultivating new donors.
- Directly manage and support six staff members.
- Authored numerous ITEP reports on topics including tax credits for workers and families, documenting the taxes paid by undocumented immigrants, closing tax loopholes, promoting progressive revenue raising options, and comprehensive state and local tax reform. Co-author on ITEP's flagship report, *Who Pays? A Distributional Analysis of the Tax Systems in All Fifty States*.

North Carolina Justice Center

Raleigh, NC

Senior Policy Analyst/Outreach Director; NC Budget and Tax Center (2006-2010)

- Promoted progressive fiscal policy through coalition building, media outreach, lobbying, and public presentations
- Conducted research and wrote publications on state and local fiscal and economic policy
- Co-coordinator of statewide revenue coalition, Together NC, and led successful campaign to enact a state Earned Income Tax Credit in 2007

Boston Museum Project

Boston, MA

Special Projects Coordinator/Project Coordinator (2002-2005)

- Coordinated development operation laying ground work for \$180 million capital campaign through prospect research, donor cultivation, and special events
- Led political and communications strategy including securing a site for project, producing newsletter, managing website content, and regular correspondence with project constituents
- Supervised two staff, conducted weekly staff meetings, and managed high-level Board of Directors

MASSPIRG

Amherst and Boston, MA

Massachusetts Community Water Watch AmeriCorps Program Director (2000-2002)

- Recruited, trained, and supervised 13 full-time AmeriCorps members
- Built collaborative relationships with non-profits and state and local government leaders
- Revised program mission, developed five year strategic plan, and established performance objectives

Mass Student PIRG Campus Organizer (1998-2000)

- Recruited, trained, and supervised college students and community volunteers to lead national, state, and local social change campaigns

EXHIBIT C

Misha E. Hill

(C) 609.234.5931

804 Green St., Apt D-2, Durham, NC 27701

hill.misha@gmail.com

EDUCATION

Master of Public Policy Candidate, concentration in Health Policy May 2016
The George Washington University | Washington, DC

- ❖ Women's Leadership Fellow: A highly selective leadership program

B.A. Hispanic Studies, concentrations in Modern Middle East Studies and Theatre Arts May 2010
University of Pennsylvania | Philadelphia, PA

- ❖ Academic Research: Critical analysis of Spanish literature

POLICY RESEARCH EXPERIENCE

State Policy Fellow Sept 2016—Present

Institute on Taxation and Economic Policy | Durham, NC

- ❖ Drafted blog posts on various state tax policy issues including taxes paid by undocumented immigrants, soda taxes, and state budgets
- ❖ Researched and drafted reports in collaboration with senior staff on various state policy issues including taxes paid by undocumented immigrants and soda taxes
- ❖ Analyzed existing and proposed state tax policies
- ❖ Tracked state legislative action related to tax policies

Family Income Support Research Assistant Nov 2015—Sept 2016

Center on Budget and Policy Priorities | Washington, DC

- ❖ Compiled a weekly email for distribution to state and national advocates on the latest news and research related to TANF policies
- ❖ Collected national and state level TANF statistics, including annual spending, caseloads, and applications, from HHS and state agencies to inform internal analyses and future work
- ❖ Tracked state and federal legislative action related to income support programs

Women's Health Policy Internship Jun 2015—Aug 2015

The Henry J. Kaiser Family Foundation | Washington, DC

- ❖ Peter G. Peterson Foundation Fiscal Policy Intern
- ❖ Compiled comprehensive database of Medicaid family planning expansion programs to inform future research
- ❖ Performed qualitative research for a fact sheet on financing of maternity care in the US

Family Income Support Internship Sep 2014—May 2015

Center on Budget and Policy Priorities | Washington, DC

- ❖ Co-authored a report on state General Assistance programs and updated background research
- ❖ Drafted briefs for an advocacy tool kit distributed to 80 participants at a conference on expanding TANF work programs
- ❖ Modeled alternatives of changes to TANF policies displaying the effects on families' incomes
- ❖ Compiled data on TANF policies into summaries, fact sheets, graphs, and graphics for CBPP website used by advocates, experts, and civil society
- ❖ Monitored and summarized media on state and federal legislative and policy changes to income support programs
- ❖ Performed literature reviews of prior research related to various income support strategies

LANGUAGES AND TECHNOLOGY SKILLS

Language: Spanish, Fluent in written and oral

Technology: SPSS and STATA (academic training), Adobe Illustrator, WordPress, MailChimp, and The Raiser's Edge

EXHIBIT M

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

MARTÍN JONATHAN BATALLA VIDAL,
ANTONIO ALARCON, ELIANA
FERNANDEZ,
CARLOS VARGAS, MARIANO
MONDRAGON, and CAROLINA FUNG FENG,
on behalf of themselves and all other similarly
situated individuals, and MAKE THE ROAD
NEW YORK, on behalf of itself, its members, its
clients, and all similarly situated individuals,

Plaintiffs,

v.

ELAINE C. DUKE, Acting Secretary,
Department
of Homeland Security, JEFFERSON
BEAUREGARD SESSIONS III, Attorney
General of the United States, and DONALD J.
TRUMP, President of the United States,

Defendants.

CIVIL ACTION NO. 16-cv-4756

**DEFENDANT’S OBJECTIONS
AND RESPONSES TO
PLAINTIFFS’ FIRST SET OF
REQUESTS FOR ADMISSION TO
JEFFERSON BEAUREGARD
SESSIONS III, ATTORNEY
GENERAL OF THE UNITED
STATES**

(Garaufis, J.)
(Orenstein, M.J.)

Pursuant to Federal Rules of Civil Procedure 26 and 36 and the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York, in accordance with the Order of the Honorable James Orenstein, U.S. Magistrate Judge, dated September 27, 2017, Defendant Jefferson Beauregard Sessions III, in his official capacity as the Attorney General of the United States (“Defendant”), by and through counsel, provides the following Objections and Responses to Plaintiffs’ First Set of Requests for Admission. Defendant’s Objections and Responses are based on information known to Defendant at this time, and are made without prejudice to additional objections should Defendant subsequently identify additional grounds for objection. The information submitted herewith is being provided in accordance with the Federal

Rules of Civil Procedure, which generally permit discovery of matters not privileged that are relevant to the claims or defenses in this civil action and proportional to the needs of the case. Fed. R. Civ. P. 26(b)(1). Accordingly, Defendant does not, by providing such information, waive any objection to its admissibility on the grounds of relevance, materiality, privilege, competency, or any other appropriate ground. Defendant reserves the right to amend, supplement, or alter these objections and responses at any time.

OBJECTIONS WHICH APPLY TO ALL REQUESTS FOR ADMISSION

1. Separate and apart from the specific objections set forth below, Defendant objects to any discovery taking place in this case to the extent such discovery is brought pursuant to claims purportedly under the Administrative Procedure Act, as resolution of any such claims should be based upon the administrative record compiled by the Department of Homeland Security.

2. Defendant objects to any discovery taking place before resolution of Defendants' forthcoming dispositive motions.

3. Defendant objects to Plaintiffs' Requests for Admission to the extent that they seek (a) attorney work product; (b) communications protected by the attorney-client privilege; (c) information protected by the deliberative-process privilege, the joint defense privilege, common interest privilege, or law enforcement privilege; (d) material the disclosure of which would violate legitimate privacy interests and expectations of persons not party to this litigation; (e) information protected by any form of executive privilege; or (f) any other applicable privilege or protection. Defendant objects to Plaintiffs' Requests for Admission to the extent they assume that certain types of information exist. By providing these objections, Defendant does not hereby imply that information exists that is responsive to Plaintiffs' Requests for Admission.

4. Each and every response contained herein is subject to the above objections, which apply to each and every response, regardless of whether a specific objection is interposed in a specific response. The making of a specific objection in response to a particular request is not intended to constitute a waiver of any other objection not specifically referenced in the particular response.

5. Defendant specifically reserves the right to make further objections as necessary to the extent that additional issues arise as to the meaning of and/or information sought by discovery.

6. Defendants object to the extent that any request is contrary to any future and further order(s) of the Court.

OBJECTIONS TO DEFINITIONS

7. Defendant objects to the inclusion of definitions for any term not relied on in these Requests for Admission. Any requirement that Defendants respond to such definitions in the abstract is not proportional to the needs of the case and the burden of such a response outweighs its likely benefit, which is none. Defendants do not hereby waive any future objection to the definition of such terms, or waive the right to employment of Defendants' own definition of such terms. Defendant objects to the definition of "Defendant" as overly broad and outside of the scope of discovery. Fed. R. Civ. P. 26(b)(1). Defendant interprets the definition of "Defendant" in the substance of these Requests for Admission and responses to mean Attorney General Jefferson B. Sessions, III, in his official capacity, as well as the following components of the Department of Justice: the Office of the Attorney General (OAG), the Office of the Deputy Attorney General (ODAG), the Office of the Associate Attorney General (OASG), the Office of

Legal Counsel (OLC), the Civil Rights Division (CRT), the Civil Division (CIV), and the Office of the Solicitor General (OSG). The components listed are relevant as those in which searches for responsive information relevant to decisions about the exercise of DHS's prosecutorial discretion in the form of deferred action could conceivably be proportional to the likelihood of locating such information and its likely benefit to the litigation.

8. Defendant object to the definition of "Defendants" as overly broad and outside of the scope of discovery. Fed. R. Civ. P. 26(b)(1). Defendant interpret the definition of Defendants to mean Attorney General Jefferson B. Sessions, III, in his official capacity, as well as the following components of the Department of Justice: the Office of the Attorney General (OAG), the Office of the Deputy Attorney General (ODAG), the Office of the Associate Attorney General (OASG), the Office of Legal Counsel (OLC), the Civil Rights Division (CRT), the Civil Division (CIV), the Office of the Solicitor General (OSG); and Elaine C. Duke, Acting Secretary of Homeland Security (DHS), in her official capacity, as well as the following components of DHS: Headquarters, U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE) and U.S. Citizenship and Immigration Services (USCIS). The components listed are relevant as those in which searches for responsive information relevant to decisions about the exercise of DHS's prosecutorial discretion in the form of deferred action could conceivably be proportional to the likelihood of locating such information and its likely benefit to the litigation. Information from the Executive Office of the President will not be provided in response to these Requests for Admission. *See Cheney v. U.S. District Court*, 542 U.S. 367, 388 (2004).

9. Defendant objects to the definition of “date” as overbroad and unduly burdensome. Defendant interprets date to mean “the exact date, month, and year, if ascertainable.” To the extent an approximation is required, it will be provided and will be designated as such. The approximation will not include a description about “relationship to other events.”

10. Defendant objects to the definition of “identify” in reference to an individual as improperly requiring the disclosure of material the disclosure of which would violate legitimate privacy interests and expectations of persons not party to this litigation.

11. Defendant objects to the definition of “identify” in reference to a document because that definition is unduly burdensome and going beyond the requirements of Fed. R. Civ. P. 34 and Local Rule 26.3(c)(4).

12. Defendant objects to the definition of “Department of Homeland Security” as overly broad. Defendant will construe Department of Homeland Security to mean the relevant offices within the following relevant components of the Department of Homeland Security: Headquarters, CBP, ICE and USCIS, which are the components of DHS which are likely to have responsive information.

13. Defendant objects to the definition of “DHS employee” or “DHS employees” as overly broad. DHS employee or employees will be construed to mean any current or former employee, in his or her official capacity as a DHS employee, of a relevant office within a relevant component of DHS: Headquarters, CBP, ICE, and USCIS.

14. Defendant objects to the definition of “DOJ employee” or “DOJ employees” as overly broad. DOJ employee or employees will be construed to mean any

current or former employee, in his or her official capacity as a DOJ employee, of OAG, ODAG, OASG, OLC, OSG, CRT, CIV, or ExecSec.

15. Defendant objects to the definition of “USCIS employee” or “USCIS employees” as overly broad. USCIS employee or employees will be construed to mean any current or former employee, in his or her official capacity as a USCIS employee, of a relevant office within USCIS.

16. Defendant objects to the definition of “Trump Administration” on the basis that it is overbroad. Defendant will interpret Trump Administration to mean President Donald Trump in his official capacity as President, as well as any other current or former employee, in his/her official capacity, of the Executive Office of the President since January 20, 2017.

17. Defendant objects to the definition of the phrase “DACA Program” to the extent the definition fails to describe the exercise of DHS’s prosecutorial discretion in the form of deferred action afforded by the DACA policy, *i.e.*, the deferral of immigration enforcement action authorized by law for a temporary period.

18. Defendant objects to the definition of the phrase “DAPA Program” to the extent the definition fails to describe the exercise of DHS’s prosecutorial discretion in the form of deferred action afforded by the DAPA policy had it been implemented, *i.e.*, the deferral of immigration enforcement action authorized by law for a temporary period.

19. Defendant objects to the definition of the phrase “expanded-DACA Program” to the extent the definition fails to describe the exercise of DHS’s prosecutorial discretion in the form of deferred action afforded by the DACA policy, *i.e.*, the deferral of immigration enforcement action authorized by law for a temporary period.

20. Defendant objects to the definition of “DACA termination” as misleading to the extent it includes the actions of the Department of Justice as it relates to the DACA policy, which was administered by another agency. Defendant also objects to the extent the definition purports to “include all actions within the defendants’ agencies to implement the end of DACA,” regardless of context or when those activities may have taken place.

21. Defendant objects to the inclusion of a definition of “present for” as vague in its inclusion of “telephone presence” and “any form of electronic presence.” Defendant will interpret the term “present for” to mean “a participant in a meeting, conversation, or discussion, whether in person, by telephone, by videoconference, or by other live communications method.”

22. Defendant objects to the definition of “discussion” or “discussions” as vague and overbroad to the extent it includes “any communication” in addition to the specified methods set forth in the definition.

23. Defendant objects to the definition of “relating to” and “relate to” as overly broad, particularly in their inclusion of the terms “Setting forth,” “mentioning,” and “referring to.” Defendant will construe “relate to” or “relating to” based on the context of potentially responsive documents to include only those documents “describing,” “discussing,” “commenting upon,” “supporting” or “contradicting” the topic in question to a sufficient extent as to shed light on the parties’ claims or defenses.

24. Defendant objects to the definitions in paragraphs 23-25 as overly broad. Defendant will interpret the requests in accordance with the definitions in Local Rule 26.3(d), or, for terms not defined in the Local Rules, using the plain meaning of the words included in the request.

OBJECTIONS TO INSTRUCTIONS

25. Defendant objects to Instructions 1-2 to the extent it purports to impose requirements beyond those set forth in Fed. R. Civ. P. 36.

26. Defendant objects to Instruction No. 7 to the extent it purports to require Defendant to produce “responsive documents.”

**OBJECTIONS AND RESPONSES TO PLAINTIFFS’
FIRST SET OF REQUESTS FOR ADMISSION**

REQUEST NO. 1: Admit that Attorney General Sessions and Acting Secretary Duke jointly made the decision to terminate the DACA program.

OBJECTION TO REQUEST NO. 1: Defendant incorporates by reference the above objections to the definitions and instructions.

RESPONSE TO REQUEST NO. 1: Defendant denies RFA No. 1.

REQUEST NO. 2: Admit that Attorney General Sessions and Acting Secretary Duke jointly made the decision to announce the DACA termination on September 5, 2017.

OBJECTION TO REQUEST NO. 2: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as vague and undefined to the extent it can be construed to apply either to the decision to announce the DACA termination or to announce that termination on September 5, 2017.

RESPONSE TO REQUEST NO. 2: Defendant denies RFA No. 2.

REQUEST NO. 3: Admit that Attorney General Sessions and Acting Secretary Duke jointly made the decision for USCIS to stop accepting DACA applications from individuals without valid DACA as of September 5, 2017.

OBJECTION TO REQUEST NO. 3: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request to the extent that it uses terms, such as “applications,” that do not apply to a request for DACA which is not an immigration benefit, but rather an exercise of prosecutorial discretion to defer immigration enforcement action.

RESPONSE TO REQUEST NO. 3: Defendant denies RFA No. 3.

REQUEST NO. 4: Admit that Attorney General Sessions and Acting Secretary Duke jointly made the decision for USCIS to stop accepting DACA renewals from individuals whose DACA will expire on or after March 6, 2018.

OBJECTION TO REQUEST NO. 4: Defendant incorporates by reference the above objections to the definitions and instructions.

RESPONSE TO REQUEST NO. 4: Defendant denies RFA No. 4.

REQUEST NO. 5: Admit that Attorney General Sessions and Acting Secretary Duke jointly made the decision for USCIS to set a deadline of October 5, 2017, for DACA renewal applications.

OBJECTION TO REQUEST NO. 5: Defendant incorporates by reference the above objections to the definitions and instructions.

RESPONSE TO REQUEST NO. 5: Defendant denies RFA No. 5.

REQUEST NO. 6: Admit that the DACA termination decision is not under continued consideration by DOJ.

OBJECTION TO REQUEST NO. 6: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to the phrase “continued consideration” as vague and undefined, as well as calling for a legal conclusion. Defendant objects to the request to the extent that it assumes facts not in evidence as it implies that DOJ was responsible for the DACA termination decision or had otherwise once considered it.

RESPONSE TO REQUEST NO. 6: Defendant denies RFA No. 6.

REQUEST NO. 7: Admit that the DACA termination reflects the end of the agency decision-making process concerning the DACA program.

OBJECTION TO REQUEST NO. 7: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to the request to the extent it calls for a legal conclusion. Defendant objects to the request to as vague and undefined as, even with the rescission of the DACA policy, there are numerous agency decisions that will continue to need to be made regarding the DACA policy. Defendant objects to the request to the extent that it assumes facts not in evidence as it implies that DOJ engaged in an agency decision-making process concerning the DACA program.

RESPONSE TO REQUEST NO. 7: Defendant denies RFA No. 7.

REQUEST NO. 8: Admit that Acting Secretary Duke’s September 5, 2017 memorandum requires DHS to deny all DACA applications from individuals who do not hold DACA as of September 5, 2017.

OBJECTION TO REQUEST NO. 8: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request to the extent that it conflates the DACA policy and deferred action generally. Defendant objects to this request to the extent that it uses terms, such as “applications,” that do not apply to a request for DACA which is not an immigration benefit, but rather an exercise of prosecutorial discretion to defer immigration enforcement action.

RESPONSE TO REQUEST NO. 8: Defendant denies RFA No. 8, except admits that the parameters of the DACA rescission, including all pertinent deadlines, are set forth in the September 5, 2017 DHS Memorandum.

REQUEST NO. 9: Admit that Acting Secretary Duke’s September 5, 2017 memorandum requires DHS to deny all DACA renewal applications after October 5, 2017.

OBJECTION TO REQUEST NO. 9: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request to the extent that it conflates the DACA policy and deferred action generally. Defendant objects to this request as vague and undefined to the extent that it fails to distinguish between decisions made after October 5, 2017 for renewal requests submitted before October 5, 2017 and decisions made after October 5, 2017 for renewal requests submitted after October 5, 2017. Defendant objects to this request to the extent that it uses terms, such as “applications,” that do not apply to a request for DACA which is not an immigration benefit, but rather an exercise of prosecutorial discretion to defer immigration enforcement action.

RESPONSE TO REQUEST NO. 9: Defendant denies RFA No. 9, except admits that the parameters of the DACA rescission, including all pertinent deadlines, are set forth in the September 5, 2017 DHS Memorandum; and further admits that on October 3, 2017, Acting Secretary Duke stated that “[w]ith respect to the devastation of Hurricane Maria and the lack of communications and infrastructure for a prolonged period of time, I have directed USCIS to consider on a case-by-case basis DACA requests received from U.S. Virgin Islands and Puerto Rico residents” (<https://www.dhs.gov/news/2017/10/03/department-homeland-security-acting-secretary-elaine-duke-reminds-eligible-daca>) (last visited October 18, 2017).

REQUEST NO. 10: Admit that Acting Secretary Duke’s September 5, 2017 memorandum limits DACA renewals to those individuals with DACA as of September 5, 2017 whose DACA would expire between September 6, 2017 and March 5, 2018.

OBJECTION TO REQUEST NO. 10: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request to the extent that it conflates the DACA policy and deferred action generally.

RESPONSE TO REQUEST NO. 10: Defendant denies RFA No. 10, except admits that the parameters of the DACA rescission, including all pertinent deadlines, are set forth in the September 5, 2017 DHS Memorandum.

REQUEST NO. 11: Admit that DACA recipients are immediately subject to apprehension and deportation upon expiration of their DACA status.

OBJECTION TO REQUEST NO. 11: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as vague, undefined, and misleading to the extent that it implies that the expiration of DACA provides, by itself, a basis for an individual to be apprehended and/or deported. Defendant objects to the extent the request implies that no DACA recipient could have received a lawful immigration status prior to the expiration of his or her DACA and thus not be deportable.

RESPONSE TO REQUEST NO. 11: Defendant denies RFA No. 11, except admits that the parameters of the DACA rescission are set forth in the September 5, 2017 DHS Memorandum.

REQUEST NO. 12: Admit that an individual who loses DACA status is no longer eligible to apply for employment authorization pursuant to 8 C.F.R. § 274a.12(c)(14).

OBJECTION TO REQUEST NO. 12: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request to the extent it calls for a legal conclusion. Defendant also objects to this request to the extent it conflates DACA with deferred action.

RESPONSE TO REQUEST NO. 12: Defendant denies RFA No. 12, except admits that the parameters of the DACA rescission are set forth in the September 5, 2017 DHS Memorandum.

REQUEST NO. 13: Admit that the DACA termination is likely to have a more than de minimis economic impact on at least one small non-profit.

OBJECTION TO REQUEST NO. 13: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “de minimis economic impact” or “small non-profit.” Defendant objects to this request to the extent it calls for speculation.

RESPONSE TO REQUEST NO. 13: After a reasonable inquiry, Defendant lacks knowledge or information sufficient to truthfully admit or deny RFA No. 13, and on this basis, denies.

REQUEST NO. 14: Admit that the DACA termination is likely to have a more than de minimis economic impact on at least 100 small non-profits.

OBJECTION TO REQUEST NO. 14: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “de minimis economic impact” or “small non-profits.” Defendant objects to this request to the extent it calls for speculation.

RESPONSE TO REQUEST NO. 14: After a reasonable inquiry, Defendant lacks knowledge or information sufficient to truthfully admit or deny RFA No. 14, and on this basis, denies.

REQUEST NO. 15: Admit that the DACA termination is likely to have a more than de minimis economic impact on at least 500 small non-profits.

OBJECTION TO REQUEST NO. 15: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “de minimis economic impact” or “small non-profit.” Defendant objects to this request to the extent it calls for speculation.

RESPONSE TO REQUEST NO. 15: After a reasonable inquiry, Defendant lacks knowledge or information sufficient to truthfully admit or deny RFA No. 15, and on this basis, denies.

REQUEST NO. 16: Admit that the DACA termination is likely to have a more than de minimis economic impact on at least one small business.

OBJECTION TO REQUEST NO. 16: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “de minimus economic impact” or “small business.” Defendant objects to this request to the extent it calls for speculation.

RESPONSE TO REQUEST NO. 16: After a reasonable inquiry, Defendant lacks knowledge or information sufficient to truthfully admit or deny RFA No. 16, and on this basis, denies.

REQUEST NO. 17: Admit that the DACA termination is likely to have a more than de minimis economic impact on at least 100 small businesses.

OBJECTION TO REQUEST NO. 17: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “de minimis economic impact” or “small businesses.” Defendant objects to this request to the extent it calls for speculation.

RESPONSE TO REQUEST NO. 17: After a reasonable inquiry, Defendant lacks knowledge or information sufficient to truthfully admit or deny RFA No. 17, and on this basis, denies.

REQUEST NO. 18: Admit that the DACA termination is likely to have a more than de minimis economic impact on at least 1000 small businesses.

OBJECTION TO REQUEST NO. 18: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “de minimis economic impact” or “small business.” Defendant objects to this request to the extent it calls for speculation.

RESPONSE TO REQUEST NO. 18: After a reasonable inquiry, Defendant lacks knowledge or information sufficient to truthfully admit or deny RFA No. 18, and on this basis, denies.

REQUEST NO. 19: Admit that the DACA termination is likely to have a more than de minimis economic impact on at least 5000 small businesses.

OBJECTION TO REQUEST NO. 19: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “de minimis economic impact” or “small business.” Defendant objects to this request to the extent it calls for speculation.

RESPONSE TO REQUEST NO. 19: After a reasonable inquiry, Defendant lacks knowledge or information sufficient to truthfully admit or deny RFA No. 19, and on this basis, denies.

REQUEST NO. 20: Admit that the DACA termination is likely to have a more than de minimis economic impact on at least one small governmental jurisdiction.

OBJECTION TO REQUEST NO. 20: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory

Flexibility Act. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “de minimus economic impact” or “small governmental jurisdiction.” Defendant objects to this request to the extent it calls for speculation.

RESPONSE TO REQUEST NO. 20: After a reasonable inquiry, Defendant lacks knowledge or information sufficient to truthfully admit or deny RFA No. 20, and on this basis, denies.

REQUEST NO. 21: Admit that prior to September 5, 2017, DOJ [(the Department of Justice)] did not evaluate the economic impact of terminating DACA on small non-profits.

OBJECTION TO REQUEST NO. 21: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “small non-profits.” Defendant objects to the request as assuming facts not in evidence to the extent it infers that DOJ was responsible for the termination of DACA.

RESPONSE TO REQUEST NO. 21: Defendant admits RFA No. 21, as the decision to rescind DACA was made by DHS, not DOJ.

REQUEST NO. 22: Admit that prior to September 5, 2017, DOJ did not evaluate the economic impact of terminating DACA on small businesses.

OBJECTION TO REQUEST NO. 22: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “small businesses.” Defendant objects to the request as assuming facts not in evidence to the extent it infers that DOJ was responsible for the termination of DACA.

RESPONSE TO REQUEST NO. 22: Defendant admits RFA No. 22, as the decision to rescind DACA was made by DHS, not DOJ.

REQUEST NO. 23: Admit that prior to September 5, 2017, DOJ did not evaluate the economic impact of terminating DACA on small governmental jurisdictions.

OBJECTION TO REQUEST NO. 23: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “small governmental jurisdictions.” Defendant

objects to the request as assuming facts not in evidence to the extent it infers that DOJ was responsible for the termination of DACA.

RESPONSE TO REQUEST NO. 23: Defendant admits RFA No. 23, as the decision to rescind DACA was made by DHS, not DOJ.

REQUEST NO. 24: Admit that prior to September 5, 2017, DOJ did not consider regulatory alternatives to the DACA termination that would reduce the economic impact on small non-profits.

OBJECTION TO REQUEST NO. 24: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request to the extent it implies that Defendant was required to consider regulatory alternatives to the action being challenged in this lawsuit. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “small non-profits.” Defendant objects to the request as assuming facts not in evidence to the extent it infers that DOJ was responsible for the termination of DACA.

RESPONSE TO REQUEST NO. 24: Defendant admits RFA No. 24, as the decision to rescind DACA was made by DHS, not DOJ.

REQUEST NO. 25: Admit that prior to September 5, 2017, DOJ did not consider regulatory alternatives to the DACA termination that would reduce the economic impact on small businesses.

OBJECTION TO REQUEST NO. 25: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request to the extent it implies that Defendant was required to consider regulatory alternatives to the action being challenged in this lawsuit. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “small businesses.” Defendant objects to the request as assuming facts not in evidence to the extent it infers that DOJ was responsible for the termination of DACA.

RESPONSE TO REQUEST NO. 25: Defendant admits RFA No. 25, as the decision to rescind DACA was made by DHS, not DOJ.

REQUEST NO. 26: Admit that prior to September 5, 2017, DOJ did not consider regulatory alternatives to the DACA termination that would reduce the economic impact on small governmental jurisdictions.

OBJECTION TO REQUEST NO. 26: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling

for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request to the extent it implies that Defendant was required to consider regulatory alternatives to the action being challenged in this lawsuit. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “small governmental jurisdictions.” Defendant objects to the request as assuming facts not in evidence to the extent it infers that DOJ was responsible for the termination of DACA.

RESPONSE TO REQUEST NO. 26: Defendant admits RFA No. 26, as the decision to rescind DACA was made by DHS, not DOJ.

REQUEST NO. 27: Admit that prior to September 5, 2017, Attorney General Sessions did not certify that the DACA termination would not have a significant economic impact on a substantial number of small non-profits, small businesses, or small governmental jurisdictions.

OBJECTION TO REQUEST NO. 27: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request to the extent it implies that Defendant was required to “certify” as set forth in the request. Defendant objects to the request as being compound and confusing. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “small non-profits,” “small businesses,” or “small governmental jurisdictions.” Defendant objects to the request as assuming facts not in evidence to the extent it infers that DOJ was responsible for the termination of DACA.

RESPONSE TO REQUEST NO. 27: Defendant admits RFA No. 27, as the decision to rescind DACA was made by DHS, not DOJ.

REQUEST NO. 28: Admit that prior to September 5, 2017, DOJ did not consider whether one month was a sufficient time for small non-profits to assist their clients in submitting renewal applications for the DACA program.

OBJECTION TO REQUEST NO. 28: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request to the extent it implies that Defendant was required to “certify” as set forth in the request. Defendant objects to the request as being compound and confusing. Defendant objects to this request as vague and undefined to the extent plaintiffs have not defined the phrase “small non-profits,” “small businesses,” or “small governmental jurisdictions.” Defendant objects to the request as assuming facts not in evidence to the extent it infers that DOJ was responsible for the termination of DACA.

RESPONSE TO REQUEST NO. 28: Defendant admits RFA No. 28, as the decision to rescind DACA was made by DHS, not DOJ.

REQUEST NO. 29: Admit that prior to September 5, 2017, DOJ did not consider whether one month was a sufficient time for small non-profits to assist their members in submitting renewal applications for the DACA program.

OBJECTION TO REQUEST NO. 29: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request to the extent it implies that Defendant was required to consider the topic identified in this request. Defendant objects to this request as vague and confusing to the extent plaintiffs have failed to define the phrase “sufficient time” or “small non-profits.” Defendant objects to the request as assuming facts not in evidence to the extent it infers that DOJ was responsible for the termination of DACA.

RESPONSE TO REQUEST NO. 29: Defendant admits RFA No. 29, as the decision to rescind DACA was made by DHS, not DOJ.

REQUEST NO. 30: Admit that prior to September 5, 2017, DOJ did not consider whether one month was a sufficient time for small businesses, small non-profits, and small governmental jurisdictions to assist their employees in submitting renewal applications for the DACA program.

OBJECTION TO REQUEST NO. 30: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request to the extent it implies that Defendant was required to consider the topic identified in this request. Defendant objects to this request as vague and confusing to the extent plaintiffs have failed to define the phrase “sufficient time,” “small businesses,” “small non-profits,” and “small governmental jurisdictions.” Defendant objects to the request as assuming facts not in evidence to the extent it infers that DOJ was responsible for the termination of DACA.

RESPONSE TO REQUEST NO. 30: Defendant admits RFA No. 30, as the decision to rescind DACA was made by DHS, not DOJ.

REQUEST NO. 31: Admit that prior to September 5, 2017, DOJ made no effort to determine the cost to small businesses, small non-profits, or small governmental jurisdictions of employees who will lose work authorization due to the end of the DACA program.

OBJECTION TO REQUEST NO. 31: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory

Flexibility Act. Defendant objects to this request to the extent it implies that Defendant was required to “determine” the topic identified in this request. Defendant objects to this request as vague and confusing to the extent plaintiffs have failed to define the phrase “small businesses,” “small non-profits,” and “small governmental jurisdictions.” Defendant objects to the request as assuming facts not in evidence to the extent it infers that DOJ was responsible for the termination of DACA.

RESPONSE TO REQUEST NO. 31: Defendant admits RFA No. 31, as the decision to rescind DACA was made by DHS, not DOJ.

REQUEST NO. 32: Admit that prior to September 5, 2017, DOJ did not assess the costs of rehiring or replacing employees who lose work authorization due to the termination of the DACA program.

OBJECTION TO REQUEST NO. 32: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request to the extent it implies that Defendant was required to “assess” the topic identified in this request. Defendant objects to this request as vague and confusing to the extent plaintiffs have failed to identify “employees who lose work authorization due to the termination of the DACA program.” Defendant objects to the request as assuming facts not in evidence to the extent it infers that DOJ was responsible for the termination of DACA.

RESPONSE TO REQUEST NO. 32: Defendant admits RFA No. 32, as the decision to rescind DACA was made by DHS, not DOJ.

REQUEST NO. 33: Admit that prior to September 5, 2017, DOJ did not assess the potential costs to small businesses, small non-profits, and small governmental jurisdictions of losing experienced employees due to the termination of the DACA program.

OBJECTION TO REQUEST NO. 33: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for a legal conclusion to the extent it is intended to, but does not cite, the Regulatory Flexibility Act. Defendant objects to this request to the extent it implies that Defendant was required to “assess” the topic identified in this request. Defendant objects to this request as vague and confusing to the extent plaintiffs have failed to define the phrase “small businesses,” “small non-profits,” “small governmental jurisdictions,” and “experienced employees.” Defendant objects to the request as assuming facts not in evidence to the extent it infers that DOJ was responsible for the termination of DACA.

RESPONSE TO REQUEST NO. 33: Defendant admits RFA No. 33, as the decision to rescind DACA was made by DHS, not DOJ.

REQUEST NO. 34: Admit that the November 19, 2014, Department of Justice, Office of Legal Counsel memorandum on legality of DAPA remains operative. *See* Dep’t of

Homeland Sec.'s Auth. To Prioritize Removal of Certain Aliens Unlawfully Present in the United States & to Defer Removal of Others, 2014 WL 10788677 (O.L.C. Nov. 19, 2014).

OBJECTION TO REQUEST NO. 34: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to the request as vague to the extent plaintiffs have failed to define the term “operative.” Defendant objects to the request as calling for a legal conclusion.

RESPONSE TO REQUEST NO. 34: Defendant admits RFA No. 34 to the extent that the Office of Legal Counsel has not published a memorandum on the legality of DAPA subsequent to November 19, 2014. Defendant cannot provide a further, truthful response to this RFA without revealing information protected by the attorney-client privilege and the deliberative process privilege.

REQUEST NO. 35: Admit that the November 19, 2014, Department of Justice, Office of Legal Counsel memorandum on the legality of DAPA has not been superseded by any subsequent OLC memorandum. *See* Dep't of Homeland Sec.'s Auth. To Prioritize Removal of Certain Aliens Unlawfully Present in the United States & to Defer Removal of Others, 2014 WL 10788677 (O.L.C. Nov. 19, 2014).

OBJECTION TO REQUEST NO. 35: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to the request as vague to the extent plaintiffs have failed to define the phrase “superseded by any subsequent OLC memorandum.” Defendant objects to the request as calling for a legal conclusion.

RESPONSE TO REQUEST NO. 35: Defendant admits RFA No. 35 to the extent that the Office of Legal Counsel has not published a memorandum on the legality of DAPA subsequent to November 19, 2014. Defendant cannot provide a further, truthful response to this RFA without revealing information protected by the attorney-client privilege and the deliberative process privilege

REQUEST NO. 36: Admit that Office of Legal Counsel has not drafted a written memorandum on the legality of DACA.

OBJECTION TO REQUEST NO. 36: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to the request as vague to the extent plaintiffs have failed to define the term “drafted.”

RESPONSE TO REQUEST NO. 36: Defendant admits RFA No. 36 to the extent that an Office of Legal Counsel written memorandum to the files, dated December 7, 2012, memorializes the Office's oral advice regarding its preliminary view, conveyed before DACA was announced, that a program resembling DACA would be permissible subject to certain caveats concerning its implementation. Defendant cannot provide a further, truthful response to this RFA without revealing information protected by the attorney-client privilege, the work product doctrine, and the deliberative process privilege.

REQUEST NO. 37: Admit that Office of Legal Counsel has orally opined that DACA was a lawful exercise of executive authority.

OBJECTION TO REQUEST NO. 37: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to the request as vague to the extent plaintiffs have failed to define the phrase “orally opined.”

RESPONSE TO REQUEST NO. 37: Defendant denies RFA No. 37 with respect to the Office of Legal Counsel’s oral advice before DACA’s announcement, and further states that in a written memorandum to the files, dated December 7, 2012, the Office of Legal Counsel noted that it was “asked . . . whether the Administration could rely on the long-standing practice of deferred action to grant a form of temporary relief to the class of aliens who would be covered by the proposed DREAM Act,” and that the Office had “orally advised . . . of [its] preliminary view that . . . it would be permissible to use deferred action in the categorical manner being contemplated, on the theory that it would constitute an appropriate exercise of prosecutorial discretion, subject to certain caveats concerning its implementation.” A 2014 published opinion of the Office of Legal Counsel regarding DAPA elaborated (at 18 n.8):

Before DACA was announced, our Office was consulted about whether such a program would be legally permissible. As we orally advised, our preliminary view was that such a program would be permissible, provided that immigration officials retained discretion to evaluate each application on an individualized basis. We noted that immigration officials typically consider factors such as having been brought to the United States as a child in exercising their discretion to grant deferred action in individual cases. We explained, however, that extending deferred action to individuals who satisfied these and other specified criteria on a class-wide basis would raise distinct questions not implicated by ad hoc grants of deferred action. We advised that it was critical that, like past policies that made deferred action available to certain classes of aliens, the DACA program require immigration officials to evaluate each application for deferred action on a case-by-case basis, rather than granting deferred action automatically to all applicants who satisfied the threshold eligibility criteria. We also noted that, although the proposed program was predicated on humanitarian concerns that appeared less particularized and acute than those underlying certain prior class-wide deferred action programs, the concerns animating DACA were nonetheless consistent with the types of concerns that have customarily guided the exercise of immigration enforcement discretion.

Defendant cannot provide a further, truthful response to this RFA without revealing information protected by the attorney-client privilege, the work product doctrine, and the deliberative process privilege.

REQUEST NO. 38: Admit that DOJ employees had discussions with plaintiffs in *Texas v. United States*, No. 1:14-cv-00254 (S.D. Tex.), regarding the decision to terminate the DACA program before the DACA termination.

OBJECTION TO REQUEST NO. 38: Defendant incorporates by reference the above objections to the definitions and instructions.

RESPONSE TO REQUEST NO. 38: Defendant admits RFA No. 38, to the extent that the possibility of terminating the DACA program was raised in conversations with counsel for plaintiffs in *Texas v. United States*, No. 14-cv-254 (S.D. Tex.).

REQUEST NO. 39: Admit that DOJ considered the arguments raised by plaintiffs in *Texas v. United States*, No. 1:14-cv-00254 (S.D. Tex.), in terminating the DACA program.

OBJECTION TO REQUEST NO. 39: Defendant incorporates by reference the above objections to the definitions and instructions. Defendant objects to this request as calling for information protected by the attorney work product doctrine.

RESPONSE TO REQUEST NO. 39: Defendant admits RFA No. 39, to the extent that, in arriving at its opinion on the lawfulness of DACA, DOJ considered arguments raised by plaintiffs to the extent those arguments were adopted by the United States District Court of the Southern District of Texas, the United States Court of Appeals for the Fifth Circuit, or the United States Supreme Court in their respective opinions in the *Texas v. United States* litigation, except states that DHS, not DOJ, rescinded the DACA program.

Dated: October 18, 2017

Respectfully submitted,

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Acting United States Attorney

BRETT A. SHUMATE
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Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on October 18, 2017, I caused to be served the foregoing DEFENDANT’S OBJECTIONS AND RESPONSES TO PLAINTIFFS’ FIRST SET OF REQUESTS FOR ADMISSION TO JEFFERSON BEAUREGARD SESSIONS III, ATTORNEY GENERAL OF THE UNITED STATES, via e-mail upon:

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/s/ Brad P. Rosenberg
BRAD P. ROSENBERG

EXHIBIT N

JUSTICE NEWS

Attorney General Sessions Delivers Remarks on DACA

Washington, DC ~ Tuesday, September 5, 2017

Remarks as prepared for delivery

Good morning. I am here today to announce that the program known as DACA that was effectuated under the Obama Administration is being rescinded.

The DACA program was implemented in 2012 and essentially provided a legal status for recipients for a renewable two-year term, work authorization and other benefits, including participation in the social security program, to 800,000 mostly-adult illegal aliens.

This policy was implemented unilaterally to great controversy and legal concern after Congress rejected legislative proposals to extend similar benefits on numerous occasions to this same group of illegal aliens.

In other words, the executive branch, through DACA, deliberately sought to achieve what the legislative branch specifically refused to authorize on multiple occasions. Such an open-ended circumvention of immigration laws was an unconstitutional exercise of authority by the Executive Branch.

The effect of this unilateral executive amnesty, among other things, contributed to a surge of unaccompanied minors on the southern border that yielded terrible humanitarian consequences. It also denied jobs to hundreds of thousands of Americans by allowing those same jobs to go to illegal aliens.

We inherited from our Founders—and have advanced—an unsurpassed legal heritage, which is the foundation of our freedom, safety, and prosperity.

As the Attorney General, it is my duty to ensure that the laws of the United States are enforced and that the Constitutional order is upheld.

No greater good can be done for the overall health and well-being of our Republic, than preserving and strengthening the impartial rule of law. Societies where the rule of law is treasured are societies that tend to flourish and succeed.

Societies where the rule of law is subject to political whims and personal biases tend to become societies afflicted by corruption, poverty, and human suffering.

To have a lawful system of immigration that serves the national interest, we cannot admit everyone who would like to come here. That is an open border policy and the American people have rightly rejected it.

Therefore, the nation must set and enforce a limit on how many immigrants we admit each year and that means all can not be accepted.

This does not mean they are bad people or that our nation disrespects or demeans them in any way. It means we are properly enforcing our laws as Congress has passed them.

It is with these principles and duties in mind, and in light of imminent litigation, that we reviewed the Obama Administration's DACA policy.

Our collective wisdom is that the policy is vulnerable to the same legal and constitutional challenges that the courts recognized with respect to the DAPA program, which was enjoined on a nationwide basis in a decision affirmed by the

Fifth Circuit.

The Fifth Circuit specifically concluded that DACA had not been implemented in a fashion that allowed sufficient discretion, and that DAPA was “foreclosed by Congress’s careful plan.”

In other words, it was inconsistent with the Constitution’s separation of powers. That decision was affirmed by the Supreme Court by an equally divided vote.

If we were to keep the Obama Administration’s executive amnesty policy, the likeliest outcome is that it would be enjoined just as was DAPA. The Department of Justice has advised the President and the Department of Homeland Security that DHS should begin an orderly, lawful wind down, including the cancellation of the memo that authorized this program.

Acting Secretary Duke has chosen, appropriately, to initiate a wind down process. This will enable DHS to conduct an orderly change and fulfill the desire of this administration to create a time period for Congress to act—should it so choose. We firmly believe this is the responsible path.

Simply put, if we are to further our goal of strengthening the constitutional order and the rule of law in America, the Department of Justice cannot defend this type of overreach.

George Washington University Law School Professor Jonathan Turley in testimony before the House Judiciary Committee was clear about the enormous constitutional infirmities raised by these policies.

He said: “In ordering this blanket exception, President Obama was nullifying part of a law that he simply disagreed with. ...If a president can claim sweeping discretion to suspend key federal laws, the entire legislative process becomes little more than a pretense...The circumvention of the legislative process not only undermines the authority of this branch but destabilizes the tripartite system as a whole.”

Ending the previous Administration’s disrespect for the legislative process is an important first step. All immigration policies should serve the interests of the people of the United States—lawful immigrant and native born alike.

Congress should carefully and thoughtfully pursue the types of reforms that are right for the American people. Our nation is comprised of good and decent people who want their government’s leaders to fulfill their promises and advance an immigration policy that serves the national interest.

We are a people of compassion and we are a people of law. But there is nothing compassionate about the failure to enforce immigration laws.

Enforcing the law saves lives, protects communities and taxpayers, and prevents human suffering. Failure to enforce the laws in the past has put our nation at risk of crime, violence and even terrorism.

The compassionate thing is to end the lawlessness, enforce our laws, and, if Congress chooses to make changes to those laws, to do so through the process set forth by our Founders in a way that advances the interest of the nation.

That is what the President has promised to do and has delivered to the American people.

Under President Trump’s leadership, this administration has made great progress in the last few months toward establishing a lawful and constitutional immigration system. This makes us safer and more secure.

It will further economically the lives of millions who are struggling. And it will enable our country to more effectively teach new immigrants about our system of government and assimilate them to the cultural understandings that support it.

The substantial progress in reducing illegal immigration at our border seen in recent months is almost entirely the product of the leadership of President Trump and his inspired federal immigration officers. But the problem is not solved, And without more action, we could see illegality rise again rather than be eliminated,

As a candidate, and now in office, President Trump has offered specific ideas and legislative solutions that will protect American workers, increase wages and salaries, defend our national security, ensure the public safety, and increase

the general well-being of the American people.

He has worked closely with many members of Congress, including in the introduction of the RAISE Act, which would produce enormous benefits for our country. This is how our democratic process works.

There are many powerful interest groups in this country and every one of them has a constitutional right to advocate their views and represent whomever they choose.

But the Department of Justice does not represent any narrow interest or any subset of the American people. We represent all of the American people and protect the integrity of our Constitution. That is our charge.

We at Department of Justice are proud and honored to work to advance this vision for America and to do our best each day to ensure the safety and security of the American people.

Thank you.

Speaker:

[Attorney General Jeff Sessions](#)

Attachment(s):

[Download aq letter re daca.pdf](#)

Topic(s):

Immigration

Component(s):

[Office of the Attorney General](#)

Updated September 5, 2017

EXHIBIT O
Supporting
Declaration of Karen C.
Tumlin



Thousands eligible for DACA renewals failed to apply in time

AP Top News Sports Entertainment

By JILL COLVIN
Oct. 19, 2017



<https://www>

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WASHINGTON (AP) — About 21,000-22,000 young immigrants, many brought to the country illegally as children, did not submit their status renewal applications in time.

That's according to preliminary numbers released Thursday by the Department of Homeland Security.

President Donald Trump last month announced an end to the Deferred Action for Childhood Arrivals, or DACA program, which protected hundreds of thousands of young people from deportation.

But he said those whose authorizations were set to expire within six months could apply for renewals — so long as they did so by Oct. 5.

DHS spokesman David Lapan says roughly 133,000 of the 154,000 people eligible for renewals submitted their paperwork by the deadline.

Advocates complain DHS didn't do enough outreach. Lapan says he'd be "hard-pressed" to think recipients weren't aware of the change.

EXHIBIT P
Supporting
Declaration of Karen C.
Tumlin

The New York Times | <https://nyti.ms/2hpeGf5>

N.Y. / REGION

Post Office Fails to Deliver on Time, and DACA Applications Get Rejected

Dozens of young immigrants mailed renewal forms weeks before they were due. But their paperwork was delayed in the mail and then denied for being late.

Leer en español

By LIZ ROBBINS NOV. 10, 2017

The paperwork was mailed from New York in plenty of time. On Sept. 14, Allison Baker, a lawyer for the Legal Aid Society, sent a client's application to renew a permit that would let him stay and work in the United States legally as part of the Deferred Action for Childhood Arrivals program —long before the Oct. 5 deadline. It was sent certified mail to be safe.

Tracking data from the United States Postal Service shows the envelope arriving in Chicago on Sept. 16 on its way to the regional processing warehouse of the United States Citizenship and Immigration Services, the agency that administers the program known as DACA.

Then the packet started circling Chicago in a mysterious holding pattern. From Sept. 17 to Sept. 19, it was “in transit to destination.” Then its tracking whereabouts disappeared until Oct. 4. Once again, it was “on its way.”

On Oct. 6, a day too late, it was delivered. And the application, for a 24-year-old man who asked to be identified only as José because his legal status was uncertain, was rejected.

José was not alone. According to lawyers from across the New York region, in at least 33 other cases, unusually long Postal Service delays resulted in rejections of DACA applications, throwing the lives of their clients into frantic limbo. Lawyers in Boston and Philadelphia, which also send their applications to the Chicago processing center, say they have not seen evidence of an issue with the mail.

But in Chicago, in the backyard of the U.S. Citizenship and Immigration Services agency, there were at least 41 DACA recipients whose renewals, sent well before the deadline, arrived late, advocates said. According to Representative Luis V. Gutiérrez, Democrat of Illinois, an applicant sent a renewal on Sept. 13 and it arrived on Oct. 6. Another sent the paperwork on Sept. 21, and it was received on Oct. 9. “Because somebody else did not do their job correctly we are taking innocent young immigrants and making them deportable,” said Mr. Gutiérrez in a statement. “That is unacceptable.”

On Thursday, in a rare admission from a federal agency, the U.S. Postal Service took the blame. David A. Partenheimer, a spokesman for the post office, said there had been an “unintentional temporary mail processing delay in the Chicago area.”

But the U.S. Citizenship and Immigration Services agency said nothing more could be done; the decisions were final.

“According to U.S.C.I.S. regulations, a request is considered received by U.S.C.I.S. as of the actual date of receipt at the location for filing such request,” Steve Blando, a spokesman for the agency, wrote in a statement. He added: “U.S.C.I.S. is not responsible for the mail service an individual chooses, or for delays on the part of mail service providers.”

He later added, though, that “U.S.C.I.S. is committed to working with the U.S.P.S. to understand and address the U.S.P.S. error that occurred that delayed the mail.”

Because DACA is an executive order, signed by President Barack Obama in 2012, and not a statute, applicants cannot appeal the decision. Still, immigrants and their advocates viewed the agency’s unwillingness to revisit their applications as harsh and unfair.

“You can’t put the burden on the applicant to ensure the government agencies did their job,” said Camille Mackler, the director of legal initiatives for the New York Immigration Coalition. “Can you imagine if the I.R.S. didn’t pick up their mail for two weeks and you get a penalty because of it?”

The DACA program had offered temporary protection and work permits for about 800,000 young adults who had been brought to the United States illegally as children.

On Sept. 5, Attorney General Jeff Sessions announced after months of speculation that the Trump administration was canceling the program. Recipients were allowed to keep their permits until they expired at the end of the current two-year term. The administration also offered a brief renewal window for recipients whose permits were expiring before March 5, which set off a scramble across the country from legal service providers to assist applicants.

There are three U.S. Citizenship and Immigration Services intake locations, known as lockboxes, in the United States: in Phoenix, Chicago and Lewisville, Tex., a suburb of Dallas.

According to the immigration agency, its employees do not pick up the mail from the lockbox. The United States Department of the Treasury manages the process but uses a courier service that picks up the mail from post offices each morning. Express Mail items, the agency said, are picked up in the afternoon. Also, items are delivered to the lockbox by the courier services FedEx, DHL and the United Parcel Service.

In a memo after DACA was rescinded, the Department of Homeland Security said renewals had to be “accepted” by Oct. 5. Immigration lawyers contrasted that with a permanent residency opportunity the government offered in 2001, when applications only had to be postmarked by the deadline of April 30. Acknowledging the high volume of applications, the government offered a grace period for paperwork to be received by May 3.

Immigration lawyers questioned why that was not an option in this case.

Hasan Shafiqullah, director of the immigration unit of the Legal Aid Society in New York, was disturbed by the lack of compassion from the agency.

“From the clients’ perspective, they did the right thing,” Mr. Shafiqullah said. “Filing three weeks before should be sufficient, and U.S.C.I.S. needs to recognize that and needs to exercise discretion.”

According to an Oct. 18 deposition of an immigration official conducted as part of a federal lawsuit in Brooklyn, 4,000 DACA applications arrived late. One hundred and fifty-four thousand people were eligible to apply for renewal and 132,000 applications were received on time.

Tata Camara, 32, who came to the United States at age 15 from Guinea, sent her application on Sept. 29; she said it was the earliest she could afford to apply, since that day she got a donation for the \$495 application fee from the New Economy Project, a New York nonprofit. BronxWorks, a legal services agency, helped her prepare her application.

She had installed two apps on her phone to track her application in the mail, but she became anguished when they showed her envelope had arrived in Chicago on Oct. 1 but seemed to stall there. She called every supervisor she could in the Chicago post office.

“It doesn’t make any sense, I mail stuff all the time,” Ms. Camara said. “I can understand one day of delay. Two days at most. But you can’t even tell me where it is?”

According to the tracking record, her application arrived “at the unit” on Oct. 5, but was not actually delivered until Oct. 6.

She said she made an appointment to discuss the application with an immigration official next week. Five lawyers in New York said they had already received denials from the U.S. Citizenship and Immigration Services agency when pleading their case — via email, an 800-number and in person.

Linda Bennett-Rodriguez, a lawyer at the Empire Justice Center in White Plains, said one of her clients sent his application in on Sept. 12. She sent the renewal form for his younger brother on Sept. 21, and it was accepted on Sept. 25.

The older brother's application was in transit for three weeks; it did not arrive at the regional facility in Chicago until Oct. 3. At that point, Ms. Bennett-Rodriguez raced to find a solution.

When it still had not arrived, hours before the deadline, she said that her client offered to fly from La Guardia Airport to Chicago to hand-deliver his application. But she learned there was no physical address listed for where he would go.

The post office tracking information showed his application arrived on Oct. 6.

"It was probably my worst day as an attorney," Ms. Bennett-Rodriguez said. "I knew the importance and I knew we filed with enough time."

Mr. Partenheimer, the post office spokesman, said the processing "issue has been resolved and we are investigating how it occurred." He added that the mail service would "work diligently" with the U.S. Citizenship and Immigration Services agency "concerning any potential issues this may cause for the affected individuals."

Correction: November 10, 2017

An earlier version of this article referred incorrectly to a deposition in a federal lawsuit. It was not conducted by the immigration advocacy group Make the Road and did not include the number of applications received on time.

A version of this article appears in print on November 11, 2017, on Page A17 of the New York edition with the headline: Mail Is Late, and DACA Renewals Are Denied.

EXHIBIT Q
Supporting
Declaration of Karen C.
Tumlin

N.Y. / REGION

Number of DACA Applications Stuck in the Mail Tops 900

By LIZ ROBBINS NOV. 30, 2017

More than 900 young immigrants applying for a renewal of temporary work permits had their applications rejected because of mail problems, a number far greater than immigration lawyers had thought earlier this month.

The United States Citizenship and Immigration Services acknowledged the significant impact on Thursday, as it released information on how those who had been turned down could submit new applications.

The immigrants were trying to renew their work permits under the program known as Deferred Action for Childhood Arrivals, or DACA, which allowed nearly 800,000 immigrants who were brought to the country illegally as children to work and go to school in the United States without fear of deportation.

On Sept. 5, the Trump administration canceled the program, but said those whose permits were expiring before March 5, 2018, could renew their application by Oct. 5 for a two-year period.

Citizenship and Immigration Services said it was in the process of sending

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Once applicants receive that letter, they will have 33 days to resubmit their applications, the immigration agency said.

The agency said that there could be more people affected and that it was working with the United States Postal Service to determine how many applications were delayed by problems there. At least 4,000 renewals were rejected because they were late, according to a government official in an Oct. 18 deposition in a federal lawsuit over the cancellation of DACA.

The information that U.S.C.I.S. released on Thursday still left questions unanswered; the agency said it would soon provide “specific guidance” on the steps DACA recipients must take to resubmit their renewal requests.

What the government did provide, however, was small comfort for some people whose DACA permits have expired or are expiring soon, and lawyers questioned the government’s lack of expediency.

The government said those DACA recipients would not be able to work until their permits were officially renewed. But, the agency added, they would not be a priority for deportation.

“We’ve lost two months now,” said Hasan Shafiqullah, director of the immigration unit of the Legal Aid Society in New York. That immediately affected one of his clients, whose DACA permit expires Friday.

“What will U.S.C.I.S. do to mitigate that harm and cost to her?” he asked. “The least they can do is expedite the adjudication of the renewal, so she can get her work permit as fast as possible.”

U.S.C.I.S. said that applicants who believed their renewal had been rejected because of mail problems could contact someone in the support department, via email. But that does not appear to promise quicker action.

Mr. Shafiqullah said he emailed the agency on Nov. 8 and, 22 days later, received an email response that began: “Thank you for contacting Lockbox Support and I apologize for the delay in our response to your inquiry.”

There are three Citizenship and Immigration Services locations, known as lockboxes, where agency mail is delivered: in Phoenix, Chicago and Lewisville, Tex., a suburb of Dallas. All three were affected by mail problems, according to immigration activists, but Chicago had the most applications delayed.

Three weeks ago, lawyers and lawmakers said they initially knew of 74 people in New York and Chicago whose renewals were delayed by mail problems. The United States Postal Service took the blame, but at the time, the immigration agency remained firm in its policy: It would still reject those applications.

A week later, the agency reversed its policy, allowing people to reapply with proof of a delay. By that point, lawyers and lawmakers had reported 115 cases in Texas, Wisconsin, Washington State, North Carolina and Michigan.

On Thursday, U.S.C.I.S. said that approximately 450 applications had been delayed in the mail in Texas, 390 in Chicago and 60 in Phoenix.

Immigration advocates said the government opened itself to problems by providing a short window for renewal after the Trump administration said it was ending DACA. They gave those eligible to apply for renewals just one month to get their applications in. And departing from typical immigration application guidelines, the DACA renewals had to be received by the immigration agency by the Oct. 5 deadline, not postmarked.

Many applicants sent their applications in three weeks in advance — by certified mail — and were still caught in the mail delays. Lawyers do not intend to take any chances this time. “We’re doing FedEx,” Mr. Shafiqullah said.

A version of this article appears in print on December 1, 2017, on Page A23 of the New York edition with the headline: Delayed DACA Requests Grow to More Than 900.

EXHIBIT R

Supporting

Declaration of Karen C.

Tumlin

TIME

She's Planning for College. But She'll Miss President Trump's Deadline to Avoid Deportation

By MAYA RHODAN September 22, 2017

Like many high school seniors, Indira Marquez Robles thinks a lot about her future. She knows what college she wants to go to (Bryn Mawr) and what she wants to be when she grows up (an immigration attorney) but she also doesn't know if she'll be at risk for deportation in the next six months.

Marquez Robles is a beneficiary of **Deferred Action for Childhood Arrivals**, or DACA, an Obama-era program that has shielded over 700,000 immigrants brought to the U.S. as children from deportation, allowed them to **get work permits** and Social Security numbers, travel abroad and obtain a driver's license.

But on Sept. 5, the Trump Administration rescinded that program and gave some DACA recipients, also known as Dreamers, until Oct. 5 to apply to have their documents renewed. In order to reapply, a recipients' work permit and deferral has to expire by March 5, 2018. Marquez Robles missed that cutoff by 16 days.

Because the 17-year-old Houstonian's DACA will expire on March 21, 2018, she doesn't have any option but to wait and see if Congress passes legislation that would grant her some form of legal status. She could still attend college, but without some form of legal protection she will live under fear of being deported by an administration that has made it clear that **all undocumented immigrants are at risk**.

"Mentally and emotionally, I'm just going through the stages of accepting that there's no like, 'Here's what you can do, you can go renew,'" the Houston resident told TIME.

For most of her young life, Marquez Robles thought the fact that she was born in Mexico was innocuous. In fact, she thought it made her kind of special.

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"While my sisters say that they were born at Ben Taub [Hospital] down near the medical center, I could say that I was born in a beach town in Mexico," she says.

She'd spent nearly her entire life in the U.S., having been brought to the country when she was just six months old, and never once thought of herself as anything other than an American. But when she was 14, eager to travel to France on a school trip, her parents broke the news. Unlike her siblings, she wasn't an American citizen. She would not be able to go.

"I was so committed to learning French. I thought being able apply it in France would have been monumental," she says. "To have that taken away from you ... you just can't even understand."

At the time, Marquez Robles says neither she nor her parents knew about DACA. They had heard about the Dream Act, but the issue of status and immigration was not something they talked about regularly as a family. But on a trip to the Mexican consulate in an effort to secure a passport, Marquez Robles encountered an organizer with United We Dream who told her about how the program could shield her from deportation, allow her to work and have access to other opportunities. At 14, she was too young to apply for DACA, but when the time came a year later, the same person she'd met at the consulate helped her file her application.

She cried when her Social Security card came in the mail, overwhelmed by the doors that had opened for her as a result. A week later when her work permit came, however, her parents hid it from her and had it baked into a celebratory cake — she says a small indent from where her knife struck the card is still visible today. Papers in hand, she says the first thing she did was start looking for jobs to apply for.

"Whenever they asked for my Social Security number, that feeling of having one to give them was really assuring," she says. She also started looking into getting her driver's license and thought about finally being able to take that trip to France. She got more active with United We Dream, attending marches and protests, traveling with the organization on 10 separate occasions.

"The fear dissipated. I knew that there were programs and opportunities for people like me," she says. More than anything, she says, she was looking forward to applying for DACA again: "That first time I got DACA, I thought, the next time I'm able to apply it's going to be even greater."

That time now will never come. DACA is no longer an option for Marquez Robles and many of the over 200,000 other recipients whose documents expire in 2018. According to the Department of Homeland Security, 321,920 people will also lose DACA protections in 2019. In Congress, there is bipartisan support for the legislative solution to DACA, though there are some **fissures among lawmakers** on both sides of the aisle.

Marquez Robles recognizes that if there is no legislative fix in six months, she could lose her status, but for now, she is staying focused. School and life obligations keep her pretty busy, anyway. The oldest of seven, she's responsible for getting herself and two of her younger sisters to school everyday — about an hour away from their home — and making sure they get home safely.

At school, where she says she has a weighted grade-point-average of 3.7, she juggles three Advanced Placement courses — in Statistics, Biology, and Government— facilitates the TED Ed Club and serves on the junior varsity debate team. To make money to save up for college, she picks up hours at a tea shop. In her free time, she likes to document her life through photography and film and volunteer with the immigrant rights organization, United We Dream.

"I'm not going to let this deter my desire to attend college and apply for scholarships," she says. "If anything it's driving me to apply for more."

EXHIBIT S
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Declaration of Karen C.
Tumlin

AS TOLD TO

A DACA RECIPIENT DESCRIBES THE FEELING OF WATCHING HER LEGAL STATUS EXPIRE

By Jonathan Blitzer December 8, 2017



A hundred and twenty-two recipients have lost their DACA status each day since October, meaning, among other things, that they can no longer legally work in the U.S.

Photograph by Robyn Beck / AFP / Getty

In September, after Donald Trump cancelled Deferred Action for Childhood Arrivals, the popular Obama-era program that granted legal protections to undocumented immigrants who had been brought to the U.S. as children, he told the program's seven hundred thousand recipients, who then faced the prospect of being deported, that they had "nothing to worry

about.” His decision didn’t end the program right away—it gave Congress six months, until March, to negotiate a policy solution. Until then, the President said, “No action!”

But Trump failed to mention that the hundred and fifty-four thousand DACA recipients whose statuses were scheduled for renewal before March had only until October to send in their paperwork. (Under Obama, recipients had to reapply for DACA every two years.) Some twenty-two thousand of them didn’t submit their materials in time. Each day since then, according to the Center for American Progress, a hundred and twenty-two DACA recipients have lost their status, meaning, among other things, that they can no longer legally work in the U.S.

One of them is Brittany Aguilera, a twenty-eight-year-old from Trinidad, who came to the U.S. when she was three. She lives in the Far Rockaway neighborhood of Queens, in New York City, with her mother, father, and younger sister, who is a U.S. citizen. Before Trump’s decision, Aguilera’s DACA status—which she had held since 2012—had been up for renewal this month. She sent in her paperwork in September, after Trump’s decision, but an error meant that her renewal wasn’t processed before the deadline. She spoke with me on Wednesday, the night before her status was due to expire. Thursday was her last day at work, as a nanny in Brooklyn. This interview has been edited and condensed.

“**M**y whole legal situation ended up coming up junior year in high school, when the P.S.A.T.s came up. They asked you for your Social Security number. I didn’t know what a social was. I asked my teacher. She said, ‘It’s a little blue card.’ I was, like, ‘I’ve never seen that in my life.’ At the time, I didn’t really question it. It was just the P.S.A.T.

“I wanted to go to college out of New York. I wanted to see something new. There were these writing scholarships. Senior year, my honors-English teacher showed me what I needed to submit for my applications, and again the social came up. It also asked for a passport or a form of I.D. I didn’t have any of this! That was when it really hit me. It all went downhill from there.

“I ended up applying to Queensborough Community College for nursing. It wasn’t the major I originally wanted to do; that was journalism. But I loved school. Then came the time to get to the major. You need to provide certain documentation. I didn’t do it.

I dropped out of school. It was then that I took my first childcare job, and I've just been working since.

"I applied to DACA immediately, right when it came out, in 2012. I went into hibernation mode when I first applied to it. I told my friends I couldn't hang out, that I wanted to focus on this. At that point, all I was hearing in my head was, 'You can't do this, you can't do that.' Even when my dad told me about it I was, like, 'This is not going to work out, but I'll do it.' I got the first letter that they got my application. I got my appointment for biometrics, did that. And then I just waited. I got my approval letter three weeks after my biometrics appointment. I never really worried. I'm in good standing. I'm doing everything I'm supposed to do.

"When Trump won, I thought, DACA's going to be gone. There was a sense of exhaustion, of being permanently tired. More than really stressed, more than really worried; it was more of a tired feeling, like a heavy blanket.

VIDEO FROM THE NEW YORKER

Rejected Trump Sketches by Barry Blitt

“I always give myself two months before my expiration date to reapply for it. When September came, I did not know that he had been planning to end it. It was a friend who brought it to my attention, literally on Labor Day, which was September 4th. She was, like, ‘You still have DACA right? You should pay attention to the news tomorrow.’ I was on Eastern Parkway, in the parade, having the time of my life, not thinking of anything. I woke up the next morning, and it said DACA will expire on October 5th. In my mind, I was, like, O.K., that doesn’t apply to me, because I’m still in the bracket to renew. I got my money. I sent in my application on the twenty-first of September, on the dot.

“It did not get sent back to me until October 5th, which was the day of the deadline, for a missing signature. It had a green paper that said, ‘When you send it back, place this on top.’ I was thinking, This green paper is going to let them know that I submitted it already. I sent it out early the next day—a Friday. It arrived in the mailbox on the Saturday. They’re not open on the Saturday. Then, that’s Columbus Day Weekend. It wasn’t signed for until the following Tuesday. I’m waiting and waiting and waiting. By now I should have already heard. I’m checking the mailbox every single day. The tenth came. I got back a package. It said they were no longer accepting applications after October 5th. But that makes no sense. My application wasn’t a new application.

“Now I was stressing. I alerted my bosses right away. It put all of this into motion. They’re trying to figure out a way to keep me. My last day is tomorrow. My bosses have said that they could hold my job until January, to see if anything changes.

“The situation, when you deal with it for so long, it turns you into a person who doesn’t have the ability to stress the way a normal person stresses; you don’t have the ability to show the regular emotions a normal person would show. All you know is how you feel in the moment. All I can do is exhaust all possible options. I’m focussed on taking the next step, to survive past Thursday. My practical move is taking a breather. According to what everyone tells me, there’s still discussions on this topic going on—anything can happen.

“I don’t want to become a different person because of this situation. I don’t just want to be another ‘Dreamer’ who Trump screwed over, or who a clerical error screwed over. I have a nephew. I need to be able to smile back at him when he smiles at me.”



Jonathan Blitzer is a staff writer at The New Yorker. [Read more »](#)

Video

Trump's Jerusalem Decision Stirs Tension in the Middle East

By announcing a plan to change the location of the U.S. Embassy, the President angered allies and set off worldwide protests.

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

20 THE REGENTS OF THE UNIVERSITY OF
21 CALIFORNIA and JANET NAPOLITANO,
22 in her official capacity as President of the
23 University of California,

23 Plaintiffs,

24 v.

25 U.S. DEPARTMENT OF HOMELAND
26 SECURITY and ELAINE DUKE, in her
27 official capacity as Acting Secretary of the
28 Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

**DECLARATION OF MARCELO M.
SUÁREZ-OROZCO, PH.D.**

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STATE OF CALIFORNIA, STATE OF MAINE, STATE OF MARYLAND, and STATE OF MINNESOTA,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05235-WHA

CITY OF SAN JOSE, a municipal corporation,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, ELAINE C. DUKE, in her official capacity, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05329-WHA

DULCE GARCIA, MIRIAM GONZALEZ AVILA, SAUL JIMENEZ SUAREZ, VIRIDIANA CHABOLLA MENDOZA, NORMA RAMIREZ, and JIRAYUT LATTHIVONGSKORN,

Plaintiffs,

v.

UNITED STATES OF AMERICA, DONALD J. TRUMP, in his official capacity as President of the United States, U.S. DEPARTMENT OF HOMELAND SECURITY, and ELAINE DUKE, in her official capacity as Acting Secretary of Homeland Security,

Defendants.

CASE NO. 17-CV-05380-WHA

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COUNTY OF SANTA CLARA and
SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
States; ELAINE DUKE, in her official
capacity as Acting Secretary of the Department
of Homeland Security; and U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

CASE NO. 17-CV-05813-WHA

1 I, Marcelo M. Suárez-Orozco, declare:

2 1. I am the Wasserman Dean of the Graduate School of Education and Information Studies
3 at the University of California, Los Angeles (“UCLA”). The matters set forth herein are true and correct
4 of my own personal knowledge and, if called as a witness, I could and would testify competently
5 thereto.

6 2. In my role as the Wasserman Dean of UCLA’s Graduate School of Education and
7 Information Studies, I lead two academic departments, 16 nationally renowned research institutes, and
8 two innovative demonstration schools. My research focuses on conceptual and empirical problems in
9 cultural psychology and psychological anthropology with an emphasis on the study of migration,
10 globalization, and education. I have authored, co-authored, or edited almost 40 books and over 150
11 articles and book chapters on these topics, including on the relationship between immigration, education,
12 and achievement. My Curriculum Vitae is attached as Exhibit A.

13 3. A substantial body of research documents the negative educational, developmental,
14 physical, psychological, and other effects that growing up without authorized immigration status has on
15 children, adolescents, and young adults. DACA provided a safe and reliable mechanism through which
16 young immigrants who were brought to this country through no fault of their own—often at a young
17 age—could integrate more fully into the American communities in which they were raised.

18 4. DACA has enabled approximately 750,000 young immigrants to integrate into and
19 contribute more to communities across the country; its rescission will snatch these youngsters from the
20 stability they have come to expect and force them back into a life in the shadows as unauthorized
21 immigrants. The research is clear: current DACA recipients who are forced to return to unauthorized
22 immigration status will experience myriad negative educational, developmental, physical, psychological,
23 and other effects because of DACA’s rescission.¹

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26 ¹ See, e.g., Suárez-Orozco, Carola, *Conferring Disadvantage: Behavioral and Developmental*
27 *Implications for Children Growing up in the Shadow of Undocumented Immigration Status*, 38 J.
28 DEVELOPMENTAL & BEHAV. PEDIATRICS 424 (2017); Hirokazu Yoshikawa, Carola Suarez-Orozco, &
Roberto G. Gonzales, *Unauthorized Status and Youth Development in the United States: Consensus*
Statement of the Society for Research on Adolescence, 27 J. OF RES. ON ADOLESCENCE 4 (2017).

The Benefits of DACA

5. Recipients of DACA status share a number of defining characteristics. First, they came to this country at a young age, through no volition of their own. Because of this, DACA recipients grew up in American society and have been socialized as Americans.

6. Most DACA recipients received some or all of their K-12 education at American schools. Although their American education created opportunities, such as pursuing higher education, DACA recipients' undocumented status imposed burdens not faced by their citizen peers. For example, without their DACA status, youths cannot legally work in this country and face other hurdles such as the inability to open a bank account or travel freely.

7. DACA enabled its recipients to engage fully with society and pursue opportunities to better their lives and the lives of those around them. With the promise that they could freely live, work, travel, and pursue an education, DACA recipients enrolled in universities like UCLA, got jobs to help support their families and pay for the educations, and pursued internships and other endeavors that enriched their lives and our communities.

8. Studies of the impact of DACA reveal the measurable benefits that accrue to individuals gaining legal protections. Participation in DACA has been associated with greater experiences of incorporation and integration into U.S. society. These include greater sense of national belonging,² civic participation,³ and involvement in college activities.⁴ Rates of obtaining a driver's license, obtaining health care, opening bank accounts, and applying for credit cards are also higher.⁵ There is also some

² See, e.g., Robert T. Teranishi, Carola Suárez-Orozco, & Marcelo Suárez-Orozco, *In the Shadows of the Ivory Tower: Undocumented Undergraduates in the Uncertain Era of Immigration Reform*. INSTITUTE FOR IMMIGRATION, GLOBALIZATION, AND EDUCATION, UCLA (2015), available at <http://www.undocuscholars.org/assets/undocuscholarsreport2015.pdf>; Tom Wong & Carolina Valdivia, *In Their Own Words: A National Survey of Undocumented Millennials*. UNITED WE DREAM (2014), available at <https://unitedwedream.org/words-nationwide-survey-undocumented-millennials/>

³ Tom Wong & Carolina Valdivia, *supra* note 2.

⁴ Robert T. Teranishi, *et al.*, *supra* note 2.

⁵ Roberto G. Gonzales, Veronica Terriquez, & Stephen P. Ruszczyk, *Becoming DACAmented: Assessing the Short-Term Benefits of DACA (Deferred Action for Childhood Arrivals)*. 58 AMERICAN BEHAVIORAL SCIENTIST 1852-1872 (2014).

1 evidence that those who apply for and are awarded DACA attain higher levels of education, although the
2 pathways of causality are not clear (those who apply for DACA may be positively selected).⁶

3 9. Put simply, DACA has provided young immigrants with many important benefits. For
4 example, the UCLA study of childhood arrivals by the UndocuScholars Project found that 85.5 percent
5 of students with DACA reported a positive impact on their education. DACA recipients indicated
6 enjoying higher rates of working, greater housing & transportation stability, greater success in gaining
7 access to both scholarships and internships. Lastly, 94 percent of DACA recipients indicated a wish to
8 apply for U.S. citizenship if eligible.⁷

9 10. Research points to the mechanisms by which protection against deportation can bring
10 improvement in an immigrant child's life trajectory. First, most simply, such protection eliminates the
11 fear and anxiety that flow from the constant concerns deportation and sudden forced family separations.
12 Like removing a hobble, this allows a child, youth and emerging adult to ascend developmentally, grow
13 psychologically more secure, and attain greater educational success. Second, protections serve to
14 remove tangible barriers to economic opportunity and social integration that arise from unauthorized
15 status. Third, protections foster social trust and civic engagement with the institutions of society. Basic
16 social science research has documented these outcomes in a variety of empirical, conceptual, and
17 methodological traditions.⁸

18 11. Research further suggest that even a temporary work permit, such as those granted under
19 DACA, can set in motion a process that brings economic benefits first to the immigrants, in the form of
20 higher wages, and then to the public sector, in the form of higher tax revenue, and then to the nation as a
21 whole, in the form of a more productive labor force. Permission to work under DACA provides
22 unauthorized immigrants with better educational opportunities, a shield against workplace exploitation,
23 and grant freedom to move across the labor market to find work that best suits their skills.

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25 ⁶ Robert T. Teranishi, *et al.*, *supra* note 2.

26 ⁷ *Id.*

27 ⁸ Robert Suro, Marcelo M. Suárez-Orozco, & Stephanie L. Canizales, *Removing Insecurity: How*
28 *American Children Will Benefit From President Obama's Executive Action on Immigration*. TOMAS
RIVERA POLICY INSTITUTE AT USC & THE INSTITUTE FOR IMMIGRATION, GLOBALIZATION, AND
EDUCATION AT UCLA (2015).

The Negative Effects of The Rescission of DACA

12. Rescinding DACA will thrust its young recipients back into turmoil and anxiety of living with unauthorized immigration status, thwarting the measurable gains in human and social capital that DACA has enabled.

13. Research on the negative effects of undocumented status sheds light onto the consequences that DACA recipients will face when they lose the benefits that DACA promised. In particular, DACA recipients who lose their DACA status will likely face a slew of negative educational, developmental, physical, and psychological consequences.

The Negative Educational and Developmental Consequences of DACA's Rescission

14. Multiple studies have shown that children who grow up undocumented exhibit lower levels of cognitive development and emotional well-being throughout early childhood and adolescence than comparable children whose parents have no immigration issues. The research that has produced this finding carefully isolated the impact of immigration status from other factors such as low incomes or low levels of education among the parents.

15. As early as ages two and three, children growing up undocumented or with undocumented parents had lower cognitive skills as measured by standardized tests than comparable samples of children of parents who have no immigration issues. Research shows that the lack of a documented status is harmful to children's development—particularly their cognitive and language skills. These findings are based on a study of 380 newborns recruited hours after birth in public hospitals in New York City and then followed for three years with assessments of the children and in-depth interviews with the parents. Conducted by Hirokazu Yoshikawa, a developmental psychologist formerly at Harvard and now a professor at New York University's Steinhardt School of Culture, Education, and Human Development, the research offers a detailed assessment of how the everyday experiences of undocumented parents differ from legal immigrants in ways that can affect their children's development.

16. Professor Yoshikawa's research shows that parents are reluctant to interact with any government agencies to the point that children may not receive any resources for which they are eligible, and fear of interacting with the authorities could leave them vulnerable to criminal exploitation whether by smugglers, loan sharks or unscrupulous landlords. Undocumented immigrants tend to have more

1 restricted social connections of the sort that can help in childrearing as parents are cautious about
2 interacting with neighbors, coworkers or even a playmate’s parents out of fear their status will be
3 discovered. Finally, undocumented parents are more likely to experience exploitative work conditions,
4 including unsafe workplaces, longer hours and lower pay. Professor Yoshikawa’s study found evidence
5 of lower cognitive skills as early as twenty-four months and concluded that household-level “economic
6 hardship and psychological distress—feelings of depression, anxiety, and worry—were responsible for
7 this effect.” At thirty-six months, additional effects on cognitive skills were associated with
8 undocumented status in the household and “the disastrous work conditions of the undocumented parents
9 in the sample, combined with lower access to center-based child care.”⁹

10 17. A more generalized study based on a large data set similarly concluded that the children
11 growing up unauthorized are at greater risk of lower levels of development in the grade school years.
12 That finding emerged from an analysis of data from the 2005 California Health Interview Survey, which
13 has a sample of 43,020 households. The large sample enabled a team of researchers from the Institute
14 for Social Science Research at the University of California Los Angeles to study developmental risks for
15 children based on household level immigration status while controlling for other factors such as
16 education, income and employment.¹⁰

17 18. Many of the same impediments to full development observed in early childhood may
18 apply to middle childhood, including less frequent use of service, such as afterschool enrichment
19 programs, and greater social isolation of family networks.

20 19. Moreover, by middle childhood, a child’s cognitive skills and perspective-taking have
21 developed to a point where he or she may have become aware of legal status—their own and that of
22 their parents and siblings.¹¹ At this stage in a child’s development, “concern over the family’s legal
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24 ⁹ HIROKAZU YOSHIKAWA, IMMIGRANTS RAISING CITIZENS: UNDOCUMENTED PARENTS AND THEIR
25 YOUNG CHILDREN (2011).

26 ¹⁰ Alexander N. Ortega et al., *Documentation Status and Parental Concerns about Development in*
Young U.S. Children of Mexican Origin, 9 ACADEMIC PEDIATRICS 278-282.

27 ¹¹ Carola Suárez-Orozco et al., *Growing Up in the Shadows: The Developmental Implications of*
Unauthorized Status, 81 HARV. EDUC. REV. 438, 452 (2011).

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1 vulnerabilities begins to seep into consciousness. They become more cognizant of the culture of fear in
2 which they live. Spanish-language television and radio frequently feature stories of deportations, and in
3 some homes, it is a topic of family conversation that children begin to metabolize.”¹²

4 20. At this stage in a child’s development, he or she is beginning to make social comparisons.
5 A child’s recognition that his or her family is different can “affect self-esteem, increase anxiety, and
6 produce internalizing symptoms” associated with depression and acting out behaviors.¹³

7 21. Development in adolescence implicates additional consequences of not having
8 documented legal status. “[T]he key developmental task of adolescence is the formation of a stable sense
9 of identity, along with finding one’s place within the community beyond immediate family. Identity
10 formation is, in part, achieved by mastering culturally marked rites of passage, such as obtaining a
11 driver’s license, getting a first job, and, for many, going off to college. Unauthorized youth are unable to
12 fully partake in these normative coming of age rituals; moreover, their identity formation is complicated
13 when they come to face a negative social mirror that portrays them as illegitimate and unwanted. For
14 many adolescents who are unauthorized or are living in mixed-status homes, adolescence is a time when
15 liminality first comes to fully destabilize their fragile world.”¹⁴

16 22. Although family and K-12 schooling often provide unauthorized adolescent immigrants
17 with relative protections, moving into young adulthood and the public sphere is shocking and renders
18 youth particularly vulnerable. These youth must “learn to be illegal. Although they might have been
19 under the initial illusion that they would have similar access to the opportunity structure as their
20 authorized peers, they are now confronted with limited life opportunities.” These youth learn that they
21 are vulnerable to deportation and have drastically limited educational and employment choices.¹⁵

23 ¹² *Id.*

24 ¹³ *Id.*

25 ¹⁴ *Id.* at 453. *See also* CAROLA SUÁREZ-OROZCO & MARCELO M. SUÁREZ-OROZCO, CHILDREN OF
26 IMMIGRATION (2001); CAROLA SUÁREZ-OROZCO, ET AL., LEARNING A NEW LAND: IMMIGRANT
STUDENTS IN AMERICAN SOCIETY (2008).

27 ¹⁵ Carola Suárez-Orozco, *supra* note 11, at 454.

1 23. The consequences of a young immigrant’s undocumented status manifest in a variety of
2 ways. For example, one survey of over 909 college students found statistically higher levels of anxiety
3 in young college students who are unauthorized immigrants compared to standard measures of their
4 peers in the general population.¹⁶

5 24. In sum, the negative consequences of unauthorized status, including limited access to
6 services and opportunities, fear of deportation and forced family separations, have long-term and
7 tangible developmental effects on the lives of their children and youth. Eliminating these negative
8 consequences increases a child’s cognitive development and well-being in childhood, middle-childhood,
9 and adolescence.

10 *The Negative Physical and Health Consequences of DACA’s Rescission*

11 25. Research suggests household-level undocumented status poses obstacles to access many
12 means-tested benefits. An in-depth study of three communities by Randolph Capps and colleagues at the
13 Urban Institute revealed that families go to great lengths to avoid contact with social service providers
14 despite their children’s program or service eligibility for fear of being identified as undocumented and
15 deported.¹⁷

16 26. Researchers from the Center for Family and Demographic Research analyzed data
17 collected by the Survey of Program Dynamics and found that food insecurity among the children of non-
18 citizens has been higher and more persistent since the passing of the Personal Responsibility and Work
19 Opportunity Reconciliation Act, which made non-citizens ineligible for federally funded food assistance
20 programs.

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22 _____
23 ¹⁶ Robert T. Teranishi, *et al.*, *supra* note 2.

24 ¹⁷ Children and youth with unauthorized status are excluded from most means-tested federal and
25 associated state programs. This includes sources of health or mental health care such as Medicaid,
26 Medicare, or Children's Health Insurance Programs (CHIP) (aside from emergency care and care
27 provided during the perinatal and immediate postnatal period); publicly funded job training; public
28 housing; Supplemental Nutrition Assistance (SNAP, or Food Stamps); the Earned Income Tax Credit;
Social Security; and cash welfare assistance (TANF or Temporary Assistance for Needy Families).
Unauthorized immigrants are also ineligible for the expanded health insurance coverage through
exchanges provided by the Affordable Care Act.

1 30. UCLA scholar Leisy J. Abrego's study based on 200 interviews conducted between 1998
2 and 2010 with Central American immigrants in Los Angeles and Phoenix and in sending communities,
3 found that fear of detention and deportation generated "normalized but cumulative injurious effects" in
4 work, family and school contexts. Some of those effects include restricted social integration and
5 impeded upward mobility.²²

6 31. A recent UCLA study of undocumented youth who were brought to the United States as
7 children and are now in college found very high levels of anxiety due to fears of deportation. The
8 UndocuScholars Project at UCLA conducted a survey of 909 undocumented undergraduates in 2014 and
9 found that more than three-quarters expressed worries about being deported and more than half reported
10 knowing someone who had been deported. These worries and other aspects of the insecurity that comes
11 from being unauthorized translated into measurable consequences for the respondents' health. Among
12 male subjects 28.5 percent produced scores on a standard anxiety screening that were above the cutoff
13 for a clinical diagnosis; for females, it was 36.7 percent. In comparison, the shares in a population of
14 college students with no reason to fear deportation would be 4 percent and 9 percent, respectively.²³

15 32. In summary, rescinding DACA will return the youth who have benefited from the
16 program back into the shadows of society, and to living in the state of fear and precariousness that
17 triggers the negative consequences described above. Without DACA's promise that they can pursue
18 their education and work and travel freely, these young people—who are Americans in every way
19 except on paper—will likely lose the motivation to pursue their education, the means to work and
20 support themselves and their families, and the psychological and social stability upon which they have
21 come to rely.

22 I declare under penalty of perjury under the laws of the United States that the foregoing is true
23 and correct.

24 Executed on October 27, 2017, at Los Angeles, California.



Marcelo M. Suárez-Orozco

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27 ²² Cecilia Menjivar, & Leisy J. Abrego, *Legal Violence: Immigration Law and the Lives of Central*
28 *American Immigrants*. 117 AMERICAN JOURNAL OF SOCIOLOGY 1380-1421 (2012).

²³ Robert T. Teranishi, *et al.*, *supra* note 2.

EXHIBIT A

Marcelo M. Suárez-Orozco
Wasserman Dean
& Distinguished Professor
UCLA Graduate School of Education and Information Studies
Moore Hall 2320
405 Hilgard Avenue
Los Angeles, CA 90095-1521
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EDUCATION

Ph.D., Department of Anthropology, University of California, Berkeley (1986).

M.A., Department of Anthropology, University of California, Berkeley (1981).

A.B., Department of Psychology, University of California, Berkeley (1980).

EXPERIENCE

Wasserman Dean, Graduate School of Education and Information Studies, UCLA, 2015-

Dean, Graduate School of Education and Information Studies, UCLA, 2012-14.

Distinguished Professor of Education, Graduate School of Education and Information Studies, UCLA, 2012-

University Professor, New York University, 2005-2012.

The Courtney Sale Ross University Professor of Globalization and Education, New York University, 2004-2012.

Special Advisor to the Chief Prosecutor, The International Criminal Court, The Hague, The Netherlands, 2012.

The Fisher Membership Fellow, Institute for Advanced Study, Princeton, NJ, 2009-2010.

Scholar in Residence, Ross Institute, East Hampton, New York, 2003-2004.

The Victor S. Thomas Professor of Education, Harvard University Graduate School of Education 2001-2004.

Professor, Human Development and Psychology, Harvard University Graduate School of Education, 1995-2001.

Faculty Associate, The Weatherhead Center for International Affairs, Harvard University, 1997-2004.

Norbert Elias Lectureship, Amsterdam School for Social Sciences, The Netherlands, May 1996.

Directeur d'Etudes Associé, école des hautes études en sciences sociales, Paris, 1997.

Visiting Associate Professor, Department of Human Development and Psychology, Harvard University Graduate School of Education, 1994-1995.

Associate Professor, Department of Anthropology, University of California, San Diego, Fall 1992-1995.

Adjunct Associate Professor, Department of Psychiatry, University of California, San Diego, Fall 1994-1995.

Visiting Associate Professor, Facultat de Psicologia, Universitat de Barcelona (Spain), Summer 1993.

Fellow, Center for Advanced Study in the Behavioral Sciences, Stanford, 1992-1993.

Assistant Professor, Department of Anthropology, University of California, San Diego, 1988-1992.

Visiting Associate Professor, Centrum voor Sociale en Culturele Antropologie, Katholieke Universiteit te Leuven (Belgium), Winter 1989.

Lecturer, Department of Anthropology, University of California, San Diego, Fall 1987 and Spring 1988.

Visiting Assistant Professor, Anthropology Board, University of California, Santa Cruz, Fall 1986 and Spring 1987.

Visiting Assistant Professor, Graduate School of Education, University of California, Santa Barbara, Winter 1987.

Visiting Lecturer, Department of Education, University of California, Santa Barbara, 1986.

Visiting Lecturer, Anthropology Board, University of California, Santa Cruz, 1986.

Teaching Associate, Department of Anthropology, University of California, Berkeley. (Introduction to Socio-cultural Anthropology, Fall 1985).

Research Assistant, Institute of Human Development, University of California, Berkeley. 6/85-11/85.

Teaching Assistant, Department of Anthropology, University of California, Berkeley. (Introduction to Socio-cultural Anthropology, Summer 1985).

Teaching Associate, Department of Anthropology, University of California, Berkeley. (Culture and Personality, Spring 1984).

Research Assistant, Institute of Human Development, University of California, Berkeley. 9/83-6/84.

Teaching Assistant, Department of Anthropology, University of California, Berkeley. (Introduction to Socio-cultural Anthropology, Spring 1983).

Teaching Associate, Department of Anthropology, University of California, Berkeley. (Culture and Personality, Winter 1983).

Teaching Assistant, Department of Anthropology, University of California, Berkeley. (Introduction to Socio-cultural Anthropology, Summer 1982).

Research Assistant, Graduate School of Education, University of California, Berkeley. 2/81-1/83.

Reader, Department of Anthropology, University of California, Berkeley. Responsible for grading examinations for the following courses: Psycho-social Problems in Changing Cultures (Fall 1983); Folk Narrative (Spring 1982); Psycho-social Problems in Changing Cultures (Winter 1982); The Forms of Folklore (Fall 1982); The Forms of Folklore (Summer 1981); Myth (Summer 1981); Culture and Personality (Winter 1981); Mexico and Central America (Fall 1981); Psycho-social Problems in Changing Cultures (Summer 1980).

ADMINISTRATION

Dean, Graduate School of Education and Information Studies, UCLA, 2012-

Co-Director, Immigration Studies at New York University, 2004-2012.

Co-Director, Institute for Globalization and Education in Metropolitan Settings (IGEMS), New York University, 2005-2012.

Co-Director, Harvard Immigration Projects, Harvard University Graduate School of Education, 1997-2004.

Executive Committee, David Rockefeller Center for Latin American Studies (DRCLAS), Harvard University, 1996-2003.

PUBLICATIONS

Books, Edited Books, & Volumes

1. Suárez-Orozco, Marcelo M. *Central American Refugees and U.S. High Schools: A Psychosocial Study of Motivation and Achievement*. Stanford: Stanford University Press, 1989.* Book based on doctoral dissertation: *In Pursuit of A Dream*, Winner of the American Educational Research Association (Division G) Best Doctoral Dissertation Award (1988); Winner of the R. Boyer Award for Outstanding Research in Psychological Anthropology, University of California, Berkeley (1986)
2. Suárez-Orozco, Marcelo M. and George De Vos. "Status Inequality: The Self in Culture." *Cross-Cultural Research and Methodology Series 15*. Newbury Park, London, and New Delhi: Sage Publications, 1990.
3. Suárez-Orozco, Marcelo M., ed. "Belonging and Alienation." *A Special Issue of The Journal of Psychohistory and Psychoanalytic Anthropology* 18, no. 4 (1991): 371-546.*
4. Suárez-Orozco, Marcelo M., ed. "Migration, Minority Status, and Education: European Dilemmas and Responses in the 1990s." *Theme Issue of Anthropology & Education Quarterly* 22, no. 2 (1991): 99-199.*
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6. Suárez-Orozco, Marcelo M., George Spindler, and Louise Spindler, eds. *The Making of Psychological Anthropology II*. Fort Worth: Harcourt Brace, 1994.
7. Suárez-Orozco, Marcelo M., and Carola Suárez-Orozco. *Transformations: Immigration, Family Life, and Achievement Motivation Among Latino Adolescents*. Stanford: Stanford University Press, 1995.* Winner of the Social Policy Book Award, Society for Research on Adolescents, 1996.
8. Suárez-Orozco, Marcelo M., ed. *Crossings: Mexican Immigration in Interdisciplinary Perspectives*. Cambridge: David Rockefeller Center for Latin American Studies and Harvard University Press, 1998.*
9. Suárez-Orozco, Marcelo M., and Antonius C.G.M. Robben, eds. *Cultures under Siege: Collective Violence and Trauma*. London and New York: Cambridge University Press, 2001.*
10. Suárez-Orozco, Marcelo M., and Carola Suárez-Orozco. *Children of Immigration*. Cambridge: Harvard University Press, 2001.*
11. Suárez-Orozco, Marcelo M., and Mariela Páez, eds. *Latinos: Remaking America*. Cambridge and Berkeley: David Rockefeller Center for Latin American Studies at Harvard University and University of California Press, 2002.*
12. Suárez-Orozco, Marcelo M., and Carola Suárez-Orozco. *La infancia de la inmigración*. Madrid: Ediciones Morata, 2003. (Spanish version of Children of Immigration)*

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14. Suárez-Orozco, Marcelo M., Carola Suárez-Orozco, and Desiree Qin-Hilliard, eds. *The New Immigration: An Interdisciplinary Reader*. New York and London: Routledge, 2005.

15. Suárez-Orozco, Marcelo M., ed. *Learning in the Global Era: International Perspectives on Globalization and Education*. Berkeley: University of California Press, 2007.*

16. Suárez-Orozco, Marcelo M., Carola Suárez-Orozco, and Irina Todorova. *Learning a New Land: Immigrant Students in American Society*. Cambridge: The Belknap Press of Harvard University Press, 2008. Winner of the Virginia and Warren Stone Prize, Awarded Annually by Harvard University Press for an Outstanding Book on Education and Society, 2008.

17. Suárez-Orozco, Marcelo M. and Carola Suárez-Orozco. *Històries d'immigració: la comprensió dels patrons de rendiment escolar dels joves immigrants nousvinguts*. Barcelona: Fundació Jaume Bofill, 2008.

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19. Suárez-Orozco, Marcelo M., and Carolyn Sattin, eds. *Educating the Whole Child for the Whole World: The Ross School Model and Education for the Global Era*. New York: New York University Press, 2010.*

20. Suárez-Orozco, Marcelo M., Vivian Louie, and Roberto Suro, eds. *Writing Immigration: Scholars and Journalists in Dialogue*, xi-264. Berkeley and Los Angeles: University of California Press, 2011.*

21. Suárez-Orozco, Marcelo M., James Banks, and Miriam Ben-Peretz, eds. *Global Migration, Diversity, and Civic Education: Improving Policy and Practice*, v-243. New York: Teachers College Press & The National Academy of Education, 2016.

Edited Book Series: Interdisciplinary Perspectives on the New Immigration (Routledge) & The New Americans (LFB Scholarly Publications)

22. Suárez-Orozco, Marcelo M., Carola Suárez-Orozco, and Desiree Qin-Hilliard, eds. *Interdisciplinary Perspectives on the New Immigration: Theoretical Perspectives*. New York and London: Routledge, 2001.

23. Suárez-Orozco, Marcelo M., Carola Suárez-Orozco, and Desiree Qin-Hilliard, eds. *Interdisciplinary Perspectives on the New Immigration: The New Immigrant in the American Economy*. New York and London: Routledge, 2001.

24. Suárez-Orozco, Marcelo M., Carola Suárez-Orozco, and Desiree Qin-Hilliard, eds. *Interdisciplinary Perspectives on the New Immigration: The New Immigrant in American Society*. New York and London: Routledge, 2001.

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SELECTED INVITED PRESENTATIONS

The Catastrophic Migrations of the 21st Century: Implications of Education and Schooling. The Pontifical Academy of Sciences, the Pontifical Academy of Social Sciences, The Holy See. Ethics in Action 3: Migrants and Refugees, Vatican City, May 25, 2017.

Humanism and Mass Migration. Keynote Address. The Pontifical Academy of Sciences, the Pontifical Academy of Social Sciences [The Holy See] and the UCLA Graduate School of Education and Information Studies Workshop on Humanitarianism and Mass Migration. University of California Los Angeles, January 18, 2017.

Global Migration, Diversity, and Civic Education. Keynote Address. Center for Multicultural Education. The University of Washington, Seattle. February 10, 2017.

Learning in the Age of Complexity and Diversity. Invited Address. Second Annual Dyslexia Summit-Cognitive Diversity Project: Embracing Difference. Beckman Hall, Chapman University, Orange California, October 28, 2016.

Globalization 2.0: Further Thoughts on Children & Youth in an Interconnected World. Inaugural Address. Learning Outside the Lines: Children and Youth in an Interconnected World. College of Behavioral and Social Sciences, University of Maryland, College Park, September 28, 2016.

Citizenship in the Age of Globalization. Plenary Session with Howard Gardner. The Future of Learning. Project Zero Harvard University, Cambridge MA, July 26, 2016.

Public Scholarship & Immigrant Students. AERA Presidential Session. Washington, DC, April 10, 2016.

Public Scholarship on Global Migration & Structural Inclusion. AERA Presidential Session, Washington, DC, April 8, 2016.

The Empire of Suffering: Rethinking Mass Migration in the Age of Dystopia. Colloquium Series. Department of Sociology, University of Pennsylvania, PA. April 1, 2016.

From Local to Global: Public Research Universities in the 21st Century. (With UCLA Chancellor Gene Block, UCR Chancellor Kim Wilcox and AAAS President Jonathan Fanton). American Academy of Arts and Sciences. UCLA, Los Angeles, CA. February 4, 2016.

Education in the Age of Mass Migration. The 2016 Carl and Alice Daeufer Endowed Education Lecture. The University of Hawai'i, Mānoa, College of Education. Hawai'i, January 20, 2016.

Mass Migration & Education in the 21st Century – Policy Options: A view from the World of Research and Practice. Invited Address to the Legislature, State of Hawai'i. Honolulu, HI, January 21, 2016.

Immigration Today. Chancellor's Thought Leaders Series. The Chancellor's Residency, The University of Hawai'i at Mānoa, January 21, 2016.

The Empire of Suffering: Further Thoughts on Mass Migration in the Age of Dystopia. Keynote Address. Transforming Migrations, UC Irvine 50th Anniversary Academic Symposia, Irvine, CA, October 9, 2015.

Rethinking Education in the Age of Vertigo. Keynote Address. California Association for Asian and Pacific American Education. California State University at Northridge, Northridge, CA, July 31, 2015.

The Ninth Circuit in the Age of Mass Migration. Keynote Address. 2015 Ninth Circuit Judicial Conference. San Diego, CA, July 14, 2015.

After Immigration: New Anxieties in the Age of Global Vertigo. Keynote Address. Paulo Freire Institute, UCLA, April 24, 2015.

In the Shadows of the Ivory Tower: Findings from America's First Survey of Undocumented College Students. Invited Lecture. Steinhardt Institute for Higher Education, New York University, NYC, April 2, 2015.

Undocumented Undergraduates in American Colleges. Invited Lecture. Center for American Progress. Washington, DC. March 31, 2015.

Globalization, Mass Migration and Inequality: Further Thoughts on Education in the Age of Vertigo. The Marian Miner Cook Athenaeum Series, Claremont University Consortium, Claremont, CA, March 3, 2015.

Unaccompanied Child Migration 2.0. Invited Address. Unaccompanied Child Migration Symposium. The Kenan Institute for Ethics at Duke University, Durham, NC, February 23, 2015.

Educating Immigrant Children for the 21st Century. Keynote Address. Early Childhood Education and Care & Early Language Learning Conference. Council of Europe, the Italian Presidency, and the Italian Ministry of Education. The Loris Malaguzzi International Center, Reggio Children. Reggio Emilia, Italy, December 17, 2014.

Demographic Shifts: Impacts on Education. Invited Keynote. The National Academy of Education. The National Academy of Sciences, Washington DC, November 15, 2014.

Rethinking Education in the Age of Global Vertigo: Further Thoughts on Globalization, Immigration and Inequality. Keynote Address. Third Annual Research Colloquium, California State University Northridge, CA, October 29, 2014.

Education and Equality: A Response to Danielle Allen. Discussant: The Tanner Lectures on Human Values, Center for Ethics in Society, Stanford University, CA, October 9, 2014.

Education Tools and Methods. Roundtable Discussion, Session Chair. The Blouin Creative Leadership Summit. The Museum of Modern Art, New York, NY, September 24, 2014.

The Three Faces of Herod: Unaccompanied Children at the US Southern Border. Vatican Symposium on International Migration and Development. Invited Lecture. Mexican Ministry of Foreign Affairs & the Holy See, Mexico, DF, July 14, 2014.

Global Migration-Demographic & Cultural Changes. Invited Lecture. Contributions Council of the Conference Board. National Civil Rights Museum, Memphis, TN. June 24, 2014.

Education for Hyper-Diversity. UCLA Student Affairs Staff Meeting, UCLA, Los Angeles, CA, May 5, 2014.

The Children of Immigrants at School: A Comparative Look at Integration in the United States and Western Europe. Introductory Address. The Graduate Center CUNY, New York. May 1, 2014.

Access in Education: Why Civil Rights in Schools Still Matter. Roundtable Discussion. UCLA, GSE&IS Dean's Distinguished Speaker Series, UCLA, Los Angeles, CA, April 14, 2014.

Education and Immigration. Roundtable Discussion. Conversation with an Expert, Edward. R. Roybal Learning Center, Los Angeles, CA, April 10, 2014.

Education in the Age of Mass Migration and Superdiversity. Invited Keynote. Conference on Heritage/Community Languages, UCLA. Los Angeles, CA, March 7, 2014.

Making a Difference in Urban Schools: Drawing Lessons from the Field. Introductory Address. UCLA, GSE&IS Dean's Distinguished Speaker Series, UCLA, Los Angeles, CA, February 24, 2014.

Education and Educating in the Age of Migration and Superdiversity. Invited Keynote. International Conference: Migration and Education, University of Hildesheim, Hildesheim, Germany, February 20, 2014.

Rethinking Migration and Education in the Age of Global Vertigo. Invited Lecture. Hertie School of Governance, Berlin, Germany, February 19, 2014.

Making Education Work for Latinas. Roundtable Discussion. GSE&IS Dean's Distinguished Speaker Series, UCLA, Los Angeles, CA, December 2, 2013.

Educating Immigrant Children. Invited Lecture. Bread and Brain, Education and Poverty, Pontifical Academy of Sciences, Casina Pio IV, Vatican City, Rome, November 4, 2013.

The Empire of Suffering: Trafficking of Children in the Global Millennium. Invited Lecture. Trafficking in Human Beings: Modern Slavery. Pontifical Academy of Sciences, Casina Pio IV, Vatican City, November 2, 2013.

Rethinking Immigration & Education in the Global Era. Invited Lecture. University of Southern California, Los Angeles, CA, October 29, 2013.

Latinos in the 21st Century: Continuities and Change. Invited Keynote. Florida State University, Tallahassee, FL, October 15, 2013.

Today is the Future. Univision Education Town Hall. Roundtable Discussion. Ackerman Grand Ballroom, UCLA, Los Angeles, CA, October 4, 2013.

Education Methods and Ideas. Invited Address. The Blouin Creative Leadership Summit. The Metropolitan Club, New York, NY, September 24, 2013.

From Blackboards to iPads: Examining Education in the 21st Century. Roundtable Discussion. Education Policy Salon, Los Angeles, CA, September 16, 2013.

Beyond Immigration Reform. Televised Education Town Hall. National Council of La Raza Annual Meeting. New Orleans, Louisiana, July 20, 2013.

Education for Citizenship in the Public University-Israel & the US. Invited Address. Association for Israel Studies 29th Annual Meeting. UCLA School of Law, Los Angeles, CA, June 24, 2013.

Education Minor Spring Reception. Invited Keynote. Department of Education, UCLA, Los Angeles, CA June 4, 2013.

The Future of California: Immigration & Education. Keynote Address. Antioch University Board of Trustees Forum, Santa Barbara, CA, May 29, 2013.

Human Development in Latino Contexts: Cultural, Neural, and Applied Perspectives. Invited Lecture. UCLA, Los Angeles, CA, May 23, 2013.

What Would Immigration Reform Mean for Los Angeles? Invited Zócalo/Azteca America/California Community Foundation Roundtable, The California Endowment, Los Angeles, CA, May 1, 2013.

Improbable Scholars: The Rebirth of a Great American School System and a Strategy for America's Schools. Roundtable Discussion. UCLA, GSE&IS Dean's Distinguished Speaker Series, UCLA, Los Angeles, CA, April 24, 2014.

Globalization and Education: Implications for Business. Invited Keynote. ATT Business Forum, ATT Headquarters, Dallas, TX, April 17, 2013.

Latino Youth in America: The Education Imperative. Invited Keynote. Kansas State University, Manhattan, Kansas, March 27, 2013.

Issues of Identity: Immigration's Echo & Alternate Perspectives on Definitions of Civic Engagement. (Carola Suárez-Orozco, Marcelo Suárez-Orozco & Maria Hernandez). Invited Address. Youth Civic Development and Education Conference, Stanford University Graduate School of Education, Stanford, CA, February 7, 2013.

Policy Scholars on Undocumented Students. Roundtable Discussion. Graduate Student Policy Seminar, ASHE, The Cosmopolitan Hotel, Las Vegas, NV, November 14, 2012.

Immigration, Education, and Language Research, Invited Lecture. GSE&IS, UCLA. Los Angeles, CA, November 9, 2012.

(Re) Imagining Immigration and Education in the Era of Global Vertigo. Keynote Address. Imagining a World where it is Easier to Love. Celebrating the 10th Anniversary of the Paulo Freire Institute at UCLA, Los Angeles, CA, September 19, 2012.

The Futures of Learning Roundtable Discussion K. Anthony Appiah, Howard Gardner, and Marcelo M. Suárez-Orozco.) Harvard University Graduate School of Education. Cambridge, MA, August 3, 2012.

Immigration in America Today: New Data, New Opportunities, New Constraints. Keynote Address. The United Nations Alliance for Civilization Fellows Program. Institute for International Education, United Nations Plaza, May 7, 2012.

Educating the Whole Child for the Whole World. Keynote Address. The National Reading Campaign/Campagne sur la Lecture. Simon Fraser University, Vancouver, Canada, May 2, 2012.

Educating Children for the 21st Century. Rutgers University Graduate School of Education Keynote Address, Rutgers, NJ, March 27, 2012.

Educating the Whole Child for the Whole World. The Rivers School of Weston, Weston, MA, March 26, 2012

The New Normal in American Immigration. Keynote Address. Harvard Club of New York City, New York, March 21, 2012.

Growing Up in the Shadows: The Children of the Unauthorized Come of Age. Invited Address, Conference on "Immigration in the Wake of the Great Recession," The Thomas Rivera Policy Institute, University of Southern California, Los Angeles, March 5, 2012.

In the Shadows: The Educational Implications of Unauthorized Status. (Carola Suárez-Orozco and Marcelo Suárez-Orozco). Keynote Address. The 29th Teachers College Annual Winter Roundtable. Teachers College of Columbia University, New York, February 24, 2012.

Rethinking Immigration and Education in the Age of Global Vertigo. Keynote Address, The Center for Civic Engagement, College of Arts and Sciences, College of Education and Human Sciences, Department of Psychology, Department of Anthropology and UNL Research Council and the Faculty Senate Convocations Committee, University of Nebraska, Lincoln, February 6,

Educating Immigrant Children for the 21st Century: Lessons from around the World. The Lincoln Community Foundation. Lincoln Nebraska, February 7, 2012.

Globalization and Education. Keynote Address. Heritage Languages and Social Cohesion. Lycée Français de New York. New York, November 5, 2011.

Immigration and Business after the Crisis. Keynote Address, Grand Valley State University School of Business, Grand Rapids, Michigan, October 13, 2011.

Acting on the Dream: Immigrant Students at the Crossroads. Hispanic Heritage Celebration. Keynote Address. The Intercultural Center for Peace, Northern Florida State University, Jacksonville, Florida, October 3, 2011.

The Futures of Immigration: Scholars and Journalists in Dialogue. The Nieman Foundation for Journalism at Harvard, Cambridge MA, September 30, 2011.

Education and Global Civil Society. Dialogues on the Global Civil Society with the Right Honourable Gordon Brown, former Prime Minister of the United Kingdom. New York University, NYC, September 21, 2011.

Further Reflections on Education for the Global Era. Invited Address. The Blouin Creative Leadership Summit. The Metropolitan Club, New York City, September 20, 2011.

Immigration and Education in the Age of Global Vertigo. Invited Address with an introduction by Dean Delia Garcia. College of Education, Florida International University, Miami, Florida, September 14, 2011.

Global Migrations: Identities and Education for the 21st Century. Invited address Tercer Encuentro Mundial: Valores y Cultura de la Legalidad with His Holiness the 14th Dalai Lama of Tibet. Monterrey, Mexico, September 9, 2011.

Immigration: The Long View. Keynote Address. Yale Summer Institute on Colonial Latin America. El Museo del Barrio, New York City, July 8, 2011.

- Immigration Nation? Keynote Address. The Harvard Club, New York City. May 18, 2011.
- Immigration Today: Japan-US Comparisons. Invited Address. International Conference on Immigration in Japan and the U.S. School of International Relations and Pacific Studies. University of California, San Diego, CA, May, 6, 2007.
- Acting on the Dream. Keynote Address, Dominican Studies Institute Research Library. The City College of New York, April 28, 2011.
- Immigration in Troubled Times. Invited Lecture. Goldman School of Public Policy, U. C. Berkeley, CA, April 21, 2011.
- Educating the Whole Child for the Whole World. Keynote Address. Graduate School of Education, Rutgers University, Rutgers, NJ, April 15, 2011.
- Immigration and the Family: Theoretical Considerations. Invited Lecture. The NORFACE Research Programme on Migration. University College London, April 8, 2011.
- Immigration and Education in the 21st Century. Keynote Address, New York Department of Education, The Museum of the City of New York, March 8, 2011.
- Rethinking Immigration in the Era of Vertigo. Keynote Address, NYU in Boca Raton (NYU Alumni Office and NYU Development Office), Florida, February 23, 2011.
- Immigration and Language. Keynote Address. The Minority Student Achievement Network Conference. University of Massachusetts, Amherst, December 7, 2010.
- Immigration's Vertigo. Invited Lecture. American Academy of Child Psychiatry Annual Meeting. New York City, October 30, 2010.
- Rethinking Latino Education. Keynote Address. Center for Latino Policy Research. University of California, Berkeley, CA, October 28, 2010.
- Latinos in North America: Educational Implications in the Global Era. Keynote Address. 5th Hispanic Congress on Education. The Spanish Speaking Education Network, York University, Toronto, Canada, October 23, 2010.
- The Global Migration Vertigo. The Dow Lecture on Conflict and Community, Saginaw Valley State University. Saginaw, Michigan, October 12, 2010.
- Globalization and Education, 2.0. Keynote Address, the United Nations International School. New York, October 11, 2010.
- Latinos and Immigration. Keynote Address, Harvard Faculty Club, Cambridge, MA. October 8, 2010.
- Rethinking Latino Immigration and Health. Keynote Address. The Latino Health Forum, Harvard Medical School, Boston, MA, October 7, 2010.

Global Migration: New Realities. Keynote Address. Fondazione Cariplo/Bertelssman Stiftung International Conference on No Dialogue, No Citizenship. Teatro Piccolo Grassi, Milano, Italy, October 1, 2010.

Anti-Anti Immigration. Invited Lecture. Department of Anthropology and Center for Latin American Studies. University of California, Berkeley, CA, September 24, 2010.

Education; Technology and the Democracy of Knowledge in the Global Era. Invited Lecture. Blouin Creative Leadership Summit. The Metropolitan Club. New York, September 23, 2010.

Arizona's Firestorm: A Conversation between President Vicente Fox and Marcelo M. Suárez-Orozco moderated by Chrystia Freeland <http://www.youtube.com/watch?v=RTsTYd6MG6A> . Google Zeitgeist. Camel Back, Arizona, September 14, 2010.

State, School and Diversity in the Era of Mass Migration. Keynote Address. Calouste Gulbenkian Foundation, Lisbon, Portugal, June 7, 2010.

Learning a New Land: Latino Immigrant Students in American Society. Keynote Address. Princeton University Symposium on Latinos in America. Princeton, NJ April 10, 2010.

The Italian Immigration Crisis through American Eyes. The Second Annual Transatlantic Dialogue on Migration. Villa La Pietra, NYU, Florence, Italy. March 17, 2010.

Rethinking Global Migration. Keynote Address. The Nassau Club. Princeton, NJ, February 17, 2010.

Reflections Immigration and the Struggle for Civil Rights. Keynote Address. Martin Luther King, Jr. and the Dream Act. New York University School of Law, January 18, 2010.

Immigration's Unbearable Normalcy: Further Thoughts on Global Migration. Institute for Advanced Study, Princeton, NJ, January 14, 2010.

Immigrant Youth In Public Participation. The Public Participation Network. MacArthur Foundation. Charles Hotel, Cambridge, MA, January 7, 2010.

Immigration through the Eyes of Young People. Keynote Address on International Migrants Day, United Nations Headquarters. United Nations, New York, Dec. 18, 2009.

Rethinking Immigration in the Age of Global Vertigo. Keynote Address. Migrations and Transnational Identities: Crossing Borders, Bridging Disciplines. The Humanities Institute at Stony Brook, Nov. 13, 2009.

Rethinking Immigration, Education, and Language in the Age of Global Vertigo. Keynote Address. King Juan Carlos of Spain Center Conference on Immigration, Education and Language: A Spain/USA Perspective. New York University, November 12, 2009.

The New, New Immigration. Keynote Address. Migration Studies Project. Penn State University. November 2, 2009.

The State of Latino Children and Youth. Keynote Address. National Council of La Raza Children's Symposium. Washington, D.C., October 22, 2009.

Immigration, Race and the Academy. Keynote Address. Race in the Academy Lectures. Graduate School of Education, University of Pennsylvania. October 21, 2009.

A Cultural Psychology of Immigration in the Age of Global Vertigo. The Distinguished Lecture Series. The Graduate School, Princeton University, Princeton, NJ, October 14, 2009.

Immigration and Education. Keynote Address. Hispanic Heritage Month, University of Arkansas, Little Rock. October 5, 2009.

Education: Cognitive and Digital Tools for the Minds of the Next Generation. The Global Creative Leadership Summit. Louise Blouin Foundation and the United Nations Office for Partnerships. The Metropolitan Club, New York. September 24, 2009.

Globalization and the Future of Learning. A conversation with Howard Gardner and Fernando Reimers. The Future of Learning Workshop. Project Zero. Harvard Graduate School of Education, August 5, 2009.

Latino Immigration and Education. Keynote Address. The Northeastern Illinois University Symposium on Latinos in Chicago. June 6, 2009.

Biliteracy and Immigration: The Power to Connect. Keynote Address. Michigan Association of Bilingual Education. Michigan State University, East Lansing, MI May 15, 2009.

Immigration and Health. Keynote Address. Harvard School of Public Health. California Endowment Fellows Program. Cambridge, MA, May 4, 2009.

Immigrants in Dialogue. The Second United Nations Alliance for Civilization Forum. United Nations, Istanbul, Turkey, April 7, 2009.

Global Migration and Education in the 21st Century. Keynote Address. Bahçeşehir Üniversitesi, Istanbul, Turkey, March 18, 2009.

Rethinking Integration in the Global Era. The Immigrant and the City. Villa La Pietra, NYU Florence, March 23, 2009.

Immigration and the Future of Education. UNCW Leadership Lecture Series. University of North Carolina at Wilmington, February 9, 2009.

Exploring Immigration. Keynote Address, State University of New York at Old Westbury. February 5, 2009.

Learning a New Land: Mixed Methods in the Study of Immigration. UCLA Graduate School of Education and Information Studies, January 30, 2009.

Immigration and Universal Human Rights. Hope, Critique & Possibility: Universal Rights in Societies of Difference on the 60th anniversary of the Universal Declaration of Human Rights. Harvard Law School, Cambridge, MA, November 20, 2008.

The Perfect Storm: Immigration, Schools and the State. Keynote Address. Bertelsmann Foundation 11th Conference on School Developments in Germany, Gurtersloh, Germany, November 11, 2008.

Mass Migration: The Human Face of Globalization. Keynote Address. Migration: The Syracuse University Symposium. Syracuse, New York, October 28, 2008.

Learning a New Land: Immigrant Youth and the Globalization of America. Keynote Address, The 25th Symposium Lecture Series, Center for Multicultural Education, University of Washington, Seattle, WA, October 24, 2008.

Covering Immigration: Journalists and Scholars. Introductory Address. The Neiman Foundation for Journalism at Harvard University and Immigration Studies at NYU conference on Immigration Today, Cambridge, MA, October 3, 2008.

Interdisciplinary Reflections on Comparative Migration. Keynote Address. The President's Lecture Series, Western Connecticut State University, Danbury, CT, September 17, 2008.

The New Immigration to the United States. Dinner Address. United States Conference of Catholic Bishops. Washington, DC, July 28, 2008.

Global Flow: How Migration is changing the World. Dinner Address. The Board of Directors of the Western Union Company. The Peninsula Hotel, New York City, July 24, 2008.

Immigrant Youth: The Research Agenda. Keynote Address. The Funders Meeting of The Annie E. Casey Foundation. Baltimore, MA, June 23, 2008.

The New Inter-American Migration System. Keynote Address, The Western Union Latin American Agents Meeting, Panama City, Panama, June 3, 2008.

Immigrant Youth in Interdisciplinary Perspectives: New Findings from the LISA Study of the Harvard Immigration Projects. Keynote Address. Fundació Jaume Bofill, Barcelona, Spain, May 12, 2008.

Education, Globalization, and Culture. Keynote Address. CIIMU, the City Barcelona, and the University of Barcelona Symposium on Educacion, globalizacion e interculturalidad, Barcelona, May 15, 2008.

Immigrant Children, Youth, and Families: New Findings from the LISA Study. Cornell University's National Children, Youth and Families at Risk (CYFAR) Conference, San Antonio, Texas, May 8, 2008.

Psycho-Social Reflections on Immigration Today. Keynote Address. Immigration and HIV/AIDS. New York. St. Vincent's Hospital and NYU Hospital, The Kimmel Center, New York University, May, 2, 2008.

Immigration and American Democracy. The Lawrenceville School Senior's Capstone Lecture. Princeton, NY, April 15, 2008.

Immigration and Globalization. Class of '48 Lecture, the Burgin Center's Simon Theatre, Mercersburg Academy, Mercersburg, PA, April 14, 2008.

Why Migrate? Keynote Address. The First Year Experience, SUNY Old Westbury, NY, April 7, 2008.

Immigration and the Law: Comparative Reflections. Invited Address, New York University School of Law, NY, April 4, 2008.

Immigration and Latin America Today. Keynote Address. The Honors College, Kent State University, Kent, Ohio, April 1, 2008.

Dual Language: A Passport to Global Citizenship. Keynote Address. New York City Department of Education Dual Language Symposium, New York University, NY, March 27, 2008.

Education for Citizenship in the Global Era (with Carola Suarez-Orozco, Howard Gardner and The Hon. Graziano Del Rio. Mayor of Reggio Emilia). Centro Internazionale Loris Malaguzzi, Reggio Emilia, Italy, March 18, 2008.

Learning a New Land: Immigrant Students in American Society. Keynote Address. International Education Student Conference, New York University, NY, March 13, 2008.

Global Moves: How Migration is changing the World. Keynote Address. Western Union Kickoff Conference, Fort Lauderdale, FL, February 12, 2008.

Waves of Migration: Implications for Stakeholders in Business and Society. Keynote Address. Joint Meeting of the Contributions Council I and II, Arizona State University, Tempe, AZ, February 5, 2008.

Immigration, Education and Integration: The View from the United States. Invited address. The Bertelsmann Foundation Conference of Global Immigration, Education, and Integration, Berlin January 24, 2008.

Writing Immigration. Keynote Address. The Neiman Foundation for the Study of Journalism, Harvard University. Cambridge, MA, December 12, 2007.

Rethinking Immigration and Education. Keynote Address. Annual Meeting of the Texas Educational Agency Leadership Council, Dallas, TX, November 7, 2007.

Immigration and Education Today. Keynote Address. Grand Rapids Community College, Grand Rapids MI, October 24, 2007.

Integration and Education in the 21st Century. Invited Address at the German Foreign Office, Berlin, October 17, 2007.

Education for Globalization. Keynote Address. Pittsburgh Area Independent School Teachers' Association Annual Conference, Pittsburgh, PA, October 8, 2007.

Immigrants in the US Education System and Abroad. Keynote Address. Jobs for the Future Double the Numbers National Conference, Washington, DC, October 4, 2007.

What is Globalization? Keynote Address to the Faculty. The Ross School, East Hampton, New York. August, 20, 2007.

Migration Today; Reflections on the Mexican Experience in Longitudinal Perspective. (Carola Suárez-Orozco and Marcelo Suárez-Orozco). Keynote Address. Universidad Popular Autonoma del Estado de Puebla, Mexico, August 9, 2007.

Migration and Culture: A Dialogue for Integration. Roundtable with the Hon. Felipe González. Former Prime Minister of Spain, the Hon. Dominique de Villepin, Former Prime Minister of France, Joseph Stiglitz and others. The Atman Foundation, Madrid, Spain, June 15, 2007.

The Schooling Pathways of Immigrant Youth. Keynote Address. Jaume Bofill Foundation and Universitat Oberta de Catalunya, Barcelona, Spain, May 22, 2007.

The Access of Immigrants and Their Families to a Decent Standard of Living. Keynote Address. The Pontifical Academy of Social Sciences XVIII Plenary Session on Charity and Justice in the Relations Between Nations. Vatican City, May, 1, 2007.

The Education of Immigrant Students: 25 Years After Plyer v Doe. Invited Presidential Panel. AERA Annual Meeting, Chicago, Ill. April 10, 2007.

Good Work in the Global Era. Invited Fireside Chat – with Howard Gardner. AERA Annual Meeting, Chicago, Ill. April 9, 2007.

Global Moves: How immigration is transforming the U.S. Keynote Address. Department of Educational Leadership and Policy Studies, Southern Connecticut State University, New Haven, April 2, 2007.

Immigration and American Citizenship. The Weil Lecture on American Citizenship. University of North Carolina at Chapel Hill, March 28, 2007.

Rethinking Latin American Immigration to the United States. Keynote Address. The Institute for the Study of the Americas, University College, London, March 14, 2007.

Immigration and the Family. Invited lecture. Annual Meeting of the National Center for Family Literacy. Orlando, FL, March 3, 2007.

Immigration and Education: The Texas Experience in Global Context. Keynote Address. Annual Meeting of the Texas Educational Agency Leadership Council, Austin, TX, January 10, 2007.

Race and Immigration: Challenges and Opportunities for the New American Majority. Moderator. El Museo del Barrio, New York, December 9, 2006.

Reflections on Global Migration: The US Case. Invited lecture. The Africa House Conference of International Migration, New York University, NY, December 5, 2006.

Migration and Education in the Global Era. Keynote Address. Annual Meeting of the Association for the Study of Higher Education, Anaheim, CA, November 3, 2006.

Immigration Reform. Keynote Address. New York University School of Law Conference on Immigration and the Law, New York, October 27, 2006.

Moving Stories: The Academic Pathways of Immigrant Youth (with Carola Suárez-Orozco). Keynote Address. The Askwith Forum at Harvard University, Graduate School of Education, Cambridge, MA, October 23, 2006.

Migration in the Americas. Keynote Address to School Assembly. Phillips Academy, Andover, MA, October 11, 2006.

Covering Immigration: What Every Journalist Needs to Know but is Afraid to Ask. Keynote Address. Neiman Foundation for Journalism at Harvard University, Cambridge, MASS, September 27, 2006.

Who is An American? The Immigration Debate After 9/11. Keynote Address. The Gerald R. Ford Presidential Museum and the Hauenstein Center for Presidential Studies, Grand Rapids, Michigan, September 19, 2006.

The New Immigration: Conceptual and Empirical Considerations. Keynote Address. Columbia Basin College Faculty Development Conference, Pasco, Washington, September 14, 2006.

Immigration Today: US Dilemmas and Options. Keynote Address. Kennesaw State University's Conference on Georgia's Undocumented Workforce, Kennesaw, Georgia September 8, 2006.

Education and the Challenges of Globalization. Keynote Address. Manhattan's Region 9 Principals and Senior Leadership Annual Conference. Stuyvesant High School New York, August 30, 2006.

Globalization and Education. Keynote Address. American Educational Research Association and Teachers College, Columbia University, New York, August 19, 2006.

Educating Students for the 21st Century. Keynote Address. National Conference of State Legislators. Nashville, TN, August 18, 2006.

Immigrants and the Achievement Gap (with Carola Suárez-Orozco). Invited presentation. The Achievement Gap Initiative at Harvard University. Kennedy School of Government, Cambridge, Massachusetts, June 19m 2006.

Rethinking Global Migration: New Realities, New Opportunities, New Challenges with the Hon. Mary Robinson, Former President of Ireland and Former UN High Commissioner for Human Rights and the Hon. Luis Ernesto Derbez, Foreign Minister of Mexico. New York University, New York, May 25, 2006.

Immigrant Students in the 21st Century. Keynote Address, The Massachusetts Elementary School Principals Association Annual Meeting, Cape Cod, Massachusetts, May 4, 2006.

Latin American Emigration Today: Data, Concepts, and Reflections. Keynote Address. International Migration: The Human Consequences of Globalization. Second Colloquium of the Ministry of Foreign Affairs and the Pontifical Academy of Social Sciences, Mexico City, Mexico, March 27, 2006.

Global Migration Today: The Best of Times, The Worst of Times. Speakers on the Square Lecture. New York University, New York, March 23, 2006.

The Second Generation. Invited Lecture Delivered to the NYU School of Law, New York, March 21, 2006.

Immigration Policy Today: US Perspectives. Keynote Address Delivered to Visiting Dignitaries of the United States Department of State, New York City, March 16, 2006.

Globalization and Education. Keynote Address. Annual Meeting of the National Association of Independent Schools. Fleet Center, Boston MA, March 1, 2006.

The Latino Second Generation: What is New? What is Different? Keynote Address. The Young Latino Second Generation Conference. Telemundo/NBC, Nokia Theatre, New York City, February 28, 2006.

Globalization, Immigration and Education. Keynote Address. The Penn Ethnography Forum. University of Pennsylvania, PA, February 24, 2006.

Immigration and Education Today. Presentation to the Dean's Council, Steinhardt School of Education, New York University, New York, January 23, 2006.

Globalization and Education. Keynote Address. Join Workshop of the Pontifical Academy of Sciences and the Pontifical Academy of Social Sciences. Vatican City, November 17, 2005.

Educating the Global City, IGEMS Inaugural. The Great Hall, Cooper Union. New York City, November 1, 2005.

Rethinking the New Immigration. Invited Address. Centrum voor Sociale en Culturele Antropologie, Katholieke Universiteit te Leuven, Belgium, October 26, 2005.

Globalization, Immigration and Education: Some empirical findings and conceptual problems in an emerging field. Keynote Address. The Leuven Seminar on Globalization. Catholic University of Leuven, Belgium. October 25, 2005.

Globalization, Culture and Education. Keynote Address. The Antwerpen Seminar. Antwerp University, Belgium, October 24, 2005.

Doing Research on Diversity: The Fellows Forum. The National Academy of Education. Teachers College, Columbia University, New York, October 21, 2005.

Building the Harvard Immigration Projects. Invited Address, the National Academy of Education. Teachers College, Columbia University, New York, October 20, 2005.

Moving Stories: The Lives and Dreams of Immigrant Youth. Keynote Address. The Lynch School of Education. Boston College. Boston, MA, October 5, 2005.

Immigration Today: What Every Journalist Needs to Know. Keynote Address. The University of Maryland Journalism Fellows. September 28, 2005.

Globalization and Education in the Hartland. Keynote Address. The Omaha Public Schools. Omaha, Nebraska. September 27, 2005.

Exodo: Latin American Emigration and its Consequences. Keynote Address O BRASIL NO FLUXO DAS MIGRAÇÕES INTERNACIONAIS: SIMPÓSIO INTERNACIONAL, Universidade Pontifícia Católica de São Paulo. Brazil, September 17, 2005.

Immigrant Cultural Psychologies. Keynote Address. Department of Social Psychology, University of Sao Paulo. Brazil, September 16, 2005.

Beyond Tolerance: Globalization and Education in Troubled Times. Keynote Address. Facing History and Ourselves First Global Symposium. Boston, MA, August 11, 2005.

Education for All? The 25th Anniversary Tällberg Forum, Her Majesty Queen Silvia in attendance. Tällberg, Sweden, August 3, 2005.

Rethinking Latino Studies. Keynote Address. 2nd Annual Harvard Latino Studies Research Symposium. Harvard University, Cambridge, MA, May 13, 2005.

Everything you ever wanted to know about Cultural Psychology but were afraid to ask. The Monroe Stein Colloquium Lecture. New York University, Steinhardt School of Education. New York, April 28, 2005.

Globalization and Education: Reflections on John U. Ogbu's Contributions to a Future Field. The John U. Ogbu Memorial Lecture. Department of Anthropology. University of California, Berkeley, April 18, 2005.

Rethinking Immigration and Education in the Era of Accountability. Presidential Invited Session. American Educational Research Association. Montreal, Canada, April 15, 2005.

Education, Immigration, and Globalization: Diversity, Complexity and the Democratic Promise. Presidential Invited Session. American Educational Research Association. Montreal, Canada, April 12, 2005.

Interdisciplinary Reflections on the New Immigration. Invited Address. Department of Psychology. New School University. New York, April 7, 2005.

Global Understanding: Learning and Education in Troubled Times. Keynote Address. The First International Conference on Globalization and Learning. Stockholm, Sweden, March 18, 2005.

Moving Stories: Rethinking Immigration and Education in the Global Era. Keynote Address. Annual Meeting of the Sociology of Education Association. Asilomar, CA. February 19, 2005.

Psychosocial Perspectives on the New Immigration. Invited Address. Department of Community Psychology, New York University. February 14, 2005.

Immigration Today. Keynote Address. Emerson College Department of Performance Art Workshop on Immigration Today. January 27, 2005.

Globalization, Immigration and Education. A conversation between President John Sexton and Marcelo M. Suárez-Orozco. The Steinhardt School of Education and the Ross Institute. January 25, 2005.

Global Migration. Paper presented to the UN Secretary-General's First Annual Global Colloquium of University Presents. Columbia University. January 19, 2005.

Anthropological Reflections on the Sense of History. Invited Address. The Sense of History: Uses and Abuses of the Past. Club of 3. Schlosshotel Cecilienhof Am Neuen Garten, Potsdam, Germany. December 4, 2004.

Conceptual and Empirical Aspects of the New Immigration. Keynote Address Baruch College Workshop on Trends in Mexican Immigration to the United States. September 24, 2004.

Interdisciplinary Research in the Social Sciences. Keynote Address. Harvard University/LASPAU Conference on New Developments in the Social Sciences. Lamont Library, Harvard College. July 16, 2004.

Latino Paradoxes. Keynote Address (read in absentia). The Latino Health Paradox Conference. Harvard School of Public Health. June 24, 2004.

Beyond Tolerance. Co-convener and Presenter. The Ross Institute and the Survivors of the Shoah Visual History Foundation Workshop on Tolerance and Education. June 16, 2004.

Education and Globalization. Keynote Address. Globalization and Social Justice Conference. The Vatican's Pontifical Academy of Social Sciences and the Secretary of State, Mexico. June 4, 2004.

Immigration and Globalization: Interdisciplinary Perspectives. Keynote Address. Immigration Today Conference. Centrum voor Sociale en Culturele Antropologie, Katholieke Universiteit te Leuven (Belgium), June 1, 2004.

Reflections on Education and Globalization. American Academy of Arts and Sciences, Cambridge, MA. May 13, 2004.

Immigration: Three Paradoxes, Two Disciplines, One Claim. Invited Address. Department of Humanities and Social Sciences. Steinhardt School of Education. New York University, NY. March 23, 2004.

Thinking Inter-Disciplines. Invited Address. The Harvard Interdisciplinary Project. Project Zero, Harvard University, Cambridge, MA. March 18, 2004.

Immigration and Well-Being. Keynote Address. Loma Linda University, Loma Linda, California. March 11, 2004.

Immigration in the Study of Race, Culture and Power in the Educational Process. Invited Address. Teaching Race: Race, Culture and Power in the Educational Process. University of New Hampshire, NH. October 31, 2003.

Thinking Through Latino Immigration. Keynote Address. Morton College Faculty Day, Cicero, Ill. August 21, 2003.

Promoting Social Cohesion through Education. Invited Address. The Organization for Economic Co-operation and Development (OECD). Paris. July 3, 2003.

Immigration, Globalization, and Education. (Lectures in Berlin, Hamburg, Düsseldorf, Wiesbaden, and Munich). (Carola Suárez-Orozco and Marcelo M. Suárez-Orozco). Invited Lecture Tour Organized by the US Embassy, Germany. June 23-June 27, 2003.

Immigration and Education: Preliminary Findings from the Harvard Immigration Projects (Two Lectures). (Carola Suárez-Orozco and Marcelo M. Suárez-Orozco). Invited Lectures delivered to the City of Stockholm, Sweden. June 17 and 18, 2003.

Latinos: Remaking America. Invited Keynote Address. Dealing with Difference Summer Institute. Western Illinois University. Macomb, Ill. May 18, 2003.

Current Issues in Migration Policy. Invited presentation with the Hon. Dr. Rita Sussmuth, Former Speaker of the German Bundestag. The Goethe-Institut Inter Naciones. Boston, May 7, 2003.

Immigrants Mean Business. Invited Lecture. Harvard Business School. May 1, 2003.

Globalization and Child Development: The Research Agenda. Invited Address. The 2003 SRCD Biennial Meeting. Tampa, FL. April 26, 2003.

Global Moves: Migration, Education, Utopia, and Distopia. Keynote Address. Educational Democracy, Citizenship, and the New Immigration Conference. University of Illinois. Champaign Urbana, April 12, 2003.

Education, Culture and Immigration. Invited Address. The Weyland Public Schools, Weyland, MA, April 11, 2003.

The Handley Lecture on Human Values. Invited Address. The Pingry School, Martinsville, New Jersey. April 4, 2003.

Immigration and Education. (Three Lectures). (Marcelo Suárez-Orozco and Carola Suárez-Orozco). Invited lectures delivered to the East Hampton School District and the Ross Institute of New York. East Hampton, NY. March 21 and 22, 2003.

The Impact of HR I on Immigrant and English Language Learners. (Carola Suárez-Orozco and Marcelo M. Suárez-Orozco). Invited Address. The Aspen Institute Congressional Program. Montego Bay, Jamaica. February 18, 2003.

Latinos in the US: Academic Perspectives. Invited Address. The US-Spain Council. Madrid, February 6, 2003.

New Developments in Latin American Immigration to the United States. Invited Address. David Rockefeller Center for Latin American Studies Regional Office. Santiago de Chile. January 8, 2003.

Latinos in Cities. Invited Address. Invited Address. The Newark Public Library, Newark, NJ, October 3, 2002.

Remaking the Geography of California Identities. Invited Address. The Geography of California Identities Conference. Stanford University, April 26, 2002.

Latinos Mean Business. Invited Address. The David Rockefeller Center for Latin American Studies Corporate Partners Program. Harvard University, April 19, 2002.

Global Engagement: Immigrant Youth and the Process of Schooling (Carola Suárez-Orozco and Marcelo M. Suárez-Orozco). Fifth Roberta Grodberg Prize Lecture, 9th Biennial Meeting of the Society for Research on Adolescence. New Orleans, April 12, 2002.

A Kinder, Gentler Cultural Psychology for the New Millennium. Keynote Address. Boston Area Cultural Psychology Study Group. April 9, 2002.

Latinos: Remaking the Americans. Inaugural Address. David Rockefeller Center for Latin American Studies Symposium on "The Other Latinos." Harvard University, April 5, 2002.

Education, Culture, and Globalization. World Economic Forum Dinner Hosted by Mrs. Courtney Ross Holst Commentary with Her Highness Shiekha Mousa bint Nasser Al-Misnad, Emira of Qatar and the Honorable Hillary Rodham Clinton, and Howard Gardner. New York City, NY, February 1st, 2002.

Children and Violence: Psychocultural Perspectives. Invited Address. Harvard Children's Initiative. Harvard Faculty Club, Cambridge, MA, December 4, 2001.

Thinking through the Immigrant Paradox. Faculty Seminar. Department of Social Medicine, Harvard Medical School. Boston, MA, December 3, 2001.

Immigration and Education Reform. The Principal's Center Forum on Educational Reform. Harvard University Graduate School of Education. Cambridge, MA, November 9, 2001.

Law and Immigration After September 11. Law and Immigration Conference, Harvard Law School. Cambridge, MA, November 8, 2001.

Caribbeans on the Move: Comments on Recent Developments in the Study of Haitian Immigration. Conference on Haitian Immigration to the United States. David Rockefeller Center for Latin American Studies, Harvard University. Cambridge, MA, October 26, 2001.

Globalization: The Research Agenda. Keynote address delivered to Board of Directors, Cambridge College. The Rockefeller Bothers Conference Center at Pocantico, Tarrytown, New York. October 17th, 2001.

The New Anthropology of Immigration: Comparative Reflections of Recent Developments in Latin American, Caribbean, and Asian Immigration. Advanced Seminar. School for American Studies, Santa Fe, New Mexico. October 10, 2001.

Rethinking Culture: Immigration, Assimilation, and Acculturation in the Global Era. Keynote Address. The Federal Reserve Bank of Boston 46th Economic Conference on Seismic Shifts: The Economic Impact of Demographic Change. Chatham, MA. June 12, 2001.

The New Immigration: Some Interdisciplinary Reflections. Invited Address. The Harvard Club of New York City, May 24, 2001.

Psychosocial Perspectives on the Children of Immigration. Invited paper read to the Judge Baker Children's Center, Harvard Medical School. May 16, 2001.

Thinking Through the New Census. Invited Address. The Advisory Committee Meeting of the David Rockefeller Center for Latin American Studies, Harvard University. Cambridge, MA, May 12, 2001.

Rethinking Mexican Immigration to the US. Invited paper read to the conference on the Changing Agenda of the U.S.-Mexico Relationship. David Rockefeller Center for Latin American Studies, Harvard University. Cambridge, MA, April 23, 2001.

Immigrant Children: What We Know and Know We Know It. Invited paper read to the Annual Meeting of the American Educational Research Association. Seattle, Washington, April 11, 2001.

Reflections on Immigration and (Homo)Sexuality. Invited Address. Passing Lines: Immigration and (Homo)Sexuality Conference. David Rockefeller Center for Latin American Studies, Harvard University. Cambridge, MA, April 5, 2001.

The Longitudinal Study of Immigrant Lives: An Introduction to the Longitudinal Immigrant Student Adaptation Study. Invited Address. The Murray Research Center for the Study of Lives. Radcliffe Institutes for Advanced Study, Cambridge, MA, March 20, 2001.

Global Acts: Immigrant Children, Education, and the Post-National. Invited paper read to the Visiting Committee, Harvard Graduate School of Education, Cambridge, MA, March 14, 2001.

Thinking Through Globalization. Invited Address. Joint meeting of the Centers for Asian American Studies, Latin American Studies, and Latino Studies, University of Massachusetts, Amherst, MA, February 15, 2001.

Recent Theoretical Currents in the Study of Immigration. Invited paper read to the Immigration and Religion Interfaculty Initiative, Harvard University, Cambridge, MA, December 13, 2000.

Rethinking the Urban. Invited paper read to the Dean's Weekend, Graduate School of Education, Harvard University, Cambridge, MA, December 2, 2000.

Educational Challenges for Haitian Immigrant Youth: Perspectives from the Harvard Immigration Projects. Invited Address. The Haitian Studies Association Meeting Twelfth Annual Conference. West Palm Beach, Florida, October 25th, 2000.

Childhood Depression Among Immigrants. Invited paper read to the Childhood Depression Research Center. Judge Baker Children's Center, Harvard Medical School. October 18, 2000.

Freedom and Responsibility in the Global Era of Migrations and Transnationalism. Keynote Address. Freedom and Responsibility: A National Conference of the Association Montessori Internationale. Boston, MA. July 23, 2000.

Immigration Today. Invited Address. The International Press Institute. Boston, MA, May 2, 2000.

Immigration and the Blurring of Boundaries. Paper read to the invited session on 'Blurred Boundaries: The Cultural Politics of Racial Identity in the New Millennium.' American Educational Research Association. New Orleans, LA, April 25, 2000.

Immigrant Students in the Cusp of the New Millennium. American Educational Research Association. New Orleans, LA, April 24, 2000.

Latinos in the United States: The Research Agenda. Invited Address. The Center for US Studies, Universidad de la Habana, Cuba. April 19, 2000.

Keynote Address. The Second Institute on Cultural and Linguistic Diversity. Brown University, Providence, RI, April 10, 2000.

Latinos in the 21st Century: Introduction. Latinos in the 21st Century: Mapping the Research Agenda, David Rockefeller Center for Latin American Studies, Harvard University. Cambridge, MA, April 6, 2000.

Latinos in the United States: The Research Agenda. Invited Address. People en Español, Time-Warner. New York City, NY, March 3, 2000.

Keynote Address. Spencer Foundation Conference on the Role of Educational Ethnography in Pedagogy. University of Huston, TX, February 11, 2000.

Assimilation: Distopia, Utopia, and In-Between. Invited paper read to the Social Science Research Council Workshop on Ethnic Customs, Assimilation, and American Law. Phoenix, AZ, January 14, 2000.

Assimilation: Who Needs It? Invited paper read to the Russell Sage Foundation. New York City, January 5, 2000.

Rethinking Identity. Invited paper read to the Harvard Haitian Alliance Conference on The Haitian Identity Crisis: Cultural Pride and Preservation or Denial and Assimilation. Lowell House, Harvard University. December 16, 1999.

Identities and Styles of Adaptation: Theoretical Reflections on the First Wave of Data from the Harvard Immigration Project. Invited paper read to the Annual Meeting of the American Anthropological Association. Chicago, IL, November 21, 1999.

Reflections on Hate Crimes. Invited Paper read to the Harvard Foundation Panel on Hate Crimes in America: The Search for Solutions. Sanders Theater, Harvard University. November 10, 1999.

EU-USA Border Controls: Some Comparative Considerations. Invited Paper read to the Workshop on Border Control, State Power and Economic Integration: Perspectives from Europe and North America. Weatherhead Center for International Affairs, Harvard University. June 5, 1999.

The New Bostonians: Immigration and the Sociocultural Remaking of an American Metropolis. The Lowell Lecture. The Bostonian Society, Old State House, Boston. May 4, 1999.

Some Theoretical Considerations in the Study of Immigration. Invited Paper read to the Weatherhead Center for International Affairs, Harvard University. April 29, 1999.

Immigrant Children: What Do We Know? What Do Schools Need to Do? Keynote Address. All Means All Conference. The School District of Philadelphia. March 13, 1999.

The Children of Immigrants: Everything You Ever Wanted to Know About Assimilation but Were Afraid to Ask. Invited Paper read to the Chicano/Latino Policy Project. Institute for the Study of Social Change, University of California, Berkeley. March 5, 1999.

Getting It Right About Immigrant Children's Development: Some Interdisciplinary Reflections. Invited Paper read to Conference on Getting It Right about Children's Development: The Influences of Nurture and Nature. Harvard Children's Initiative and the American Academy of Arts and Sciences. February 5, 1999.

Writing Immigration: Interdisciplinary Observations. Invited paper read to the Conference on Writing Immigration: Academic and Journalistic Perspectives. David Rockefeller Center for Latin American Studies, Harvard University. December 10, 1998.

Immigration and Population in Psychocultural Perspectives. Invited paper read to the Annual Meeting of the American Anthropological Association. Philadelphia, PA, December 4, 1998.

Interdisciplinary Approaches to the Study of Immigration. Invited paper read to the Annual Meeting of the American Anthropological Association. Philadelphia, PA, December 4, 1998.

Immigration and the 'Free Exercise of Culture.' Invited paper read to the Social Science Research Council Workshop on the Free Exercise of Culture. Stanford, CA, November 6, 1998.

Psychocultural Approaches to Immigration Research. Invited paper read to the program in Medical Anthropology, Department of Anthropology, Harvard University. October 30, 1998.

Latin American Immigration to the United States. Invited paper read to the Conference on the United States, Latin America, and Europe: Analysis of the New Agenda. First Annual Hewlett Conference on Latin America, University of London and the David Rockefeller Center for Latin American Studies, Harvard University. October 17, 1998.

Immigration Today: Theoretical Problems in the Study of Children. Keynote address, Urban Superintendents Program Advisory Committee, Harvard University Graduate School of Education. October 8, 1998.

Anthropological Perspectives in the Study of Immigrant Children. Invited paper read to the Workshop on Immigrant Children. Bendheim Thoman Center for Research on Child Wellbeing, Office of Population Research, Princeton University. May 8, 1998.

Culture and the Education of Immigrant Children. Invited paper read to the American Educational Research Association, San Diego, California. April 17, 1998.

Everything You Ever Wanted To Know About Transnationalism but Were Afraid to Ask. Invited paper read to the Conference on Transnationalism and the Second Generation, Harvard University. April 4, 1998.

The Cultural Psychology of Immigration: Implication for Psychiatry. Invited paper read to the Department of Psychiatry Harvard University. April 6, 1998.

Latin American Immigration to the United States: Some Interdisciplinary Observations. Invited paper read to the Institute of Latin American Studies, University of London. March 6, 1998.

The Anthropological Study of Immigration: Reflections on a Decade of Research. Invited paper read to the Institute of Latin American Studies, University of London. March 11, 1998.

Rethinking the Study of Identity: Some Interdisciplinary Reflections. Invited paper read to the Children's Studies Conference on Youth, Identity, and Achievement, Harvard University, February 27, 1998.

Crossings: Some Interdisciplinary Reflections on the New Immigration. Invited paper read to the Joint Seminar of the Administrative Fellows, Harvard University, January 21, 1998.

Three Anthropological Themes in the Study of Immigration. Invited paper read to the Instituto Nacional de Antropología, Buenos Aires, Argentina. December 22, 1997.

North-South Relations: The Issue of Latin American Immigration to the United States. Invited paper read to the Harvard Club of Argentina, Buenos Aires, Argentina. December 18, 1997.

The Cultural Psychology of the Second Generation. Invited paper read to the Second Generation Symposium. The Jerome Levy Economics Institute of Bard College, New York. October 24, 1997.

Some Thoughts on the New Immigration: Implications for Issues of Education Research. Keynote speech read to the conference on Immigration and Education: Issues and Research. Spencer Foundation/UCLA. August 8, 1997.

Social Violence in Interdisciplinary Perspective. Invited paper read (in absentia) to Biannual Meeting of the Society for Psychological Anthropology, San Diego, CA. August 7, 1997.

The Impossible Professions: Rethinking Psychoanalysis and Social Theory. Invited paper read to the conference on Mothering: Diverse Families, Diverse Theories. Women's Studies Program, Brandeis University, April 13, 1997.

Psychodynamic and Cultural Factors in Immigrant Adaptation. Invited paper read to the conference on Immigration and the Sociocultural Remaking of the North American Space. David Rockefeller Center for Latin American Studies, Harvard University, April 12, 1997.

Immigration: The Next Fifty Years. Invited keynote speech read at the opening of the first Immigration Center of the Children's Aid Society, New York, New York. March 13, 1997.

Immigration and the 'New' New Yorkers. Invited paper read to the Harvard Club of New York, March 13, 1997.

Everything You Ever Wanted to Know About Immigration but Were Afraid to Ask. Invited paper read to the Monthly Latin American Faculty Luncheon, David Rockefeller Center for Latin American Studies, Harvard University. March 6, 1996.

Immigration Today: The Grammar of a Transnational Malaise. Invited paper read to the NPI, Department of Psychiatry, University of California, Los Angeles, January 23, 1997.

What do Immigrants Want? What does Los Angeles Want? Invited paper read to the Harvard Club of Los Angeles, January 23, 1997.

State Terrors: Immigration in Comparative Perspective. Paper presented to the Annual Meeting of the American Anthropological Association. San Francisco, CA, November 20, 1996.

Immigration and the Socio-Cultural Remaking of the North American Space: Implications Schooling in the 21st Century. Invited paper read to the Initiatives for Children, American Academy of Arts and Sciences, Cambridge, November 16, 1996.

The New Immigration: Implications for Schooling and Society. Invited paper read to the 24th Annual Conference of the Texas Association for Bilingual Education, Fort Worth, Texas, November 15, 1996.

Comparative Perspectives on the 'New Immigration.' Invited paper read to the Asian American Studies Center, University of Houston, Texas, November 14, 1996.

Psychological Anthropology Today. Invited paper read to 'The Power of Ideas' Speaker Series, Wheelock College, Boston, November 13, 1996.

Immigration and Socio-Cultural Remaking of American Democracy: Perspectives from Cultural Psychology. Invited paper read to the Program in Human Development Colloquium Series, Department of Psychology, Boston University, October 30, 1996.

Is the New Immigration Good for America? Is the New America Good for Immigrant Children? Research on the Schooling and Mental Health of Immigrant Children. Invited paper read to the Judge Baker Center, Children's Hospital, Harvard Medical School, October 23, 1996.

Immigrants and Refugees in the Space of Post Nationality. Invited paper read to the international conference on Civilization and Its Enduring Discontents: Violence and Aggression in Psychoanalytic and Anthropological Perspective. Bellagio Study and Conference Center, Como, Italy. September 2-6, 1996.

Cultures Under Siege/Migrants Under Siege. Invited paper read to the international conference on Cultures Under Siege: Psychological Anthropology on Violence and Aggression in the Late Twentieth Century in Celebration of the 360th Anniversary of Utrecht University. Utrecht, The Netherlands. August 29-30, 1996.

New Psychologies, Old Psychologies, Cultural Psychologies. Invited paper read to the international conference on New Psychologies. Stonefield Castle, Tarbert, Loch Fyne, Scotland. June 28-July 1, 1996.

Immigration and the Collective Anxieties at the End of the Century. The Norbert Elias Lecture. Amsterdam School for Social Science Research, The Netherlands. May 28, 1996.

The Cultural Psychology of Growing Up Latino in America. Invited paper read to the session Growing Up American: Dilemmas of the New Second Generation. The American Association for the Advancement of Science Annual Meeting, Baltimore. February 10, 1996.

Immigration and Schooling in Contemporary Societies. Invited paper read to the Culture, Psychology, and Education Conference, Harvard Graduate School of Education. January 12, 1995.

The Political, Cultural, and Psychological Aspects of Immigration. Invited paper read to the Workshop on the Political and Cultural Aspects of Immigration in America, Harvard College. December 9, 1995.

Writing a Grammar of Immigration. Invited paper read to the Monthly Latin American Faculty Luncheon, David Rockefeller Center for Latin American Studies, Harvard University. December 7, 1995.

Socio-Cultural Distopia and the Issue of Diversity. Invited paper read to the Conference Achievement: The Bell Curve is Not and Explanation. The Principals' Center, Harvard Graduate School of Education. October 5, 1995.

The Cultural Psychology of Immigration. Invited paper read (in absentia) to the Workshop on International Migration, Human Services Policies and Health. Granada, Spain, May 25 & 26, 1995.

Psychocultural Perspectives on Anti-Immigration. Invited paper read to the Conference on Psychoanalytic Perspectives on Neo-Fascism & Anti-Immigration Politics: Trends in Europe and the United States. Co-sponsored by the San Francisco Psychoanalytic Institute's Extension Division; the University of California at Berkeley's Center for Western European Studies, Doreen B. Townsend Center for the Humanities, and the Health and Medical Sciences Program. Alumni House, University of California, Berkeley May 6 & 7, 1995.

Impossible Attachments: The Need for Strangers and the Immigration Malaise. Invited paper presented to the Department of Anthropology, Harvard University, May 1, 1995.

What is Exclusion Anyway? A Psychocultural Approach to the Other Side of Inclusion. Invited paper presented to the Principals' Center Spring Conference, "What is Inclusion Anyway?" Harvard University Graduate School of Education, April 27, 1995.

Immigrant Families: A View from Cultural Psychology. Invited paper presented to the Department of Child Study, Tufts University, April 13, 1995.

Transformations: Generational Discontinuities of Immigration in Transnational Perspective. Tenure Review Lecture read to the Harvard University Graduate School of Education, April 6, 1995.

Psychoanalysis and Culture. Invited paper read to the Department of Human Development and Psychology, Harvard University Graduate School of Education, March 2, 1995.

Immigration: Setting the Context. Invited paper read to the Harvard Forum In or Out? Immigration and Proposition 187. Harvard University Graduate School of Education, February 15, 1995.

Language Minority Adolescents and School Success. Invited paper read to the Conference on Academic Achievement for Urban Adolescents. Harvard University Graduate School of Education, February 4, 1995.

California Dreaming: Proposition 187 and the Immigration Delirium. Invited paper read to the Colloquium in Human Development, Department of Human Development and Psychology, Harvard University Graduate School of Education, December 12, 1994.

Migration and Motivation. Invited paper read to the Russell Sage Foundation. New York City, November 17, 1994.

Recent Themes in Cultural Psychology. Paper read to the Boston Area Cultural Psychology Forum. Harvard University Graduate School of Education, October 14, 1994.

Migration and the Development of Interethnic Group Relations. Paper read to the Research Symposium on the Development of Interethnic Group Relations During Childhood and Adolescence. Carnegie Council on Adolescent Development. Washington, DC, September 29, 1994.

Democracy and Difference in the Post-Utopian Moment. Paper read (in absentia) to the International Conference on Democracy and Difference. University of Cape Town, South Africa, May 5-7, 1994.

The Organization of Hatred. Paper read to the University of California Interdisciplinary Psychoanalytic Consortium, UCLA Lake Arrowhead Conference Center, April 22-24, 1994.

Ethnic Malaise: Schooling Immigrants and Refugees in a Post-Utopian Moment. Paper read to the Department of Human Development, Harvard University, March 23, 1994.

Ethnographic Perspectives in Educational Analysis. Paper read to the International Workshop on Ethnographic Perspectives in Educational Analysis in the 1990s (Jointly Sponsored by the Unité de Sociologie de L'éducation, CNRS, Paris and the Fundación "la Caixa"). Barcelona, Spain, October 29, 1993.

Immigrant Cultural Psychology: Methodological Considerations. Paper read to the Department of Social Psychology, University of Barcelona, Spain, October 27, 1993.

Terror at the Fin de Siècle: The Systematization of Hatred in a Paranoid Era. Invited Paper read to the Biannual Meeting of the Society for Psychological Anthropology, Montreal, Canada, October 8, 1993.

Migration and Urban Education: The View from Brussels. Paper read (in absentia) to the Research Workshop on Educational Change and Educational Knowledge. Department of Curriculum and Instruction. University of Wisconsin, Madison, WI, June 18, 1993.

Latino Cultural Psychology: Family Life and the Patterning of Achievement Motivation Among Mexicans, Mexican Immigrants, Mexican Americans, and non-Hispanic "Mainstream" Adolescents. Paper presented to the Department of Psychology, University of California, Santa Cruz, CA, May 17, 1993.

Terror and Mimesis in the Continent of the 'Disappeareds.' Paper presented to the Center for Latin American Studies, University of California, Berkeley, CA, April 26, 1993.

Quo Vadis Anthropology? Partial Answers and a Guided Tour of Violin Playing in Four Cultures. Paper presented to the 'Wednesday Evening Seminar,' Center for Advanced Study in the Behavioral Sciences, Stanford, CA, April 14, 1993.

Anxious Neighbors: Immigrant Minorities in Belgium. Paper presented to the Research Workshop on Controlling Illegal Immigration: A Global Perspective. Center for U. S. - Mexican Studies, University of California, San Diego, La Jolla, CA, March 18-20, 1993.

Latino Immigrants in Urban Schools: Psycho-Cultural Perspectives. Paper presented to the Conference on Immigrant Students in California Schools. Center for U.S.-Mexican Studies, University of California, San Diego, La Jolla, CA, January 23, 1993.

Hot Wars, Cold Wars, Dirty Wars: Mourning and Memory in the Continent of the 'Disappears.' Paper presented to the Faculty Colloquium, Department of Anthropology, Stanford University, CA, October 19, 1992.

Immigrants in the U. S and Europe: A Framework for Comparison. Invited paper presented to the Graduate Group in Social Relations, University of California, Irvine, CA, May 7, 1992.

Minority Status and Urban Education: A Theoretical Framework for Comparisons. Paper presented to the Annual Meeting of the American Educational Research Association. San Francisco, CA, April 22, 1992.

Variability in Minority School Performance: Comments on Recent U. S. and European Findings. Invited paper presented to the Annual Meeting of the American Educational Research Association. San Francisco, CA, April 23, 1992.

Tortured Bodies: Towards a Semiotics of the Unspeakable. Invited paper presented to the Body Image: A Cross-Cultural Perspective Conference. The UCLA Center for Pacific Rim Studies, University of California, Los Angeles, CA, April 4, 1992.

The Cultural Psychology of Hispanic Immigrants: Implications for Educational Research. Invited paper presented the Cultural Diversity: Implications for Schools and Learning Conference. Center for Research on the Context of Secondary School Teaching, School of Education, Stanford University, Stanford, CA, October 5, 1991.

Die Grammatik des Terrors: psychosoziale Aspekte der Teleologie des Überlebenden. Fallbeispiele in den USA lebender Jugendlicher aus Mittelamerika. Invited paper presented to the Fifth Annual Meeting of the Congress on Culture and Psychosocial Conditions in Latin America. Department of Psychiatry, University of Hamburg, Germany, September 20, 1991.

Migration, Mental Health, and Education: Recent Developments in United States and European Research. Invited paper presented to the Biennial Congress of the World Federation for Mental Health. Mexico City, Mexico, August 19, 1991.

Educating Migrant Youths in Europe and the United States. Invited paper presented at the congress on Advances in Education. Universidad de las Americas, Mexico City, Mexico, August 17, 1991.

The Anthropology of Diversity. Invited paper presented to the IRA Lecture Series, College of Health and Human Services, San Diego State University, San Diego, CA, February 26, 1991.

Studying Fantasy Cross-Culturally: The Thematic Apperception Test in Anthropological Research. Invited paper presented to the Institute of Personality Assessment and Research, University of California, Berkeley, CA, February 19, 1991.

Culture, Society and Schooling in Plural Settings: Comparative Dilemmas and Opportunities in the 1990s. Invited paper presented to the conference on Recent Contributions to the Study of Culture, Society and Schooling in Plural Societies. Division of Education, University of California, Davis, CA, October 12, 1990.

Latin American Systems of Terror and their Aftermath: Anthropological and Psychological Perspectives. Invited paper presented to the conference on Children in War. Sigmund Freud Center, Hebrew University of Jerusalem, Israel, June 26, 1990.

Some Psychocultural Strategies for Research with Children in War. Invited paper presented to the conference on Children in War. Sigmund Freud Center, Hebrew University of Jerusalem, Israel, June 27, 1990.

Psychological Responses to Political Terror: The Argentine 'Dirty War' Paradigm. Paper presented to the Psychoanalytic Interdisciplinary Seminar. Department of Psychiatry, School of Medicine, University of California, San Diego, CA, June 12, 1990.

Comments on the Japanese Experience in Latin America. Invited paper presented to the conference on Japan's Relations with Latin America: Implications for the United States. Center for Iberian and Latin American Studies, University of California, San Diego, CA, April 27, 1990.

The Uncanny in the Continent of the 'Disappeareds': From Mourning to Political Discourse in 'Dirty War' and Post 'Dirty War' Argentina. Paper presented to an invited session of the American Ethnological Society, Atlanta, GA, April 26, 1990.

Addressing Issues of Race and Culture in the Education of Minority Students: Some Reflections on Current U.S. and European Scholarship. Invited paper presented to the conference on Addressing Issues of Race, Culture & Gender in the Education of Minority Students. Southwest Center for Educational Equity. Palo Alto, CA, March 23rd, 1990.

Recent Currents in Cultural Anthropology. Invited paper presented to the Annual meeting of the International Baccalaureate Society. Los Angeles, CA, February 5th, 1990.

Celebrating Diversity: Minority Status and Educational Dilemmas in Europe and the U.S.-- Thoughts on Cross-Cultural Comparisons. Paper presented to the Celebrating Diversity Conference. California State Department of Education, State of California. Oakland, CA, January 19th, 1990.

Race, Ethnicity and Schooling: Current Themes in U.S. and European Research Findings. Paper presented to the Symposium on Race, Ethnicity and Schooling. Division of Education and Center for Cooperative Educational Research, University of California, Davis, CA, January 26th, 1990.

Towards a Psychosocial Understanding of Responses to Terror: The Case of New Arrivals from Central America in a U.S. Inner City. Paper presented to the Research Seminar, Center for US-Mexican Studies. University of California, San Diego, CA, May 31st, 1989.

Migration, Minority Status and the Future of Europe: Notes on the Prospectives of Cross-Cultural Comparisons. Paper presented to the Migration and Autonomy Colloquium. Center for Western European Studies, Institute of International Studies. University of California, Berkeley, CA, March 28th, 1989.

The Anthropology of Terror. Paper presented to a session of the American Anthropological Association 87th Annual Meeting, Phoenix, AZ, November 16-20, 1988.

A Grammar of Terror: Psycho-Cultural Responses to State Terrorism in 'Dirty War' and Post 'Dirty War' Argentina. Paper presented to an invited session of the American Anthropological Association 87th Annual Meeting, Phoenix, AZ, November 16-20, 1988.

Culture and Motivation. Paper presented to the Graduate School of Education, Stanford University, Stanford, CA, June 8th, 1988.

Psychocultural Aspects of Masculinity and Paternity in Latin America. Paper presented to the Conference on the Family. Department of Psychology, Sonoma State University, Sonoma, CA, May 14th, 1988.

Psychocultural Aspects of Motivation. Paper presented to the Dean's Seminar. Graduate School of Education, Stanford University, Stanford, CA, March 3rd, 1988.

Against all Odds: Hispanic Immigrants in Inner City Schools. Paper presented to the Stanford Dropout Conference. Stanford University, Stanford, CA, February 26th, 1988.

Survivors' Teleology and the Psycho-Cultural Exegesis of Human Motivation. Paper presented to a seminar of the Department of Anthropology, Princeton University, Princeton, NJ, February 5th, 1988.

Psychology and Culture in the Study of Human Motivation: A Theoretical Footnote from a Psycho-Social Ethnography. Paper presented to a seminar of the Department of Anthropology, University of California, Los Angeles, CA, January 6th, 1988.

'Becoming Somebody': Psycho-Cultural Aspects of Motivation among Central American Immigrants. Paper presented to a seminar of the Department of Anthropology, University of California, San Diego, CA, October 12th, 1987.

Some Psycho-Cultural Aspects of Human Motivation. Paper presented to a Symposium of the Linguistic Minority Research Institute, University of California, Santa Barbara, CA, May 16th, 1987.

The War to end all Worlds: Children and the Family in the Dirty Side of Argentina's 'Dirty War.' Paper presented to an invited session of the American Ethnological Society, San Antonio, TX, May 1st, 1987.

Hermes in the Barrios: A Psycho-Cultural Critique of Motivation Theory. Paper presented to the Department of Anthropology, The University of Chicago, Chicago, IL, April 27th, 1987.

Central Americans in the U.S.: A Study of Ethnic Adaptation and Adjustment. Paper presented to the Graduate School of Education, The University of Pennsylvania, PA, April 15th, 1987.

Sex and Power in Soccer and War: A Latin America Case Study. Paper presented to the University of California Symposium on Sex, Power and Sports: Male Perspectives. Berkeley, CA, April 2nd, 1987.

The Central American Culture of Terror in Thematic Apperception Narratives: A Psycho-Cultural Interpretation. Paper presented to a session of the 31st Annual Meeting of the Kroeber Anthropological Society. University of California, Berkeley, CA, March 7th, 1987.

Thinking About Motivation in Cultural Terms. Paper presented to the Office for Research on Educational Equity, Graduate School of Education, University of California, Santa Barbara, CA, February 27th, 1987.

Survival, Guilt and Achievement: Family Dynamics and the Psycho-Social Contexts of Motivation among Recent Immigrants from Central America. Paper presented to Educational Policy Studies, School of Education, University of Wisconsin-Madison, WI, June 1986.

Escape to Freedom: Intra-familial Dynamics among New Arrivals from War-torn Central America. Paper presented to the Anthropology Board of Studies, University of California, Santa Cruz, CA, May 1986.

Immigrant Adaptation: Theoretical Lessons from a Hispanic Case. Paper presented to an invited session of the American Anthropological Association 84th Annual Meeting, Washington, D.C., December 4-8, 1985.

Opportunity, Family Dynamics and Achievement: The Socio-Cultural Context of Motivation Among Recent Immigrants from Latin America. Paper presented to the University of California Symposium on Linguistic Minorities and Education. Tahoe City, CA, May 30th-June 1st, 1985.

International Migration and Psycho-Social Adaptation: The Case of the Hispanic Americans. Paper presented to the Symposium on Education and Cultural Identity: Hispanic America and Canada. Institute for International Studies, University of California, Berkeley, CA, April 1985.

A Psycho-Social Approach to Understanding Hispanic Adaptation to the U.S. Paper presented to a session of the American Anthropological Association 83rd Annual Meeting, Denver, CO, 1984.

Hispanic School Problems: An Anthropological Approach. Paper presented to a session of the Kroeber Anthropological Society 28th Annual Meeting, University of California, Berkeley, CA, 1984.

Macho Semiotics: The Image of Women in Latin American Male Folklore. Paper presented to a session of the Kroeber Anthropological Society 27th Annual Meeting, University of California, Berkeley, CA, 1983.

SERVICE

Chair of the Committee to Review the UCLA Vice Provost for Graduate Education & Dean of the Graduate Division, 2016.

Member of the Executive Advisory Board, UCLA David Geffen School of Medicine Center for Child Anxiety Resilience Education and Support [CARES], 2015-
<http://carescenter.ucla.edu/executive-advisory-board>

Trustee, Carnegie Foundation for the Advancement of Teaching, 2015- <http://bit.ly/1LJBKLk>

Member of the Advisory Board, X-Prize Global Learning, 2015- <http://bit.ly/1KnoWEV>

Member of the Board, Stiftung Universität Hildesheim, Education Research and Teacher Quality in Germany, 2015-

Chair of the Committee to Review the UCLA Vice Provost for International Studies, 2014.

Member of the Committee to Review the UCLA Dean of Social Sciences, 2014.

Member of the UC Links Review Committee, University of California. Office of the President, 2013-

Member of the Search Committee, Dean UCLA Extension School, 2013.

Member of the International Scientific Advisory Board, EU Seven Nation Study, Reducing Early School Leaving in the European Union, Brussels, 2012-

EVC-Provost Dean's Council 2012-

Member of the Editorial Board, Aztlán: A Journal of Chicano Studies, 2012-

Member of the UC Links Proposals Review Committee, Office of the President, University of California, 2012.

Member of the Research Advisory Committee, National Academy of Education, 2011-2015.

Member of the Search Committee, UCLA Extension Dean Search, 2012-13.

Member of the Fellowships Committee, The Paul and Daisy Soros Fellowship for New Americans, 2011–2012.

Member of the Admissions Committee, Department of Humanities and Social Sciences in the Professions, New York University, 2006-2007, 2007-2008, 2008-2009, and 2009-2010.

Member of the Faculty Board, New York University Press, 2009-2012.

Member of the Executive Committee, Center for Latin American and Caribbean Studies, New York University, 2009-

Member of the University-Wide Faculty Advisory Committee on Academic Priorities, New York University, 2007-2008.

Member of the Committee to Review University Professors, New York University, 2008.

Member of the Search Committee, Department of Communications, New York University, 2006-2007.

Member of the Committee to Review University Professors, New York University, 2005.

Member of the University-Wide Faculty Advisory Committee on Academic Priorities, New York University, 2005-2006.

Member of the Search Committee for the Director, Institute for Human Development and Contextual Change, New York University, 2005-2006.

Member of the Search Committee, Department of Social and Cultural Analysis, Faculty of Arts and Sciences, New York University, 2005-2006.

Member of the Advisory Committee, The Modern Language Association, A Map of Languages in the United States, 2005-2009

Member of the International Scholars Board of Advisors. Facing History and Ourselves, 2005-

Member of the Board of Directors, The Ross Institute for Advanced Study and Innovation in Education, 2005-2010.

Member of the International Education Search Committee. New York University, 2005.

Honorary Member of the Board, Ethnos: Investigación y Divulgación en Ciencias Humanas. Barcelona, Spain, 2003-

Member of the Advisory Board, American Anthropological Association Initiative on Understanding Race and Human Variation, 2002-2004.

Member of the Editorial Advisory Board, Harvard Journal of Hispanic Policy, John F. Kennedy School of Government, Harvard University, 2002-2005.

Member of the Graduate School of Education Dean Search Advisory Committee, Harvard University, 2001-2002.

Member of the Graduate School of Education Human Development and Psychology Search Committee, Harvard University, 2001-2002.

Member of the Harvard Committee on Employment and Contracting Policies (“Living Wage Committee”). (Senior Faculty Representative), Harvard University, 2001.

Member of the Gender Studies Advisory Committee, Harvard University Graduate School of Education, 2001.

Member of the Advisory Committee, Research Program on Cultural Contact, Russell Sage Foundation, 2001-2003

Member of the Series Advisory Board, Landscapes of Childhood, Wayne State University Press, 2000-2007.

Member of the Professorial Advisory Committee, Judge Baker Children’s Center, Harvard Medical School, 2000-2003.

Member of the Selection Committee, Harvard Fellows on Race, Culture and Education, Harvard University Graduate School of Education 2000-2001.

Member of the Board of Directors, Society for Psychological Anthropology, American Anthropological Association, 1998-2001.

Nominator, MacArthur Fellows Program, The John D. and Catherine T. MacArthur Foundation, 1999.

Member of the Task Force, Weatherhead Center for International Affairs, Harvard University, 1998-99.

Member of the Advisory Committee, The Henry A. Murray Research Center of The Radcliffe Institutes for Advanced Study, 1997- 2001.

Member of the Editorial Board, Educational Researcher, American Educational Research Association, 1999-2000.

Member of the International Scientific Board Revista Investigación en Salud, Guadalajara, Jalisco, México, 1999-.

Member of the Faculty Advisory Board, Harvard University Native American Program, 1999-2003.

Chair of the Search Committee, Department of Human Development and Psychology. Harvard University Graduate School of Education, 1998.

Member of the American Anthropological Association Cultural Diversity Publication Committee, 1997-98.

Member of the International Education Search Committee, Harvard University Graduate School of Education, 1996-97.

Member of the Policy Committee. David Rockefeller Center for Latin American Studies, Harvard University, 1996-2003.

Member of the Search Committee. The Robert F. Kennedy Visiting Professorship in Latin American Studies. Harvard University, 1996-2003.

Member of the Steering Committee, Risk and Prevention Program, Harvard University Graduate School of Education, 1995-96.

Advisory Editor, Encyclopedia of American Immigrant Cultures, Human Relations Area Files, Yale, 1995-1997.

Member of the International Advisory Council, Center for U.S.-Mexican Studies, University of California, San Diego, 1995-2001.

Member of the Program Advisory Committee, Spencer Foundation, 1995-1996.

Member of the Committee on Degrees, Harvard University Graduate School of Education, 1995-96 and 1996-97.

Member of the Faculty Recruiting Committee, Harvard University Graduate School of Education, 1995-96 & 1997-98.

Senior Advisory Review Panel, Cultural Anthropology, National Science Foundation, 1994.

Member of the Committee on International Education, Harvard University Graduate School of Education, 1994-1995.

Outside Ph. D. Examiner, Department of Social Psychology, University of Barcelona (Spain), July and October 1993.

Associate Editor, Anthropology and Education Quarterly, 1988 to 1992.

Member of the Academic Advisory Council, Center for U.S.-Mexican Studies, University of California, San Diego, 1988 to 1990.

Contributing Editor, The Journal of Psychohistory, 1988.

Member of the Advisory Committee, Center for Iberian and Latin American Studies [CILAS], University of California, San Diego, 1988 to 1995.

Member of the Faculty Graduate Group in Latin American Studies, CILAS, University of California, San Diego, 1988 to 1995.

Member of the Faculty Group in Teacher Education, University of California, San Diego, 1988-1995.

Member of the Executive Committee, CILAS, University of California, San Diego, 1989 to 1995.

Member of the Committee, Urban Studies Program, University of California, San Diego, 1990 to 1995.

Convening Member, Center for German and European Studies, University of California, Berkeley, 1991-1994.

Graduate Advisor, Department of Anthropology, University of California, San Diego, 1993 to 1994.

Undergraduate Advisor, Department of Anthropology, University of California, San Diego, 1988-1989 and 1989-1990.

AWARDS, FELLOWSHIPS, GRANTS & GIFTS

The Capital Campaign for UCLA GSE&IS (Chancellorian Goal of 70 Million by 2019; raised \$77 million by 2017)

Ford Foundation [Bridging the Compassion Gap] (Grant 2017-18, \$1,000,000)

Carnegie Corporation of New York [The UCLA School Network] (Grant 2016-2018, \$1,500,000)

Mrs. Courtney Ross [Humanism and Mass Migration] (Gift 2016, \$75,000)

Anonymous [Humanism and Mass Migration] (Gift 2016, \$50,000)

Spencer Foundation [Humanism and Mass Migration] (Grant 2016, \$35,000)

W. T. Grant Foundation [Humanism and Mass Migration] (Grant 2016, \$25,000)

Ford Foundation [Changing the Immigration Narrative] (Grant 2015-16, \$100,000)

The Spencer Foundation [Immigration, Social Cohesion, and Cultural Sustainability] Grant 2013-14, \$50,000)

Ford Foundation [The UndocuScholar Survey] (Grant 2013-14, \$100,000)

Anonymous [The UndocuScholar Survey] (Grant 2013-14, 32,000)

William T. Grant Foundation [The Role of Settings on Relational and Academic Engagement for Latino Community College Students] (Grant 2012-2013, \$25,000)

Ford Foundation [Research on Immigrants in Community College] (Grant 2011-12, \$350,000)

Carnegie Corporation of New York [Civic Trust and Engagement among Immigrant Youth: a Pilot Study] (Grant 2011-12, \$325,000)

William T. Grant Foundation [The Role of Settings on Relational and Academic Engagement for Latino Community College Students] (Grant 2010-2012, \$499,201)

The Richard Fisher Membership, Institute for Advanced Study, Princeton, NJ (Fellowship, 2009-2010)

Covering Immigration: Academic and Journalistic Perspectives. Western Union Foundation. (Grant 2008-2009, \$10,000)

Pathways to Opportunity for the Children of Immigrants in North America and Europe. Western Union Foundation. (Grant 2008-2009, \$75,000)

The Bank of Sweden Tercentenary Foundation (Riksbankens Jubileumsfond, RJ), Electrum Foundation / Kista Science City, Microsoft, Swedish Research Council (Vetenskapsrådet) (with others) [Globalization and Learning] (Grant 1.2 M. Swedish Crowns)

William T. Grant Foundation [Longitudinal Immigrant Student Adaptation] (Grant 2003-2004 \$15,000)

Mrs. Courtney Ross Holst [Education for Globalization] (Gift 2003, \$30,000)

William T. Grant Foundation [Longitudinal Immigrant Student Adaptation] (Grant 2003-2004 \$25,000)

Mrs. Courtney Ross Holst [Education for Globalization] (Gift 2002, \$70,000)

Harvard University Provost's Fund for Interfaculty Initiatives [Immigration and Well-Being] (Grant 2000-20001, \$75,000)

Rockefeller Foundation of New York City [The New Americas] (Grant 2002-2006, \$245,000)

David Rockefeller Center for Latin American Studies, Harvard University (with Howard Gardner) [Education for Globalization] (Grant 2002 \$5,000)

Dean's Venture Fund, Graduate School of Education, Harvard University (with Howard Gardner) [Education for Globalization] (Grant 2002, \$29,500)

Spencer Foundation (with Carola Suárez-Orozco) [Longitudinal Immigrant Student Adaptation] (Grant 2002-2003, \$380,800)

William T. Grant Foundation (with Carola Suárez-Orozco) [Longitudinal Immigrant Student Adaptation] (Grant 2001-2002 \$200,000)

Spencer Foundation (with Carola Suárez-Orozco) [Longitudinal Immigrant Student Adaptation] (Grant 2001-2002, \$50,000)

Spencer Foundation [Latinos in the 21st Century: Mapping the Research Agenda] (Grant 2000-2001, \$40,000)

Harvard University Provost's Fund for Interfaculty Initiatives [Latinos in the 21st Century: Mapping the Research Agenda] (Grant 2000-20001, \$10,000)

William T. Grant Foundation (with Carola Suárez-Orozco) [Longitudinal Immigrant Student Adaptation] (Grant 1999-2001, \$492,913)

Spencer Foundation (with Carola Suárez-Orozco) [Longitudinal Immigrant Student Adaptation] (Grant 1997-2002, \$479,100)

National Science Foundation (with Carola Suárez-Orozco) [Longitudinal Immigrant Student Adaptation] (Grant 1997-2002, \$768,129)

William T. Grant Foundation (with Carola Suárez-Orozco) [Longitudinal Immigrant Student Adaptation] (Grant 1997-2000, \$462,584)

Carnegie Corporation (with others) [Children's Studies at Harvard] (Grant, 1997-1999, over \$1,000,000).

David Rockefeller Center for Latin American Studies, Harvard University [Immigration and the Sociocultural Remaking of the North American Space] (Grant, 1997-1998)

The Center for International Affairs, Harvard University [New Developments in Mexican Immigration to the United States] (Grant, 1997-1998)

Bellagio Study and Conference Center, The Rockefeller Foundation, Como, Italy [Social Violence in Interdisciplinary Perspectives] (Residency Fellowship September, 1996)

Spencer Foundation [Migration and Urban Education: The Case of Mexican-Americans] (Grant, 1992-1993)

Center for Advanced Study in the Behavioral Sciences, Stanford, (Fellowship 1992-1993)

Center for German and European Studies, University of California, Berkeley [Migration and Urban Education: U. S./ Europe Comparisons] (Grants, 1991-1992 and 1992-1993)

National Science Foundation (with others) [Controlling Immigration: A Global Perspective] (Grant, 1991-1993)

Mellon Foundation Grant [Comparative Political Economy of Immigration] (Grant, 1991-1992)

Chancellor's Summer Faculty Fellowship, University of California, San Diego (1990)

Academic Senate Research Grant, University of California, San Diego (1990)

University of California Consortium on Mexico and the United States [UC-MEXUS] Grants (Grants, 1990 and 1991)

Academic Senate Research Grant, University of California, San Diego (1989)

Academic Senate Research Grant, University of California, San Diego (1988)

American Educational Research Association (Division G) Best Doctoral Dissertation Award (1988)

Tinker Field Research Grant (1988)

The Robert H. Lowie Graduate Scholarship, University of California, Berkeley (1985-1986)

The University of California Regents Fellowship (1983-1984)

The Wollemborg Scholarship, University of California, Berkeley (1980)

Phi Beta Kappa

The Undergraduate and Graduate Scholastic Honor Society, University of California, Berkeley

HONORS

Member of the American Academy of Arts and Sciences (Elected April 2014)

The Virginia and Warren Stone Prize, Awarded Annually by Harvard University Press for an Outstanding Book on Education and Society, 2008

Orden Mexicana del Águila Azteca (The Mexican Order of the Aztec Eagle), 2006

New York's 25 Most Influential Hispanics El Diario, New York City, 2005

Member of the National Academy of Education (Elected April 2004)

America's 100 Most Influential Hispanics. Hispanic Business Magazine, 2001

Master of Arts, Honoris Causa, Harvard University (1995)

ALANA (African, Latino, Asian and Native American) Outstanding Faculty Member Recognition Award. Harvard University (1995)

Social Policy Book Award, Society for Research on Adolescents, 1996 (For Transformations: Immigration, Family Life, and Achievement Motivation Among Latino Adolescents. Carola E. and Marcelo M. Suárez-Orozco. Stanford, CA: Stanford University Press. 1995)

The R. Boyer Award for Outstanding Research in Psychological Anthropology, University of California, Berkeley (1986)

COURSES

Fiat Lux Seminar: Reimagining Urban Education, UCLA
Globalization and Education, NYU Abu Dhabi
Culture and Human Development; Globalization and Education
Good Work in the Global Era (with Howard Gardner)
Psychological Anthropology; Cultural Psychology
Anthropology and Education;
Psycho-Social Problems in Changing Cultures;
Fieldwork Methods; Comparison of Cultures;
Immigration, Ethnicity, and Education;
Latino Cultures;
Introduction to Cultural Anthropology;
Latin American Societies and Cultures;
Contemporary Central America; Folklore;
Themes in Cross-Cultural Psychiatry (UCSD School of Medicine).

PERSONAL DATA

Citizenship: U.S. (born in Lomas de Zamora, Argentina, September 21, 1956)

Civil Status: Married to Carola Suárez-Orozco in January 1977. We have two children, Marisa Suárez-Orozco (born in San Francisco, CA, 12/31/1983) and Lucas Suárez-Orozco (born in San Diego, CA, 3/9/1990)

REFERENCES

Danielle Allen, Director, Edmond J. Safra Center for Ethics at Harvard University
Professor, Department of Government and Graduate School of Education, Harvard University

James A. Banks, The Kerry and Linda Killinger Endowed Chair in Diversity Studies and
Director of the Center for Multicultural Education at the University of Washington, Seattle

Gene Block, UCLA Chancellor

John H. Coatsworth, Provost of Columbia University

Howard Gardner, The John H. and Elisabeth A. Hobbs Professor of Cognition and Education,
Harvard University, Graduate School of Education

Kathleen McCartney, President, Smith College

Suárez-Orozco, Marcelo M.

Vita

Gary Orfield, Professor of Education, Law, Political Science and Urban Planning & Co-Director, Civil Rights Project/Proyecto Derechos Civiles at UCLA

Cristina M. Rodríguez, Professor of Law, Yale Law School

Roberto Suro, Professor of Communication, the Annenberg School for Communication & Journalism; Professor of Policy, School of Policy, Planning and Development; and Director The Tomás Rivera Policy Institute University of Southern California

Scott Waugh, UCLA Provost and Executive Vice Chancellor

Mary Waters, The M. E. Zuckerman Professor of Sociology, Harvard University

* Refereed Publication

July 2017

EXHIBIT U

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11 *University of California and Janet Napolitano, in*
12 *her official capacity as President of the*
13 *University of California*

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XAVIER BECERRA
Attorney General of California
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Attorneys for Plaintiff State of California

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NANCY L. FINEMAN (SBN 124870)
COTCHETT, PITRE & McCARTHY, LLP
San Francisco Airport Office Center
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Burlingame, CA 94010
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Facsimile: (650) 697-0577
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Attorneys for Plaintiff City of San Jose

JONATHAN WEISSGLASS (SBN 185008)
STACEY M. LEYTON (SBN 203827)
ERIC P. BROWN (SBN 284245)
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Attorneys for Plaintiffs County of Santa Clara and
Service Employees International Union Local 521

18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**
20 **SAN FRANCISCO DIVISION**

21 THE REGENTS OF THE UNIVERSITY OF
22 CALIFORNIA and JANET NAPOLITANO,
23 in her official capacity as President of the
24 University of California,

23 Plaintiffs,

24 v.

25 U.S. DEPARTMENT OF HOMELAND
26 SECURITY and ELAINE DUKE, in her
27 official capacity as Acting Secretary of the
28 Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

DECLARATION OF EMILY NISHI

1 STATE OF CALIFORNIA, STATE OF
2 MAINE, STATE OF MARYLAND, and
3 STATE OF MINNESOTA,
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5 Plaintiffs,
6
7 v.
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9 U.S. DEPARTMENT OF HOMELAND
10 SECURITY, ELAINE DUKE, in her official
11 capacity as Acting Secretary of the Department
12 of Homeland Security, and the UNITED
13 STATES OF AMERICA,
14
15 Defendants.

CASE NO. 17-CV-05235-WHA

9 CITY OF SAN JOSE, a municipal corporation,
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11 Plaintiffs,
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13 v.
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15 DONALD J. TRUMP, President of the United
16 States, in his official capacity, ELAINE C.
17 DUKE, in her official capacity, and the
18 UNITED STATES OF AMERICA,
19
20 Defendants.

CASE NO. 17-CV-05329-WHA

16 DULCE GARCIA, MIRIAM GONZALEZ
17 AVILA, SAUL JIMENEZ SUAREZ,
18 VIRIDIANA CHABOLLA MENDOZA,
19 NORMA RAMIREZ, and JIRAYUT
20 LATTHIVONGSKORN,
21
22 Plaintiffs,
23
24 v.
25
26 UNITED STATES OF AMERICA, DONALD
27 J. TRUMP, in his official capacity as President
28 of the United States, U.S. DEPARTMENT OF
HOMELAND SECURITY, and ELAINE
DUKE, in her official capacity as Acting
Secretary of Homeland Security,
Defendants.

CASE NO. 17-CV-05380-WHA

1 I, Emily Nishi, declare and state as follows:

- 2 1. I am over the age of eighteen and competent to testify.
- 3 2. I am Chief People Officer at Lyft, Inc. ("Lyft"). I am responsible for managing the
- 4 company's human resources strategy. I have been employed at Lyft since 2017.
- 5 3. Lyft employs more than 1,000 employees in the State of California and more than
- 6 2,000 employees in the United States.
- 7 4. At least one Lyft employee is a grantee under the Deferred Action for Childhood
- 8 Arrivals program ("DACA"), and we, like most large U.S. companies, believe that
- 9 other employees may have chosen not to self-identify. This employee works as a
- 10 software engineer and used to be located in California and is now located in
- 11 Washington. If this employee loses his DACA status and is deported, Lyft will
- 12 suffer great injury. He is one of our top engineers and is a key member of the team
- 13 driving critical data projects. This employee's work has contributed significantly to
- 14 Lyft and losing his talents and institutional knowledge would create a gap that
- 15 would be difficult to quantify.
- 16 5. Lyft connects millions of individuals of all backgrounds every day through the
- 17 experience of sharing a ride. At a time when so many forces are driving division in
- 18 our society, these shared moments of human connection can help bridge those gaps
- 19 and bring people and communities together. At Lyft, we are working towards a
- 20 community that is diverse, inclusive, and safe. These are fundamental values of our
- 21 company and we will always stand with those fighting for them.

22

23 I declare under penalty of perjury under the laws of the United States that the foregoing is

24 true and correct and that this declaration was executed on October 18, 2017, in San Francisco,

25 California.

26 

27 _____
EMILY NISHI

EXHIBIT V

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3 COVINGTON & BURLING LLP
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8 Email: jdavids@cov.com,
9 abersin@cov.com
10 *Attorneys for Plaintiffs The Regents of the*
11 *University of California and Janet Napolitano, in*
12 *her official capacity as President of the*
13 *University of California*

14 THEODORE J. BOUTROUS, JR. (SBN 132099)
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26 *Gonzalez Avila, Saul Jimenez Suarez, Viridiana*
27 *Chabolla Mendoza, Norma Ramirez, and Jirayut*
28 *Latthivongskorn*

XAVIER BECERRA
Attorney General of California
MICHAEL L. NEWMAN
Supervising Deputy Attorney General
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Attorneys for Plaintiff City of San Jose

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Attorneys for Plaintiffs County of Santa Clara and
Service Employees International Union Local 521

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY and ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

DECLARATION OF DR. JOHN D. STOBO

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STATE OF CALIFORNIA, STATE OF MAINE, STATE OF MARYLAND, and STATE OF MINNESOTA,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05235-WHA

CITY OF SAN JOSE, a municipal corporation,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, ELAINE C. DUKE, in her official capacity, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05329-WHA

DULCE GARCIA, MIRIAM GONZALEZ AVILA, SAUL JIMENEZ SUAREZ, VIRIDIANA CHABOLLA MENDOZA, NORMA RAMIREZ, and JIRAYUT LATTHIVONGSKORN,

Plaintiffs,

v.

UNITED STATES OF AMERICA, DONALD J. TRUMP, in his official capacity as President of the United States, U.S. DEPARTMENT OF HOMELAND SECURITY, and ELAINE DUKE, in her official capacity as Acting Secretary of Homeland Security,

Defendants.

CASE NO. 17-CV-05380-WHA

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COUNTY OF SANTA CLARA and
SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
States; ELAINE DUKE, in her official
capacity as Acting Secretary of the Department
of Homeland Security; and U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

CASE NO. 17-CV-05813-WHA

1 I, JOHN D. STOBO, DECLARE:

2 1. I am Executive Vice President of University of California Health ("UC Health"). The
3 matters set forth herein are true and correct of my own personal knowledge and, if called as a witness, I
4 could and would testify competently thereto.

5 2. I have been a physician for over 40 years. Prior to joining the University of California, I
6 served as president at the University of Texas Medical branch from 1997 to 2007. Before that, I was the
7 William Osler Professor of Medicine and Physician-in-Chief of the Johns Hopkins Hospital. I am a
8 member of the Institute of Medicine, and I have held leadership positions in a wide variety of national
9 professional organizations, including the American Association of Professors of Medicine, the American
10 College of Rheumatology, the American Board of Internal Medicine and the American Board of Internal
11 Medicine Foundation.

12 3. I have been working at the University of California ("UC") since October 2008. I am
13 responsible for system-wide coordination and communication among UC's health sciences schools and
14 medical centers, collectively referred to as UC Health.

15 4. UC Health is the third largest healthcare provider in California, and has the nation's
16 largest health sciences educational system. UC Health educates over 50% of California physicians. I am
17 responsible for policy development for UC's health system, and I monitor the performance for the
18 system's 17 health sciences schools and 14 hospitals on five campuses.

19 5. UC Health's mission is to improve health and wellness and positively impact quality, cost
20 and access to healthcare in California. UC Health measures this impact in part through community
21 benefit: care for the under-insured and un-insured, education of medical professionals and future health
22 leaders and medical research. UC Health, as part of the University of California's public service
23 mission, aims to address the needs of all populations in California and educate a workforce that will be
24 able to effectively serve populations with limited or unequal access to healthcare.

25 6. The rescission of the Deferred Action for Childhood Arrivals ("DACA") policy threatens
26 our ability to achieve this mission. UC Health medical schools have at least twelve DACA recipients.
27 DACA recipients in UC's medical schools have unique potential to practice in critical geographic areas
28 and specialties that might otherwise remain underserved. Without the DACA policy, these students will

1 lose the employment authorization necessary to become medical residents and eventually practicing
2 doctors that California needs.

3 7. There is an acute shortage of doctors in certain areas of California, including rural areas,
4 the San Fernando Valley, and particular urban areas. The shortage is an issue across the U.S. and is
5 projected to worsen through 2030. The challenge is one of distribution; physicians tend to become
6 concentrated in more affluent areas and urban centers. There are also shortages of doctors in certain
7 critical specialties, such as general surgery, general psychiatry, and primary care. Producing more
8 doctors through larger classes or new medical schools will not alleviate these geographic and specialty
9 distribution issues across California.

10 8. UC Health is focused on creating a workforce of physicians to address this shortage and,
11 as such, carefully selects its entering classes to meet the anticipated healthcare needs of California in the
12 decades to come. Achieving our mission means ensuring the students in the class transition into
13 residency and then medical practice. For example, our Programs in Medical Education ("PRIME")
14 program exemplifies the importance UC Health places on recruiting diverse and talented doctors
15 committed to serving communities that need them in California. PRIME's purpose is to meet the needs
16 of California's medically underserved populations in both rural communities and urban areas through
17 specialized training. The PRIME program started in 2004, and tailored versions of PRIME later rolled
18 out to every UC campus with a medical school. PRIME looks for medical school candidates who have
19 leadership qualities and are experienced with and committed to working with underserved populations.
20 The program combines specialized coursework, clinical experiences and mentoring in a tailored way
21 that prepares future physician leaders to provide care to specific underserved populations of nearby
22 regions. For example, the UC Irvine PRIME program focuses on the growing needs of California's
23 Latino communities. The UC San Francisco and the UC Berkeley Joint Medical Program focus on urban
24 underserved population healthcare delivery.

25 9. The rescission of the DACA policy will impair UC Health's efforts, such as PRIME, to
26 recruit and train doctors who are statistically more likely to serve the communities and the medical
27 specializations that California desperately needs. Research indicates that diverse doctors, like our DACA
28 students, are more likely to enter into specialties and practice in geographic regions with the greatest

1 shortage of physician services. A powerful indicator of where a medical student is likely to practice is
2 where they are from, so training exceptional students with ties to underserved areas increases the
3 likelihood that such areas will have more physicians in the future. Research also indicates that
4 physicians from minority populations are more effective in serving those same populations because of
5 improved engagement with patients. Improved healthcare delivery and outcomes drive down health
6 costs, improve community health, and increase the likelihood of economic success in that community.
7 Our DACA students are essential to achieving these powerful healthcare outcomes.

8 10. The rescission of the DACA policy is likely to prevent our DACA students from
9 completing, or even from starting, their residency training as physicians, since they will not be able to
10 work legally without employment authorization. The rescission of the DACA policy will therefore make
11 it more difficult for UC Health to deliver the kind of diverse next generation of physicians that UC
12 Health believes is critical for California.

13 11. I expect that the rescission of the DACA policy will also have an impact on patient care
14 in California's immigrant communities. Based on my experience, undocumented immigrants in general
15 are less likely to seek healthcare because they fear immigration enforcement at hospitals and healthcare
16 facilities. I believe this chilling effect would be particularly acute if our DACA medical students or
17 residents were also subject to immigration enforcement.

18 12. Moreover, the rescission of the DACA policy puts directly at risk UC Health's significant
19 investment of time and money into recruiting, retaining, and supporting its DACA-recipient students.
20 The tuition fees paid by a medical student cover less than half the cost of the student's education,
21 including residency. UC Health funds the remainder of the cost. UC Health will lose its significant
22 investment in each DACA student if that student is unable to finish school or become a practicing doctor
23 without DACA.

24 13. I am concerned that the rescission of the DACA program is likely to result in a higher
25 attrition rate for our DACA students. Medical students at UC Health are highly qualified, carefully
26 screened, and closely supported by each school. As a result, most students who start medical school at
27 UC also finish medical school; the attrition rate is otherwise quite low. However, the futility of
28 completing a medical degree without work authorization and incurring the significant debt that often

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comes with that education and training increases the likelihood that our DACA students will not finish medical school. If this occurs, both UC Health and the student will lose their investment in medical training to date.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on October 26, 2017 in Oakland, California.



JOHN D. STOBO

EXHIBIT W



U.S. Department of
Homeland Security

Frequently Asked Questions: Rescission Of Deferred Action For Childhood Arrivals (DACA)

Release Date: September 5, 2017

[En español \(https://www.dhs.gov/news/2017/09/05/preguntas-frecuentes-anulaci-n-de-la-acci-n-diferida-para-los-llegados-en-la\)](https://www.dhs.gov/news/2017/09/05/preguntas-frecuentes-anulaci-n-de-la-acci-n-diferida-para-los-llegados-en-la)

The following are frequently asked questions on the September 5, 2017 Rescission of the Deferred Action for Childhood Arrivals (DACA) Program.

Q1: Why is DHS phasing out the DACA program?

A1: Taking into consideration the federal court rulings in ongoing litigation, and the September 4, 2017 letter from the Attorney General, it is clear that program should be terminated. As such, the Acting Secretary of Homeland Security rescinded the June 15, 2012 memorandum establishing the DACA program. Please see the Attorney General's letter and the Acting Secretary of Homeland Security's memorandum for further information on how this decision was reached.

Q2: What is going to happen to current DACA holders?

A2: Current DACA recipients will be permitted to retain both the period of deferred action and their employment authorization documents (EADs) until they expire, unless terminated or revoked. DACA benefits are generally valid for two years from the date of issuance.

Q3: What happens to individuals who currently have an initial DACA request pending?

A3: Due to the anticipated costs and administrative burdens associated with rejecting all pending initial requests, USCIS will adjudicate—on an individual, case-by-case basis—all

Q4: What happens to individuals who currently have a request for renewal of DACA pending?

A4: Due to the anticipated costs and administrative burdens associated with rejecting all pending renewal requests, USCIS adjudicate—on an individual, case-by-case basis—properly filed pending DACA renewal requests and associated applications for Employment Authorization Documents from current beneficiaries that have been accepted as of September 5, 2017, and from current beneficiaries whose benefits will expire between September 5, 2017 and March 5, 2018 that have been accepted as of October 5, 2017. USCIS will reject all requests to renew DACA and associated applications for EADs filed after October 5, 2017.

Q5: Is there still time for current DACA recipients to file a request to renew their DACA?

A5: USCIS will only accept renewal requests and associated applications for EADs for the class of individuals described above in the time period described above.

Q6: What happens when an individual's DACA benefits expire over the course of the next two years? Will individuals with expired DACA be considered illegally present in the country?

A6: Current law does not grant any legal status for the class of individuals who are current recipients of DACA. Recipients of DACA are currently unlawfully present in the U.S. with their removal deferred. When their period of deferred action expires or is terminated, their removal will no longer be deferred and they will no longer be eligible for lawful employment.

Only Congress has the authority to amend the existing immigration laws.

Q7: Once an individual's DACA expires, will their case be referred to ICE for enforcement purposes?

A7: Information provided to USCIS in DACA requests will not be proactively provided to ICE and CBP for the purpose of immigration enforcement proceedings, unless the requestor meets the criteria for the issuance of a Notice To Appear or a referral to ICE under the criteria set forth in USCIS' Notice to Appear guidance (www.uscis.gov/NTA (<http://www.uscis.gov/NTA>)). This policy, which may be modified, superseded, or rescinded at any time without notice, is not

intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable by law by any party in any administrative, civil, or criminal matter.

Q8: Will USCIS share the personal information of individuals whose pending requests are denied proactively with ICE for enforcement purposes?

A8: Generally, information provided in DACA requests will not be proactively provided to other law enforcement entities (including ICE and CBP) for the purpose of immigration enforcement proceedings unless the requestor poses a risk to national security or public safety, or meets the criteria for the issuance of a Notice To Appear or a referral to ICE under the criteria. This policy, which may be modified, superseded, or rescinded at any time without notice, is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable by law by any party in any administrative, civil, or criminal matter.

Q9: Can deferred action received pursuant to DACA be terminated before it expires?

A9: Yes. DACA is an exercise of deferred action which is a form of prosecutorial discretion. Hence, DHS will continue to exercise its discretionary authority to terminate or deny deferred action at any time when immigration officials determine termination or denial of deferred action is appropriate.

Q10: Can DACA recipients whose valid EAD is lost, stolen or destroyed request a new EAD during the phase out?

A10: If an individual's still-valid EAD is lost, stolen, or destroyed, they may request a replacement EAD by filing a new Form I-765.

Q11: Will DACA recipients still be able to travel outside of the United States while their DACA is valid?

A11: Effective September 5, 2017, USCIS will no longer approve any new Form I-131 applications for advance parole under standards associated with the DACA program. Those with a current advance parole validity period from a previously-approved advance parole application will generally retain the benefit until it expires. However, CBP will retain the authority it has always exercised in determining the admissibility of any person presenting at the border. Further, USCIS retains the authority to revoke or terminate an advance parole document at any time.

Q12: What happens to individuals who have pending requests for advance parole to travel outside of the United States?

A12: USCIS will administratively close all pending Form I-131 applications for advance parole under standards associated with the DACA program, and will refund all associated fees.

Q13: How many DACA requests are currently pending that will be impacted by this change? Do you have a breakdown of these numbers by state?

A13: There were 106,341 requests pending as of August 20, 2017 – 34,487 initial requests and 71,854 renewals. We do not currently have the state-specific breakouts.

Q14: Is there a grace period for DACA recipients with EADs that will soon expire to make appropriate plans to leave the country?

A14: As noted above, once an individual's DACA and EAD expire—unless in the limited class of beneficiaries above who are found eligible to renew their benefits—the individual is no longer considered lawfully present in the United States and is not authorized to work. Persons whose DACA permits will expire between September 5, 2017 and March 5, 2018 are eligible to renew their permits. No person should lose benefits under this memorandum prior to March 5, 2018 if they properly file a renewal request and associated application for employment authorization.

Q15: Can you provide a breakdown of how many DACA EADs expire in 2017, 2018, and 2019?

A15: From August through December 2017, 201,678 individuals are set to have their DACA/EADs expire. Of these individuals, 55,258 already have submitted requests for renewal of DACA to USCIS.

In calendar year 2018, 275,344 individuals are set to have their DACA/EADs expire. Of these 275,344 individuals, 7,271 have submitted requests for renewal to USCIS.

From January through August 2019, 321,920 individuals are set to have their DACA/EADs expire. Of these 321,920 individuals, eight have submitted requests for renewal of DACA to USCIS.

Q16: What were the previous guidelines for USCIS to grant DACA?

A16: Individuals meeting the following categorical criteria could apply for DACA if they:

- Were under the age of 31 as of June 15, 2012;
- Came to the United States before reaching their 16th birthday;
- Have continuously resided in the United States since June 15, 2007, up to the present time;
- Were physically present in the United States on June 15, 2012, and at the time of making their request for consideration of deferred action with USCIS;
- Had no lawful status on June 15, 2012;
- Are currently in school, have graduated, or obtained a certificate of completion from high school, have obtained a General Educational Development (GED) certificate, or are an honorably discharged veteran of the Coast Guard or Armed Forces of the United States; and
- Have not been convicted of a felony, significant misdemeanor, three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety.

Topics: [Border Security \(/topics/border-security/\)](/topics/border-security/), [Deferred Action \(/topics/deferred-action/\)](/topics/deferred-action/)

Keywords: [DACA \(/keywords/daca/\)](/keywords/daca/), [Deferred Action for Childhood Arrivals \(/keywords/deferred-action-childhood-arrivals/\)](/keywords/deferred-action-childhood-arrivals/)

Last Published Date: September 5, 2017

EXHIBIT X

Supporting

Declaration of Karen C.

Tumlin



U.S. Citizenship and Immigration Services

Frequently Asked Questions: Rejected DACA Requests

Specific guidance will be provided soon about the steps that a DACA recipient must take to resubmit his or her renewal request to USCIS if the filing was rejected due to U.S. Postal Service mail-service delays.

Q1: Are any new DACA requests being accepted?

A1: No. The DACA policy for accepting new, initial DACA requests ended on Sept. 5, 2017.

Q2: Can I still submit a DACA renewal request?

A2: No. The due date for DACA renewal requests was Sept. 5, 2017 for recipients whose DACA expired before Sept. 5, 2017, and Oct. 5, 2017 for recipients whose DACA expired between Sept. 5, 2017 and March 5, 2018.

Q3: I believe that my DACA request was delivered by the deadline, but since it wasn't officially "received" by USCIS until the following day, my request was rejected and returned to me. What do I need to do to have my DACA request reconsidered?

A3: USCIS will identify you and will send you a letter inviting you to resubmit your DACA request. You will have 33 days from the date of the letter to resubmit your request. You may wish to keep a copy of all materials included in your resubmission. USCIS expects to be able to identify and send letters to all persons in this situation.

Q4: I believe that my DACA request was delivered by the deadline, but since it wasn't officially "received" by USCIS until the following day, my request was rejected and returned to me. However, I haven't been contacted by USCIS to resubmit my DACA request. What should I do?

A4: If you believe your DACA request was delivered by the filing deadline but have not been contacted by USCIS to resubmit your request, you may contact Lockbox Support and explain your situation prior to resubmitting your package for reconsideration. To contact Lockbox Support please email lockboxsupport@uscis.dhs.gov. Provide any information you feel is relevant to your belief that your DACA request was received by USCIS in a timely manner.

Q5: What will happen if my current DACA expires before my renewal is processed? Will I be at risk of removal while this issue is being resolved?

A5: Consistent with longstanding USCIS policy, you will not have deferred action if there is a gap of time between the end of your current DACA and the agency's adjudication of your renewal request. Therefore it is very important for you to resubmit your renewal request as soon as possible.

Information provided to USCIS for the DACA process will not make you an immigration priority for that reason alone. That information will only be proactively provided to ICE or CBP if the requestor meets the criteria for the issuance of a Notice To Appear or a referral to ICE under the criteria set forth in USCIS' Notice to Appear guidance (www.uscis.gov/NTA). This information-sharing policy has not changed in any way since it was first announced, including as a result of the Sept. 5, 2017 memo starting a wind-down of the DACA policy. This policy, which may be modified, superseded, or rescinded at any time with or without notice (as has always been the case, and is noted in the archived USCIS DACA FAQs), is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable by law by any party in any administrative, civil, or criminal matter.

Q6: If my DACA renewal request is approved after expiration of my current DACA, will the renewed deferred action apply retroactively?

A6: No. In accordance with longstanding policy, an approved DACA request will not apply retroactively. An individual's deferred action under the DACA policy begins the day USCIS approves the renewal request and is generally valid for two years from the date of issuance.

Q7: I submitted my renewal request on time, but it was rejected by USCIS for other reasons. Can I resubmit it again?

A7: If USCIS rejected your timely filed renewal request because it was not properly filed, that is a valid reason for rejection and it will not be reconsidered. However, if you believe your request was improperly rejected, *i.e.*, it did include all required documents and information, and was properly signed and accompanied by the required fee or approved fee exemption, you may contact Lockbox Support for more information. The email address for Lockbox Support is lockboxsupport@uscis.dhs.gov. Please be prepared to identify and provide a detailed description of the error you believe was made. If you identify a clear error by USCIS in the processing of your renewal request, USCIS may exercise its discretion to review your request again.

The above FAQs, which may be modified, superseded, or rescinded at any time with or without notice, are not intended to, do not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable by law by any party in any administrative, civil, or criminal matter.

Last Reviewed/Updated: 11/30/2017

EXHIBIT Y

the WHITE HOUSE PRESIDENT DONALD J. TRUMP



From the Press Office

Speeches & Remarks

Press Briefings

Statements & Releases

Nominations & Appointments

Presidential Actions

Legislation

Disclosures

The White House

Office of the Press Secretary

For Immediate Release

February 16, 2017

Remarks by President Trump in Press Conference

East Room

12:55 P.M. EST

THE PRESIDENT: Thank you very much. I just wanted to begin by mentioning that the nominee for Secretary of the Department of Labor will be Mr. Alex Acosta. He has a law degree from Harvard Law School, was a great student. Former clerk for Justice Samuel Alito. And he has had a tremendous career. He's a member, and has been a member, of the National Labor Relations Board, and has been through Senate confirmation three times, confirmed -- did very, very well. And so Alex, I've

wished him the best. We just spoke. And he's going to be -- I think he'll be a tremendous Secretary of Labor.

And also, as you probably heard just a little while ago, Mick Mulvaney, former congressman, has just been approved -- weeks late, I have to say that. Weeks, weeks late. Office of Management and Budget. And he will be, I think, a fantastic addition. Paul Singer has just left. As you know, Paul was very much involved with the anti-Trump, or, as they say, "Never Trump." And Paul just left and he's given us his total support. And it's all about unification. We're unifying the party, and hopefully we're going to be able to unify the country. It's very important to me. I've been talking about that for a long time, but it's very, very important to me. So I want to thank Paul Singer for being here and for coming up to the office. He was a very strong opponent, and now he's a very strong ally. And I appreciate that.

I think I'll say a few words, and then we'll take some questions. And I had this time -- we've been negotiating a lot of different transactions to save money on contracts that were terrible, including airplane contracts that were out of control and late and terrible. Just absolutely catastrophic in terms of what was happening. And we've done some really good work. We're very proud of that.

And then right after that, you prepare yourselves and we'll do some questions -- unless you have no questions. That's always a possibility.

I'm here today to update the American people on the incredible progress that has been made in the last four weeks since my inauguration. We have made incredible progress. I don't think there's ever been a President elected who, in this short period of time, has done what we've done.

A new Rasmussen poll, in fact -- because the people get it; much of the media doesn't get it. They actually get it, but they don't write it -- let's put it that way. But a new Rasmussen poll just came out just a very short while ago, and it has our approval rating at 55 percent and going up. The stock market has hit record numbers, as you know. And there has been a tremendous surge of optimism in the business world, which is -- to me means something much different than it used to. It used to mean, oh, that's good. Now it means that's good for jobs. Very different. Plants and factories are already starting to move back into the United States and big league -- Ford, General Motors, so many of them.

I'm making this presentation directly to the American people with the media present, which is an honor to have you this morning, because many of our nation's

reporters and folks will not tell you the truth and will not treat the wonderful people of our country with the respect that they deserve. And I hope going forward we can be a little bit different, and maybe get along a little bit better, if that's possible. Maybe it's not, and that's okay too.

Unfortunately, much of the media in Washington, D.C., along with New York, Los Angeles, in particular, speaks not for the people but for the special interests and for those profiting off a very, very obviously broken system. The press has become so dishonest that if we don't talk about it, we are doing a tremendous disservice to the American people -- tremendous disservice. We have to talk about it to find out what's going on, because the press honestly is out of control. The level of dishonesty is out of control.

I ran for President to represent the citizens of our country. I am here to change the broken system so it serves their families and their communities well. I am talking, and really talking, on this very entrenched power structure, and what we're doing is we're talking about the power structure, we're talking about its entrenchment. As a result, the media is going through what they have to go through to oftentimes distort -- not all the time -- and some of the media is fantastic, I have to say; they're honest and fantastic. But much of it is not -- the distortion. And we'll talk about it, and you'll be able to ask me questions about it.

But we're not going to let it happen, because I'm here again to take my message straight to the people. As you know, our administration inherited many problems across government and across the economy. To be honest, I inherited a mess -- it's a mess -- at home and abroad. A mess. Jobs are pouring out of the country. You see what's going on with all of the companies leaving our country, going to Mexico and other places -- low-pay, low-wages. Mass instability overseas, no matter where you look. The Middle East, a disaster. North Korea -- we'll take care of it, folks. We're going to take care of it all. I just want to let you know I inherited a mess.

Beginning on day one, our administration went to work to tackle these challenges. On foreign affairs, we've already begun enormously productive talks with many foreign leaders -- much of it you've covered -- to move forward toward stability, security, and peace in the most troubled regions of the world, which there are many.

We've had great conversations with the United Kingdom -- and meetings -- Israel, Mexico, Japan, China, and Canada. Really, really productive conversations. I would

say far more productive than you would understand. We've even developed a new council with Canada to promote women's business leaders and entrepreneurs. It's very important to me, very important to my daughter Ivanka.

I have directed our defense community, headed by our great general, now Secretary Mattis -- he's over there now, working very hard -- to submit a plan for the defeat of ISIS, a group that celebrates the murder and torture of innocent people in large sections of the world. It used to be a small group, and now it's in large sections of the world. They've spread like cancer. ISIS has spread like cancer. Another mess I inherited.

And we have imposed new sanctions on the nation of Iran, who's totally taken advantage of our previous administration. And they're the world's top sponsor of terrorism. And we're not going to stop until that problem is properly solved. And it's not properly solved now. It's one of the worst agreements I've ever seen drawn by anybody.

I've ordered plans to begin for the massive rebuilding of the United States military. I've had great support from the Senate. I've had great support from Congress generally. We've pursued this rebuilding in the hopes that we will never have to use this military. And I will tell you that is my -- I would be so happy if we never had to use it. But our country will never have had a military like the military we're about to build and rebuild. We have the greatest people on Earth in our military, but they don't have the right equipment. And their equipment is old. I used it, I talked about it at every stop. Depleted -- it's depleted. It won't be depleted for long.

And I think one of the reasons I'm standing here instead of other people is that, frankly, I talked about we have to have a strong military. We have to have strong law enforcement also. So we do not go abroad in the search of war. We really are searching for peace, but it's peace through strength.

At home, we have begun the monumental task of returning the government back to the people on a scale not seen in many, many years. In each of these actions, I'm keeping my promises to the American people. These are campaign promises.

Some people are so surprised that we're having strong borders. Well, that's what I've been talking about for a year and a half -- strong borders. They're so surprised -- "oh, you're having strong borders." Well, that's what I've been talking about to the press and to everybody else.

One promise after another after years of politicians lying to you to get elected.

They lie to the American people in order to get elected. Some of the things I'm doing probably aren't popular, but they're necessary for security and for other reasons. And then coming to Washington and pursuing their own interests, which is more important to many politicians.

I'm here following through on what I pledged to do. That's all I'm doing. I put it out before the American people. Got 306 Electoral College votes. I wasn't supposed to get 222. They said there's no way to get 222; 230 is impossible. Two hundred and seventy, which you need, that was laughable. We got 306 because people came out and voted like they've never seen before. So that's the way it goes. I guess it was the biggest Electoral College win since Ronald Reagan.

In other words, the media is trying to attack our administration because they know we are following through on pledges that we made, and they're not happy about it for whatever reason. But a lot of people are happy about it. In fact, I'll be in Melbourne, Florida, five o'clock on Saturday, and I heard -- just heard that the crowds are massive that want to be there.

I turn on the TV, open the newspapers, and I see stories of chaos. Chaos! Yet, it is the exact opposite. This administration is running like a fine-tuned machine, despite the fact that I can't get my Cabinet approved, and they're outstanding people. Like Senator Dan Coates whose there -- one of the most respected men of the Senate -- he can't get approved. How do you not approve him? He's been a colleague, highly respected -- brilliant guy, great guy, everybody knows it -- but waiting for approval.

So we have a wonderful group of people that's working very hard, that's being very much misrepresented about, and we can't let that happen. So if the Democrats, who have -- all you have to do is look at where they are right now -- the only thing they can do is delay, because they've screwed things up royally, believe me.

Let me list to you some of the things that we've done in just a short period of time. I just got here. I got here with no Cabinet. Again, each of these actions is a promise I made to the American people. So we'll go over just some of them, and we have a lot happening next week and in the weeks coming. We've withdrawn from the job-killing disaster known as Trans-Pacific Partnership. We're going to make trade deals, but we're going to have one-on-one deals -- bilateral. We're going to have one-on-one deals.

We've directed the elimination of regulations that undermine manufacturing, and called for expedited approval of the permits needed for America and American infrastructure, and that means plants, equipment, roads, bridges, factories. People take 10, 15, 20 years to get disapproved for a factory. They go in for a permit -- it's many, many years. And then at the end of the process -- they spend tens of millions of dollars on nonsense -- and at the end of the process, they get rejected. Now, they may be rejected with me, but it's going to be a quick rejection. It's not going to take years. But mostly, it's going to be an acceptance. We want plants built, and we want factories built, and we want the jobs. We don't want the jobs going to other countries.

We've imposed a hiring freeze on nonessential federal workers. We've imposed a temporary moratorium on new federal regulations. We've issued a game-changing new rule that says for each one new regulation, two old regulations must be eliminated. Makes sense. Nobody has ever seen regulations like we have. If you go to other countries and you look at industries they have, and you say, let me see your regulations, and they're a fraction, just a tiny fraction of what we have. And I want regulations because I want safety, I want all environmental situations to be taken properly care of. It's very important to me. But you don't need four or five or six regulations to take care of the same thing.

We've stood up for the men and women of law enforcement, directing federal agencies to ensure they are protected from crimes of violence. We've directed the creation of a task force for reducing violent crime in America, including the horrendous situation -- take a look at Chicago and others -- taking place right now in our inner cities. Horrible. We've ordered the Department of Homeland Security and Justice to coordinate on a plan to destroy criminal cartels coming into the United States with drugs. We're becoming a drug-infested nation. Drugs are becoming cheaper than candy bars, and we're not going to let it happen any longer.

We've undertaken the most substantial border security measures in a generation to keep our nation and our tax dollars safe, and are now in the process of beginning to build a promised wall on the southern border. Met with General, now Secretary, Kelly yesterday and we're starting that process. And the wall is going to be a great wall, and it's going to be a wall negotiated by me. The price is going to come down, just like it has on everything else I've negotiated for the government. And we're going to have a wall that works. We're not going to have a wall like they have now, which is either nonexistent or a joke.

We've ordered a crackdown on sanctuary cities that refuse to comply with federal law and that harbor criminal aliens, and we've ordered an end to the policy of catch and release on the border. No more release, no matter who you are -- release.

We've begun a nationwide effort to remove criminal aliens, gang members, drug dealers, and others who pose a threat to public safety. We are saving American lives every single day. The court system has not made it easy for us. And we've even created a new office in Homeland Security dedicated to the forgotten American victims of illegal immigrant violence, of which there are many.

We've taken decisive action to keep radical Islamic terrorists out of our country.

Though parts of our necessary and constitutional actions were blocked by a judge's, in my opinion, incorrect and unsafe ruling, our administration is working night and day to keep you safe -- including reporters safe -- and is vigorously defending this lawful order. I will not back down from defending our country. I got elected on defense of our country. And I keep my campaign promises. And our citizens will be very happy when they see the result. They already are. I can tell you that.

Extreme vetting will be put in place, and it already is in place in many places. In fact, we had to go quicker than we thought because of the bad decision we received from a circuit that has been overturned at a record number. I've heard 80 percent -- I find that hard to believe; that's just a number I heard -- that they're overturned 80 percent of the time. I think that circuit is in chaos and that circuit is, frankly, in turmoil. But we are appealing that and we are going further.

We're issuing a new executive action next week that will comprehensively protect our country, so we'll be going along the one path and hopefully winning that. At the same time, we will be issuing a new and very comprehensive order to protect our people, and that will be done some time next week, toward the beginning or middle at the latest part.

We've also taken steps to begin construction of the Keystone Pipeline and Dakota Access Pipelines -- thousands and thousands of jobs -- and put new "Buy American" measures in place to require American steel for American pipelines. In other words, they build a pipeline in this country and we use the powers of government to make that pipeline happen. We want them to use American steel. And they're willing to do that, but nobody ever asked before I came along. Even this order was drawn and they didn't say that. And I'm reading the order, I'm saying, why aren't we using American steel? And they said, that's a good idea. We put it in.

To drain the swamp of corruption in Washington, D.C. I've started by imposing a five-year lobbying ban on White House officials and a lifetime ban on lobbying for a foreign government. We've begun preparing to repeal and replace Obamacare.

Obamacare is a disaster, folks. It's a disaster. You can say, oh, Obamacare -- I mean, they fill up our alleys with people that you wonder how they get there, but they're not the Republican people that our representatives are representing. So we've begun preparing to repeal and replace Obamacare and are deep in the midst of negotiations on a very historic tax reform to bring our jobs back. We're bringing our jobs back to this country big league. It's already happening, but big league.

I've also worked to install a Cabinet over the delays and obstruction of Senate Democrats. You've seen what they've done over the last long number of years.

That will be one of the great Cabinets ever assembled in American history. You look at Rex Tillerson -- he's out there negotiating right now. General Mattis I mentioned before, General Kelly. We have great, great people. Mick is with us now. We have great people.

Among their responsibilities will be ending the bleeding of jobs from our country and negotiating fair trade deals for our citizens. Now, look, fair trade -- not free -- fair. If a country is taking advantage of us, we're not going to let that happen anymore. Every country takes advantage of us, almost. I may be able to find a couple that don't. But for the most part, that would be a very tough job for me to do.

Jobs have already started to surge. Since my election, Ford announced it will abandon its plans to build a new factory in Mexico and will instead invest \$700 million in Michigan, creating many, many jobs. Fiat-Chrysler announced it will invest \$1 billion in Ohio and Michigan, creating 2,000 new American jobs. They were with me a week ago. You know -- you were here. General Motors, likewise, committed to invest billions of dollars in its American manufacturing operation, keeping many jobs here that were going to leave. And if I didn't get elected, believe me, they would have left. And these jobs and these things that I'm announcing would never have come here.

Intel just announced that it will move ahead with a new plant in Arizona that probably was never going to move ahead with. And that will result in at least 10,000 American jobs. Walmart announced it will create 10,000 jobs in the United States just this year because of our various plans and initiatives. There will be many, many more. Many more. These are a few that we're naming.

Other countries have been taking advantage of us for decades -- decades and decades and decades, folks. And we're not going to let that happen anymore. Not going to let it happen.

And one more thing. I have kept my promise to the American people by nominating a justice of the United States Supreme Court, Judge Neil Gorsuch, who is from my list of 20, and who will be a true defender of our laws and our Constitution -- highly respected, should get the votes from the Democrats -- you may not see that, but he'll get there one way or the other. But he should get there the old-fashioned way, and he should get those votes.

This last month has represented an unprecedented degree of action on behalf of the great citizens of our country. Again, I say it -- there has never been a presidency that's done so much in such a short period of time. And we haven't even started the big work that starts early next week. Some very big things are going to be announced next week.

So we're just getting started. We will be giving a speech, as I said, in Melbourne, Florida, at 5:00 p.m. I hope to see you there. And with that, I'd just say, God bless America, and let's take some questions.

Mara. Mara, go ahead. You were cut off pretty violently at our last news conference.

Q Did you fire Mike Flynn?

THE PRESIDENT: Mike Flynn is a fine person, and I asked for his resignation. He respectfully gave it. He is a man who -- there was a certain amount of information given to Vice President Pence, who is with us today. And I was not happy with the way that information was given.

He didn't have to do that, because what he did wasn't wrong, what he did in terms of the information he saw. What was wrong was the way that other people, including yourselves in this room, were given that information, because that was classified information that was given illegally. That's the real problem. And you can talk all you want about Russia, which was all a fake news, fabricated deal to try and make up for the loss of the Democrats, and the press plays right into it. In fact, I saw a couple of the people that were supposedly involved with all of this -- they know nothing about it. They weren't in Russia, they never made a phone call to Russia, they never received a phone call. It's all fake news. It's all fake news.

The nice thing is I see it starting to turn, where people are now looking at the illegal, Mara -- and I think it's very important -- the illegal giving out classified information. And let me just tell you, it was given out, like, so much. I'll give you an example. I called, as you know, Mexico. It was a very confidential, classified call, but I called Mexico. And in calling Mexico, I figured, oh, well, that's -- I spoke to the President of Mexico, had a good call. All of a sudden it's out for the world to see. It's supposed to be secret. It's supposed to be either confidential or classified in that case. Same thing with Australia. All of a sudden people are finding out exactly what took place.

The same thing happened with respect to General Flynn. Everybody saw this, and I'm saying -- the first thing I thought of when I heard about it is, how does the press get this information that's classified? How do they do it? You know why? Because it's an illegal process, and the press should be ashamed of themselves. But, more importantly, the people that gave out the information to the press should be ashamed of themselves. Really ashamed.

Yes, go ahead.

Q Why did you keep your Vice President in the dark for almost two weeks?

THE PRESIDENT: Because when I looked at the information, I said, I don't think he did anything wrong. If anything, he did something right. He was coming into office, he looked at the information. He said, huh, that's fine, that's what they're supposed to do. They're supposed to be -- and he didn't just call Russia. He called and spoke to, both ways -- I think there were 30-some-odd countries. He's doing the job.

You know, he was just doing his job. The thing is he didn't tell our Vice President properly, and then he said he didn't remember. So either way, it wasn't very satisfactory to me. And I have somebody that I think will be outstanding for the position, and that also helps, I think, in the making of my decision.

But he didn't tell the Vice President of the United States the facts, and then he didn't remember. And that just wasn't acceptable to me.

Yes.

Q President Trump, since you brought up Russia, I'm looking for some clarification here. During the campaign, did anyone from your team communicate with

members of the Russian government or Russian intelligence? And if so, what was the nature of those conversations?

THE PRESIDENT: Well, the failing New York Times wrote a big, long front-page story yesterday. And it was very much discredited, as you know. It was -- it's a joke. And the people mentioned in the story -- I notice they were on television today saying they never even spoke to Russia. They weren't even a part, really -- I mean, they were such a minor part -- I hadn't spoken to them. I think the one person, I don't think I've ever spoken to him. I don't think I've ever met him. And he actually said he was a very low-level member of, I think, a committee for a short period of time. I don't think I ever met him. Now, it's possible that I walked into a room and he was sitting there, but I don't think I ever met him. I didn't talk to him, ever. And he thought it was a joke.

The other person said he never spoke to Russia, never received a call. Look at his phone records, et cetera, et cetera. And the other person, people knew that he'd represented various countries, but I don't think he represented Russia -- but knew that he represented various countries. That's what he does. I mean, people know that. That's Mr. Manafort, who's, by the way -- who's, by the way, a respected man. He's a respected man. But I think he represented the Ukraine, or Ukraine government, or somebody. But everybody -- people knew that. Everybody knew that. So these people -- and he said that he has absolutely nothing to do and never has with Russia. And he said that very forcefully. I saw his statement. He said it very forcefully. Most of the papers don't print it because that's not good for their stories.

So the three people that they talked about all totally deny it. And I can tell you, speaking for myself, I own nothing in Russia. I have no loans in Russia. I don't have any deals in Russia. President Putin called me up very nicely to congratulate me on the win of the election. He then called me up extremely nicely to congratulate me on the inauguration, which was terrific. But so did many other leaders -- almost all other leaders from almost all other countries. So that's the extent.

Russia is fake news. Russia -- this is fake news put out by the media. The real news is the fact that people, probably from the Obama administration because they're there -- because we have our new people going in place right now. As you know, Mike Pompeo is now taking control of the CIA. James Comey at FBI. Dan Coats is waiting to be approved. I mean, he is a senator, and a highly respected one. And he's still waiting to be approved. But our new people are going in.

And just while you're at, because you mentioned this, Wall Street Journal did a story today that was almost as disgraceful as the failing New Times's story yesterday. And it talked about -- you saw it, front page. So, Director of National Intelligence just put out -- acting -- a statement: "Any suggestion that the United States intelligence community" -- this was just given to us -- "is withholding information and not providing the best possible intelligence to the President and his national security team is not true."

So they took this front-page story out of The Wall Street Journal -- top -- and they just wrote the story is not true. And I'll tell you something, I'll be honest -- because I sort of enjoy this back and forth, and I guess I have all my life, but I've never seen more dishonest media than, frankly, the political media. I thought the financial media was much better, much more honest. But I will say that I never get phone calls from the media. How do they write a story like that in The Wall Street Journal without asking me? Or how do they write a story in The New York Times, put it on front page? That was like that story they wrote about the women and me -- front page. Big massive story. And it was nasty.

And then they called. They said, "We never said that. We like Mr. Trump." They called up my office -- we like Mr. Trump; we never said that. And it was totally -- they totally misrepresented those very wonderful women, I have to tell you -- totally misrepresented. I said, give us a retraction. They never gave us a retraction. And, frankly, I then went on to other things.

Go ahead.

Q Mr. President --

THE PRESIDENT: You okay?

Q I am. Just wanted to get untangled. Very simply, you said today that you had the biggest electoral margins since Ronald Reagan with 304 or 306 electoral votes. In fact, President Obama got 365 in 2008.

THE PRESIDENT: Well, I'm talking about Republican. Yes.

Q President Obama, 332. George H.W. Bush, 426 when he won as President. So why should Americans trust --

THE PRESIDENT: Well, no, I was told -- I was given that information. I don't know. I was just given. We had a very, very big margin.

Q I guess my question is, why should Americans trust you when you have accused the information they receive of being fake when you're providing information that's fake?

THE PRESIDENT: Well, I don't know. I was given that information. I was given -- actually, I've seen that information around. But it was a very substantial victory. Do you agree with that?

Q You're the President.

THE PRESIDENT: Okay, thank you. That's a good answer. Yes.

Q Mr. President, thank you so much. Can you tell us in determining that Lieutenant General Flynn -- there was no wrongdoing in your mind, what evidence was weighed? Did you have the transcripts of these telephone intercepts with Russian officials, particularly Ambassador Kislyak, who he was communicating with? What evidence did you weigh to determine there was no wrong doing?

And further than that, sir, you've said on a couple of occasions this morning that you were going to aggressively pursue the sources of these leaks.

THE PRESIDENT: We are.

Q Can we ask what you're doing to do? And also, we've heard about a review of the intelligence community headed by Stephen Feinberg. What can you tell us about that?

THE PRESIDENT: Well, first of all, about that, we now have Dan Coats, hopefully soon Mike Pompeo and James Comey, and they're in position. So I hope that we'll be able to straighten that out without using anybody else. The gentleman you mentioned is a very talented man, very successful man. And he has offered his services, and it's something we may take advantage of. But I don't think we'll need that at all because of the fact that I think that we're going to be able to straighten it out very easily on its own.

As far as the general is concerned, when I first heard about it, I said, huh, that doesn't sound wrong. My counsel came -- Don McGahn, White House Counsel -- and he told me, and I asked him, and he can speak very well for himself. He said he doesn't think anything is wrong. He really didn't think -- it was really what happened after that, but he didn't think anything was done wrong. I didn't either,

because I waited a period of time and I started to think about it. I said, well, I don't see -- to me, he was doing the job.

The information was provided by -- who I don't know -- Sally Yates -- and I was a little surprised because I said, doesn't sound like he did anything wrong there. But he did something wrong with respect to the Vice President, and I thought that was not acceptable. As far as the actual making the call -- in fact, I've watched various programs and I've read various articles where he was just doing his job. That was very normal. At first, everybody got excited because they thought he did something wrong. After they thought about it, it turned out he was just doing his job.

So -- and I do -- and, by the way, with all of that being said, I do think he's a fine man.

Yes, Jon.

Q On the leaks, sir --

THE PRESIDENT: Go ahead, finish off, then I'll get you, Jon.

Q Sorry, what will you do on the leaks? You have said twice today --

THE PRESIDENT: Yes, we're looking at it very, very seriously. I've gone to all of the folks in charge of the various agencies, and we're -- I've actually called the Justice Department to look into the leaks. Those are criminal leaks. They're put out by people either in agencies. I think you'll see it stopping because now we have our people in. You know, again, we don't have our people in because we can't get them approved by the Senate. We just had Jeff Sessions approved in Justice, as an example. So we are looking into that very seriously. It's a criminal act.

You know what I say -- when I was called out on Mexico, I was shocked. Because all this equipment, all this incredible phone equipment. When I was called out on Mexico, I was -- honestly, I was really, really surprised. But I said, you know, it doesn't make sense, that won't happen. But that wasn't that important to call, it was fine. I could show it to the world and he could show it to the world -- the President who is a very fine man, by the way. Same thing with Australia. I said, that's terrible that it was leaked but it wasn't that important. But then I said, what happens when I'm dealing with the problem of North Korea? What happens when I'm dealing with the problems in the Middle East? Are you folks going to be

reporting all of that very, very confidential information -- very important, very -- I mean, at the highest level, are you going to be reporting about that too?

So I don't want classified information getting out to the public. And in a way, that was almost a test. So I'm dealing with Mexico. I'm dealing with Argentina. We were dealing on this case with Mike Flynn. All this information gets put into the Washington Post and gets put into the New York Times. And I'm saying, what's going to happen when I'm dealing on the Middle East? What's going to happen when I'm dealing with really, really important subjects like North Korea? We've got to stop it. That's why it's a criminal penalty.

Yes, Jon.

Q Thank you, Mr. President. I just want to get you to clarify just a very important point. Can you say definitively that nobody on your campaign had any contacts with the Russians during the campaign? And, on the leaks, is it fake news or are these real leaks?

THE PRESIDENT: Well, the leaks are real. You're the one that wrote about them and reported them. I mean, the leaks are real. You know what they said -- you saw it. And the leaks are absolutely real. The news is fake because so much of the news is fake.

So one thing that I felt it was very important to do -- and I hope we can correct it, because there is nobody I have more respect for -- well, maybe a little bit -- than reporters, than good reporters. It's very important to me, and especially in this position. It's very important. I don't mind bad stories. I can handle a bad story better than anybody as long as it's true. And over a course of time, I'll make mistakes and you'll write badly and I'm okay with that. But I'm not okay when it is fake. I mean, I watch CNN -- it's so much anger and hatred and just the hatred. I don't watch it anymore because it's very good -- he's saying no. It's okay, Jim. It's okay, Jim. You'll have your chance. But I watch others too. You're not the only one, so don't feel badly.

But I think it should be straight. I think it should be -- I think it would be, frankly, more interesting. I know how good everybody's ratings are right now, but I think that actually would be -- I think that it would actually be better.

People -- I mean, you have a lower approval rate than Congress. I think that's right. I don't know, Peter, is that one right? Because you know, I think they have lower -- I heard, lower than Congress.

But honestly, the public would appreciate it. I'd appreciate it. Again, I don't mind bad stories when it's true. But we have an administration where the Democrats are making it very difficult. I think we're setting a record, or close to a record in the time of approval of a Cabinet. I mean, the numbers are crazy. When I'm looking -- some of them had them approved immediately. I'm going forever, and I still have a lot of people that we're waiting for.

And that's all they're doing, is delaying. And you look at Schumer and the mess that he's got over there, and they have nothing going. The only thing they can do is delay. And you know, I think they'd be better served by approving and making sure that they're happy and everybody is good. And sometimes, I mean -- I know President Obama lost three or four, and you lose them on the way. And that's okay. That's fine.

But I think they would be much better served, Jon, if they just went through the process quickly. This is pure delay tactics. And they say it, and everybody understands it.

Yeah, go ahead, Jim.

Q The first part of my question on contacts. Do you definitively say that nobody --

THE PRESIDENT: Well, I had nothing to do with it. I have nothing to do with Russia. I told you, I have no deals there. I have no anything.

Now, when WikiLeaks, which I had nothing to do with, comes out and happens to give -- they're not giving classified information. They're giving stuff -- what was said at an office about Hillary cheating on the debates -- which, by the way, nobody mentions. Nobody mentions that Hillary received the questions to the debates.

Can you imagine -- seriously, can you imagine if I received the questions? It would be the electric chair, okay? "He should be put in the electric chair." You would even call for the reinstatement of the death penalty, okay? Maybe not you, Jon.

Yes, we'll do you next, Jim. I'll do you next. Yes?

Q Thank you, Mr. President. I just want to clarify one other thing.

THE PRESIDENT: Sure.

Q Did you direct Mike Flynn to discuss the sanctions with the Russian ambassador?

THE PRESIDENT: No, I didn't. No, I didn't.

Q (Inaudible.) (Off mic.)

THE PRESIDENT: No, I didn't.

Q Did you fire him because (inaudible) --

THE PRESIDENT: Excuse me -- no, I fired him because of what he said to Mike Pence, very simple. Mike was doing his job. He was calling countries and his counterparts. So it certainly would have been okay with me if he did it. I would have directed him to do it if I thought he wasn't doing it. I didn't direct him but I would have directed him because that's his job.

And it came out that way -- and, in all fairness, I watched Dr. Charles Krauthammer the other night say he was doing his job. And I agreed with him. And since then I've watched many other people say that.

No, I didn't direct him, but I would have directed him if he didn't do it, okay?

Jim.

Q Mr. President, thank you very much. And just for the record, we don't hate you, I don't hate you. If you could pass that along.

THE PRESIDENT: Okay. Well, ask Jeff Zucker how he got his job, okay?

Q If I may follow up on some of the questions that have taken place so far, sir.

THE PRESIDENT: Well, not too many. We do have other people. You do have other people, and your ratings aren't as good as some of the other people that are waiting.

Q They're pretty good right now, actually.

THE PRESIDENT: Okay. Go ahead, Jim.

Q If I may ask, sir, you said earlier that WikiLeaks was revealing information about the Hillary Clinton campaign during the election cycle. You welcomed that at one point.

THE PRESIDENT: I was okay with it.

Q You said you loved WikiLeaks. At another campaign press conference you called on the Russians to find the missing 30,000 emails. I'm wondering, sir, if you --

THE PRESIDENT: Well, she was actually missing 33,000, and then that got extended with a whole pile after that, but that's okay.

Q Maybe my numbers are off a little bit too.

THE PRESIDENT: No, no, but I did say 30,000, but it was actually higher than that.

Q If I may ask you, sir, it sounds as though you do not have much credibility here when it comes to leaking if that is something that you encouraged in the campaign.

THE PRESIDENT: Okay, fair question. Ready?

Q So if I may ask you that -- if I may ask a follow-up --

THE PRESIDENT: No, no, but are you -- let me do one at a time. Do you mind?

Q Yes, sir.

THE PRESIDENT: All right. So in one case you're talking about highly classified information. In the other case you're talking about John Podesta saying bad things about the boss. I will say this: If John Podesta said that about me and he was working for me, I would have fired him so fast your head would have spun. He said terrible things about her. But it wasn't classified information.

But in one case you're talking about classified. Regardless, if you look at the RNC, we had a very strong -- at my suggestion -- and I give Reince great credit for this -- at my suggestion, because I know something about this world, I said I want a very strong defensive mechanism. I don't want to be hacked. And we did that, and you have seen that they tried to hack us and they failed.

The DNC did not do that. And if they did it, they could not have been hacked. But they were hacked, and terrible things came. And the only thing that I do think is unfair is some of the things were so -- they were -- when I heard some of those

things, I said -- I picked up the papers the next morning, I said, oh, this is going to front page. It wasn't even in the papers.

Again, if I had that happen to me, it would be the biggest story in the history of publishing or the head of newspapers. I would have been the headline in every newspaper.

I mean, think of it. They gave her the questions for the debate, and she should have reported herself. Why didn't Hillary Clinton announce that, "I'm sorry, but I have been given the questions to a debate or a town hall, and I feel that it's inappropriate, and I want to turn in CNN for not doing a good job"?

Q And if I may follow up on that, just something that Jonathan Karl was asking you about -- you said that the leaks are real, but the news is fake. I guess I don't understand. It seems that there is a disconnect there. If the information coming from those leaks is real, then how can the stories be fake?

THE PRESIDENT: Well, the reporting is fake. Look, look --

Q And if I may ask -- I just want to ask one other question.

THE PRESIDENT: Jim, you know what it is? Here's the thing. The public isn't -- they read newspapers, they see television, they watch. They don't know if it's true or false because they're not involved. I'm involved. I've been involved with this stuff all my life. But I'm involved. So I know when you're telling the truth or when you're not.

I just see many, many untruthful things. And I tell you what else I see. I see tone. You know the word "tone." The tone is such hatred. I'm really not a bad person, by the way. No, but the tone is such -- I do get good ratings, you have to admit that. The tone is such hatred.

I watched this morning a couple of the networks, and I have to say "Fox & Friends" in the morning, they're very honorable people. They're very -- not because they're good, because they hit me also when I do something wrong. But they have the most honest morning show. That's all I can say. It's the most honest. But the tone, Jim. If you look -- the hatred. I mean, sometimes -- sometimes somebody gets --

Q (Off mic.)

THE PRESIDENT: Well, you look at your show that goes on at 10 o'clock in the evening. You just take a look at that show. That is a constant hit. The panel is almost always exclusive anti-Trump. The good news is he doesn't have good ratings. But the panel is almost exclusive anti-Trump. And the hatred and venom coming from his mouth, the hatred coming from other people on your network.

Now, I will say this. I watch it. I see it. I'm amazed by it. And I just think you'd be a lot better off -- I honestly do. The public gets it, you know. Look, when I go to rallies, they turn around, they start screaming at CNN. They want to throw their placards at CNN.

I think you would do much better by being different. But you just take a look. Take a look at some of your shows in the morning and the evening. If a guest comes out and says something positive about me, it's brutal.

Now, they'll take this news conference. I'm actually having a very good time, okay? But they'll take this news conference -- don't forget that's the way I won. Remember, I used to give you a news conference every time I made a speech, which was like every day.

Q (Off mic.)

THE PRESIDENT: No, that's how I won. I won with news conferences and probably speeches. I certainly didn't win by people listening to you people, that's for sure.

But I am having a good time. Tomorrow they will say, Donald Trump rants and raves at the press. I'm not ranting and raving. I'm just telling you, you're dishonest people. But -- but I'm not ranting and raving. I love this. I'm having a good time doing it. But tomorrow the headlines are going to be: Donald Trump Rants and Raves. I'm not ranting and raving.

Q If I may just --

THE PRESIDENT: Go ahead.

Q One more follow-up because --

THE PRESIDENT: Should I let him have a little bit more? What do you think, Peter?

Q Just because of this --

THE PRESIDENT: Peter, should I have let him have a little bit more? Sit down. Sit down.

Q Just because of the attack --

THE PRESIDENT: We'll get it.

Q Just because of the attack of fake news and attacking our network, I just want to ask you, sir --

THE PRESIDENT: I'm changing it from fake news, though.

Q Doesn't that undermine --

THE PRESIDENT: Very fake news now. (Laughter.)

Q But aren't you --

THE PRESIDENT: Yes, go ahead.

Q Real news, Mr. President. Real news.

THE PRESIDENT: And you're not related to our new --

Q I am not related, sir, no. (Laughter.) I do like the sound of Secretary Acosta, I must say.

THE PRESIDENT: I looked -- you know, I looked at that name. I said, wait a minute, is there any relation there? Alex Acosta.

Q I'm sure you checked that out, sir.

THE PRESIDENT: No, I checked it. I said -- they said, no, sir. I said, do me a favor, go back and check the family tree.

Q But aren't you concerned, sir, that you are undermining the people's faith in the First Amendment freedom of the press, the press in this country when you call stories you don't like "fake news"? Why not just say it's a story I don't like?

THE PRESIDENT: I do that.

Q When you call it fake news, you're undermining confidence --

THE PRESIDENT: No, I do that. No, no, I do that.

Q -- in our news media.

THE PRESIDENT: Here's the thing.

Q Isn't that important?

THE PRESIDENT: Okay, I understand -- and you're right about that except this. See, I know when I should get good and when I should get bad. And sometimes I'll say, wow, that's going to be a great story, and I'll get killed. I know what's good and bad. I'd be a pretty good reporter -- not as good as you. But I know what's good. I know what's bad.

And when they change it and make it really bad -- something that should be positive. Sometimes something that should be very positive, they'll make okay. They'll even make it negative. So I understand it because I'm there. I know what was said. I know who is saying it. I'm there. So it's very important to me.

Look, I want to see an honest press. When I started off today by saying that it's so important to the public to get an honest press. The press -- the public doesn't believe you people anymore. Now, maybe I had something to do with that, I don't know. But they don't believe you.

If you were straight and really told it like it is, as Howard Cosell used to say, right? Of course, he had some questions also. But if you were straight, I would be your biggest booster, I would be your biggest fan in the world -- including bad stories about me. But if you go -- as an example, you're CNN -- I mean, it's story after story after story is bad. I won. I won. And the other thing: Chaos. There's zero chaos. We are running -- this is a fine-tuned machine. And Reince happens to be doing a good job. But half of his job is putting out lies by the press.

I said to him yesterday, this whole Russia scam that you guys are building so that you don't talk about the real subject, which is illegal leaks. But I watched him yesterday working so hard to try and get that story proper. And I'm saying, here's my Chief of Staff, a really good guy, did a phenomenal job at RNC. I mean, we won the election, right? We won the presidency. We got some senators. We got some -- all over the country, you take a look, he's done a great job.

And I said to myself, you know -- and I said to somebody that was in the room -- I said, you take a look at Reince, he's working so hard just putting out fires that are fake fires. They're fake. They're not true. And isn't that a shame, because he'd

rather be working on health care. He'd rather be working on tax reform, Jim. I mean that. I would be your biggest fan in the world if you treated me right. I sort of understand there's a certain bias, maybe by Jeff or somebody -- for whatever reason. And I understand that. But you've got to be at least a little bit fair. And that's why the public sees it -- they see it. They see it's not fair. You take a look at some of your shows and you see the bias and the hatred. And the public is smart. They understand it.

Okay, yeah, go ahead.

Q We have no doubt that your latest story is (inaudible). But for those who believe that there is something to it, is there anything that you have learned over these last few weeks that you might be able to reveal that might ease their concerns that this isn't fake news? And secondly --

THE PRESIDENT: I think they don't believe it. I don't think the public would. That's why the Rasmussen poll just has me through the roof. I don't think they believe it. Well, I guess one of the reasons I'm here today is to tell you the whole Russian thing -- that's a ruse. That's a ruse. And, by the way, it would be great if we could get along with Russia, just so you understand that. Now, tomorrow you'll say, Donald Trump wants to get along with Russia, this is terrible. It's not terrible -- it's good.

We had Hillary Clinton try and do a reset. We had Hillary Clinton give Russia 20 percent of the uranium in our country. You know what uranium is, right? It's this thing called nuclear weapons and other things. Like, lots of things are done with uranium, including some bad things. Nobody talks about that. I didn't do anything for Russia. I've done nothing for Russia. Hillary Clinton gave them 20 percent of our uranium. Hillary Clinton did a reset, remember, with the stupid plastic button that made us all look like a bunch of jerks? Here, take a look. He looked at her like, what the hell is she doing with that cheap plastic button? Hillary Clinton -- that was a reset. Remember? It said "reset."

Now, if I do that, oh, I'm a bad guy. If we could get along with Russia, that's a positive thing. We have a very talented man, Rex Tillerson, who is going to be meeting with them shortly. And I told him, I said, I know politically it's probably not good for me. Hey, the greatest thing I could do is shoot that ship that's 30 miles offshore right out of the water. Everyone in this country is going to say, oh, it's so great. That's not great. That's not great. I would love to be able to get along with Russia.

Now, you've had a lot of Presidents that haven't taken that tact. Look where we are now. Look where we are now. So, if I can -- now, I love to negotiate things. I do it really well and all that stuff, but it's possible I won't be able to get along with Putin.

Maybe it is. But I want to just tell you, the false reporting by the media, by you people -- the false, horrible, fake reporting makes it much harder to make a deal with Russia. And probably Putin said, you know -- he's sitting behind his desk and he's saying, you know, I see what's going on in the United States, I follow it closely; it's got to be impossible for President Trump to ever get along with Russia because of all the pressure he's got with this fake story. Okay? And that's a shame. Because if we could get along with Russia -- and, by the way, China and Japan and everyone -- if we could get along, it would be a positive thing, not a negative thing.

Q Tax reform --

Q Mr. President, since you --

THE PRESIDENT: Tax reform is going to happen fairly quickly. We're doing Obamacare -- we're in final stages. We should be submitting the initial plan in March, early March, I would say. And we have to, as you know, statutorily and for reasons of budget, we have to go first. It's not like -- frankly, the tax would be easier, in my opinion, but for statutory reasons and for budgetary reasons, we have to submit the health care sooner. So we'll be submitting health care sometime in early March, mid-March. And after that, we're going to come up -- and we're doing very well on tax reform.

Yes.

Q Mr. President, you mentioned Russia. Let's talk about some serious issues that have come up in the last week that you have had to deal with as President of the United States.

THE PRESIDENT: Okay.

Q You mentioned the vessel, the spy vessel, off the coast of the United States.

THE PRESIDENT: Not good.

Q There was a ballistic missile test that many interpreted as a violation --

THE PRESIDENT: Not good.

Q -- of the agreement between the two countries. And a Russian plane buzzed a U.S. destroyer.

THE PRESIDENT: Not good.

Q I listened to you during the campaign --

THE PRESIDENT: Excuse me, excuse me, when did it happen? It happened when -- if you were Putin right now, you would say, hey, we're back to the old games with the United States. There's no way Trump can ever do a deal with us because the -- you have to understand, if I was just brutal on Russia right now, just brutal, people would say, you would say, oh, isn't that wonderful. But I know you well enough. Then you would say, oh, he was too tough, he shouldn't have done that. Look, of all --

Q I'm just trying to find out your orientation to those --

THE PRESIDENT: Wait a minute. Wait, wait. Excuse me just one second.

Q I'm just trying to find out what you're doing to do about them, Mr. President.

THE PRESIDENT: All of those things that you mentioned are very recent, because probably Putin assumes that he's not going to be able to make a deal with me because it's politically not popular for me to make a deal. So Hillary Clinton tries to reset, it failed. They all tried. But I'm different than those people.

Go ahead.

Q How are you interpreting those moves? And what do you intend to do about them?

THE PRESIDENT: Just the way I said it.

Q Have you given Rex Tillerson any advice or counsel on how to deal?

THE PRESIDENT: I have. I have. And I'm so beautifully represented. I'm so honored that the Senate approved him. He's going to be fantastic.

Yes, I think that I've already --

Q Is Putin testing you, do you believe, sir?

THE PRESIDENT: No, I don't think so. I think Putin probably assumes that he can't make a deal with me anymore because politically it would be unpopular for a politician to make a deal. I can't believe I'm saying I'm a politician, but I guess that's what I am now. Because, look, it would be much easier for me to be tough on Russia, but then we're not going to make a deal.

Now, I don't know that we're going to make a deal. I don't know. We might, we might not. But it would be much easier for me to be so tough -- the tougher I am on Russia, the better. But you know what, I want to do the right thing for the American people. And to be honest, secondarily, I want to do the right thing for the world.

If Russia and the United States actually got together and got along -- and don't forget, we're a very powerful nuclear country and so are they. There's no upside. We're a very powerful nuclear country and so are they. I've been briefed. And I can tell you, one thing about a briefing that we're allowed to say because anybody that ever read the most basic book can say it: Nuclear holocaust would be like no other. They're a very powerful nuclear country and so are we.

If we have a good relationship with Russia, believe me, that's a good thing, not a bad thing.

Q So when you say they're not good, do you mean that they are --

THE PRESIDENT: Who did I say is not good?

Q No, when I read off the three things that have recently happened and each one of them you said they're not good.

THE PRESIDENT: No, it's not good, but they happened.

Q But do they damage the relationship? Do they undermine this country's ability to work with Russia?

THE PRESIDENT: They all happened recently, and I understand what they're doing, because they're doing the same thing. Now, again, maybe I'm not going to be able to do a deal with Russia, but at least I will have tried. And if I don't, does anybody really think that Hillary Clinton would be tougher on Russia than Donald Trump? Does anybody in this room really believe that? Okay.

But I tell you one thing: She tried to make a deal. She had the reset. She gave all the valuable uranium away. She did other things. You know, they say I'm close to

Russia. Hillary Clinton gave away 20 percent of the uranium in the United States. She's close to Russia. I gave -- you know what I gave to Russia? You know what I gave? Nothing.

Q Can we conclude there will be no response to these particular provocations?

THE PRESIDENT: I'm not going to tell you anything about what response I do. I don't talk about military response. I don't say I'm going into Mosul in four months. "We are going to attack Mosul in four months." Then three months later: "We are going to attack Mosul in one month." "Next week, we are going to attack Mosul." In the meantime, Mosul is very, very difficult. Do you know why? Because I don't talk about military, and I don't talk about certain other things. You're going to be surprised to hear that. And, by the way, my whole campaign, I'd say that. So I don't have to tell you --

Q There will be a response?

THE PRESIDENT: I don't want to be one of these guys that say, "Yes, here's what we're going to do." I don't have to do that.

Q There will be a -- in other words, there will be a response, Mr. President?

THE PRESIDENT: I don't have to tell you what I'm going to do in North Korea. Wait a minute. I don't have to tell you what I'm going to do in North Korea. And I don't have to tell you what I'm going to do with Iran. You know why? Because they shouldn't know. And eventually you guys are going to get tired of asking that question. So when you ask me, what am I going to do with the ship -- the Russian ship, as an example -- I'm not going to tell you. But hopefully, I won't have to do anything. But I'm not going to tell you. Okay.

Q Thanks.

Q Can I just ask you -- thank you very much, Mr. President -- the Trump --

THE PRESIDENT: Where are you from?

Q BBC.

THE PRESIDENT: Okay. Here's another beauty.

Q That's a good line. Impartial, free, and fair.

THE PRESIDENT: Yeah, sure.

Q Mr. President --

THE PRESIDENT: Just like CNN, right?

Q Mr. President, on the travel ban -- we could banter back and forth. On the travel ban, would you accept that that was a good example of the smooth running of government, that fine-tuned --

THE PRESIDENT: Yeah, I do. I do. And let me tell you about the travel --

Q Were there any mistakes in that?

THE PRESIDENT: Wait, wait, wait. I know who you are. Just wait. Let me tell you about the travel ban. We had a very smooth rollout of the travel ban, but we had a bad court. We got a bad decision. We had a court that's been overturned -- again, maybe wrong, but I think it's 80 percent of the time. A lot. We had a bad decision. We're going to keep going with that decision. We're going to put in a new executive order next week sometime. But we had a bad decision. That's the only thing that was wrong with the travel ban.

You had Delta with a massive problem with their computer system at the airports. You had some people that were put out there, brought by very nice buses, and they were put out at various locations. Despite that, the only problem that we had is we had a bad court. We had a court that gave us what I consider to be, with great respect, a very bad decision. Very bad for the safety and security of our country. The rollout was perfect.

Now, what I wanted to do was do the exact same executive order but said one thing -- and I said this to my people: Give them a one-month period of time. But General Kelly, now Secretary Kelly, said, if you do that, all these people will come in, in the month -- the bad ones. You do agree, there are bad people out there, right? They're not everybody that's like you. You have some bad people out there.

So Kelly said, you can't do that. And he was right. As soon as he said it, I said, wow, never thought of it. I said, how about one week? He said, no good. You got to do it immediately, because if you do it immediately, they don't have time to come in.

Now, nobody ever reports that, but that's why we did it quickly.

Now, if would have done it a month, everything would have been perfect. The problems is we would have wasted a lot of time, and maybe a lot of lives, because a lot of bad people would have come into our country.

Now, in the meantime, we've vetting very, very strongly. Very, very strongly. But we need help, and we need help by getting that executive order passed.

Q Just a brief follow-up. And if it's so urgent, why not introduce --

THE PRESIDENT: Yes, go ahead.

Q Thank you. I just was hoping that we could get a yes- or-no answer on one of these questions involving Russia. Can you say whether you are aware that anyone who advised your campaign had contacts with Russia during the course of the election?

THE PRESIDENT: Well, I told you, General Flynn obviously was dealing. So that's one person. But he was dealing -- as he should have been --

Q During the election?

THE PRESIDENT: No, no, nobody that I know of.

Q So you're not aware of any contacts during the course of the election?

THE PRESIDENT: Look, look, how many times do I have to answer this question?

Q Can you just say yes or no on it?

THE PRESIDENT: Russia is a ruse. Yeah, I know you have to get up and ask a question, so important. Russia is a ruse. I have nothing to do with Russia, haven't made a phone call to Russia in years. Don't speak to people from Russia. Not that I wouldn't, I just have nobody to speak to. I spoke to Putin twice. He called me on the election -- I told you this -- and he called me on the inauguration, and a few days ago. We had a very good talk, especially the second one -- lasted for a pretty long period of time. I'm sure you probably get it because it was classified, so I'm sure everybody in this room perhaps has it. But we had a very, very good talk. I have nothing to do with Russia. To the best of my knowledge, no person that I deal with does.

Now, Manafort has totally denied it. He denied it. Now, people knew that he was a consultant over in that part of the world for a while, but not for Russia. I think he

represented Ukraine or people having to do with Ukraine, or people that -- whoever. But people knew that. Everybody knew that.

Q But in his capacity as your campaign manager, was he in touch with Russian officials during the election?

THE PRESIDENT: I have -- you know what, he said no. I can only tell you what he -- now, he was replaced long before the election. You know that, right? He was replaced long before the election. When all of this stuff started coming out, it came out during the election. But Paul Manafort, who's a good man also, by the way -- Paul Manafort was replaced long before the election took place. He was only there for a short period of time.

How much longer should we stay here, folks? Five more minutes, is that okay? Five?

Q Mr. President, on national security --

THE PRESIDENT: Wait, let's see, who's -- I want to find a friendly reporter. Are you a friendly reporter? Watch how friendly he is. Wait, wait -- watch how friendly he is. Go ahead. Go ahead.

Q So, first of all, my name is (inaudible) from (inaudible) Magazine. And (inaudible). I haven't seen anybody in my community accuse either yourself or any of the -- anyone on your staff of being anti-Semitic. We have an understanding of (inaudible).

THE PRESIDENT: Thank you.

Q However, what we are concerned about, and what we haven't really heard be addressed is an uptick in anti-Semitism and how the government is planning to take care of it. There have been reports out that 48 bomb threats have been made against Jewish centers all across the country in the last couple of weeks. There are people who are committing anti-Semitic acts or threatening to --

THE PRESIDENT: You see, he said he was going to ask a very simple, easy question. And it's not. It's not. Not a simple question, not a fair question. Okay, sit down. I understand the rest of your question.

So here's the story, folks. Number one, I am the least anti-Semitic person that you've ever seen in your entire life. Number two, racism -- the least racist person. In fact, we did very well relative to other people running as a Republican.

Q (Inaudible.)

THE PRESIDENT: Quiet, quiet, quiet. See, he lied about -- he was going to get up and ask a very straight, simple question. So you know, welcome to the world of the media. But let me just tell you something -- that I hate the charge. I find it repulsive. I hate even the question because people that know me -- and you heard the Prime Minister, you heard Netanyahu yesterday -- did you hear him, Bibi? He said, I've known Donald Trump for a long time, and then he said, forget it.

So you should take that, instead of having to get up and ask a very insulting question like that.

Yeah, go ahead. Go ahead.

Q Thank you. I'm Lisa from the PBS --

THE PRESIDENT: See, it just shows you about the press, but that's the way the press is.

Q Thank you, Mr. President. Lisa Desjardins from the PBS Newshour.

THE PRESIDENT: Good.

Q On national security and immigration, can you give us more details on the executive order you planned for next week, even its broad outlines? Will it be focused on specific countries?

THE PRESIDENT: It's a very fair question.

Q And in addition, on the DACA program for immigration, what is your plan? Do you plan to continue that program or to end it?

THE PRESIDENT: We're going to show great heart. DACA is a very, very difficult subject for me, I will tell you. To me, it's one of the most difficult subjects I have, because you have these incredible kids, in many cases -- not in all cases. In some of the cases they're having DACA and they're gang members and they're drug dealers too. But you have some absolutely incredible kids -- I would say mostly -- they were brought here in such a way -- it's a very, very tough subject.

We are going to deal with DACA with heart. I have to deal with a lot of politicians, don't forget, and I have to convince them that what I'm saying is right. And I appreciate your understanding on that.

But the DACA situation is a very, very -- it's a very difficult thing for me. Because, you know, I love these kids. I love kids. I have kids and grandkids. And I find it very, very hard doing what the law says exactly to do. And you know, the law is rough. I'm not talking about new laws. I'm talking the existing law is very rough. It's very, very rough.

As far as the new order, the new order is going to be very much tailored to what I consider to be a very bad decision, but we can tailor the order to that decision and get just about everything, in some ways more. But we're tailoring it now to the decision. We have some of the best lawyers in the country working on it. And the new executive order is being tailored to the decision we got down from the court. Okay?

Q Mr. President, Melania Trump announced the reopening of the White House Visitors Office.

THE PRESIDENT: Yes.

Q And she does a lot of great work for the country as well. Can you tell us a little bit about what First Lady Melania Trump does for the country? And there is a unique level of interest in your administration, so by opening the White House Visitors Office, what does that mean to you?

THE PRESIDENT: Now, that's what I call a nice question. That is very nice. Who are you with?

Q (Inaudible.)

THE PRESIDENT: Good. I'm going to start watching. Thank you very much.

Melania is terrific. She was here last night. We had dinner with Senator Rubio and his wife, who is, by the way, lovely. And we had a really good discussion about Cuba because we have very similar views on Cuba. And Cuba was very good to me in the Florida election as you know, the Cuban people, Americans. And I think that Melania is going to be outstanding. That's right, she just opened up the Visitors Center -- in other words, touring of the White House.

She, like others that she's working with, feels very, very strongly about women's issues, women's difficulties, very, very strongly. And she's a very, very strong advocate. I think she's a great representative for this country. And a funny thing happens because she gets so unfairly maligned. The things they say -- I've known her for a long time. She was a very successful person. She was a very successful model. She did really well. She would go home at night and didn't even want to go out with people. She was a very private person. She was always the highest quality that you'll ever find. And the things they say -- and I've known her for a long time -- the things they say are so unfair. And actually, she's been apologized to, as you know, by various media because they said things that were lies.

I'd just tell you this: I think she's going to be a fantastic First Lady. She's going to be a tremendous representative of women and of the people. And helping her and working with her will be Ivanka, who is a fabulous person and a fabulous, fabulous woman. And they're not doing this for money. They're not doing this for pay. They're doing this because they feel it, both of them. And Melania goes back and forth, and after Barron finishes school -- because it's hard to take a child out of school with a few months left -- she and Barron will be moving over to the White House. Thank you. That's a very nice question.

Go ahead.

Q Mr. President.

THE PRESIDENT: Yes. Oh, this is going to be a bad question but that's okay.

Q No, it's not going to be a bad question.

THE PRESIDENT: Good, because I enjoy watching you on television.

Q Well, thank you so much. Mr. President, I need to find out from you -- you said something as it relates to inner cities. That was one of your platforms during your campaign.

THE PRESIDENT: Fix the inner cities, yes.

Q Fixing the inner cities. What will be that fix and your urban agenda, as well as your HBCU executive order that's coming out this afternoon? See, it wasn't bad, was it?

THE PRESIDENT: That was very professional and very good.

Q I'm very professional.

THE PRESIDENT: We'll be announcing the order in a little while, and I'd rather let the order speak for itself. But it will be something I think that will be very good for everybody concerned. But we'll talk to you about that after we do the announcement.

As far as the inner cities, as you know, I was very strong on the inner cities during the campaign. I think it's probably what got me a much higher percentage of the African American vote than a lot of people thought I was going to get. We did much higher than people thought I was going to get and I was honored by that, including the Hispanic vote, which was also much higher. And, by the way, if I might add, including the women's vote, which was much higher than people thought I was going to get.

So we are going to be working very hard on the inner cities having to do with education, having to do with crime. We're going to try and fix as quickly as possible -- you know it takes a long time. It's taken 100 years or more for some of these places to evolve, and they evolved many of them very badly.

But we're going to be working very hard on health and health care; very, very hard on education. And also, we're going to working in a stringent way, and a very good way, on crime. You go to some of these inner city places, and it's so sad when you look at the crime. You have people -- and I've seen this, and I've sort of witnessed it. In fact, in two cases, I have actually witnessed it. They lock themselves into apartments, petrified to even leave, in the middle of the day. They're living in hell. We can't let that happen. So we're going to be very, very strong.

It's a great question, and it's a very difficult situation, because it's been many, many years. It's been festering for many, many years. But we have places in this country that we have to fix. We have to help African American people that, for the most part are stuck there -- Hispanic American people. We have Hispanic American people that are in the inner cities, and they're living in hell.

I mean, you look at the numbers in Chicago. There are two Chicagos, as you know. There's one Chicago that's incredible, luxurious and all, and safe. There's another Chicago that's worse than almost any of the places in the Middle East that we talk about, and that you talk about every night on the newscasts. So we're going to do a lot of work on the inner cities. I have great people lined up to help with the inner cities.

Q Well, when you say -- when you say the inner cities, are you going to include the CBC, Mr. President, in your conversations with your urban agenda, your inner city agenda, as well as your --

THE PRESIDENT: Am I going include who?

Q Are you going to include the Congressional Black Caucus and the Congressional Hispanic Caucus, as well as --

THE PRESIDENT: Well, I would. I tell you what, do you want to set up the meeting? Do you want to set up the meeting?

Q No, no, no.

THE PRESIDENT: Are they friends of yours?

Q I'm just a reporter.

THE PRESIDENT: No, go ahead, set up the meeting.

Q I know some of them, but I'm sure they're watching right now.

THE PRESIDENT: Let's go set up a meeting. I would love to meet with the Black Caucus. I think it's great -- the Congressional Black Caucus. I think it's great. I actually thought I had a meeting with Congressman Cummings, and he was all excited, and then he said, oh, I can't move, it might be bad for me politically, I can't have that meeting. I was all set to have the meeting. You know, we called him and called him, and he was all set. I spoke to him on the phone. Very nice guy.

Q I hear he wanted that meeting with you as well.

THE PRESIDENT: He wanted it. But we called, called, called, called -- they can't make a meeting with him. Every day, I walked in, I said, I would like to meet with him. Because I do want to solve the problem. But he probably was told by Schumer or somebody like that -- some other lightweight -- he was probably told -- he was probably told, don't meet with Trump, it's bad politics. And that's part of the problem of this country.

Okay, one more. Go ahead.

Q Yes, Mr. President, two questions --

THE PRESIDENT: No, no. One question. Two, we can't handle. This room can't handle two. Go ahead, give me the better of your two.

Q (Inaudible) it's not about your personality or your beliefs. We're talking about (inaudible) around the country, some of it by supporters in your name. What do you --

THE PRESIDENT: And some of it -- and can I be honest with you? And this has to do with racism and horrible things that are put up. Some of it written by our opponents. You do know that. Do you understand that? You don't think anybody would do a thing like that. Some of the signs you'll see are not put up by the people that love or like Donald Trump, they're put up by the other side, and you think it's like playing it straight. No. But you have some of those signs, and some of that anger is caused by the other side. They'll do signs and they'll do drawings that are inappropriate. It won't be my people. It will be the people on the other side to anger people like you. Okay.

Go ahead.

Q You are the President now. What are you going to do about it?

THE PRESIDENT: Who is that? Where is that? Oh, stand up. You can --

Q What are you going to do about the tensions that have been discussed?

THE PRESIDENT: Oh, I'm working on it. No, I'm working on it very hard.

Q Are you going to give a speech?

THE PRESIDENT: No, no, look. Hey, just so you understand, we had a totally divided country for eight years, and long before that, in all fairness to President Obama. Long before President Obama, we have had a very divided. I didn't come along and divide this country. This country was seriously divided before I got here.

We're going to work on it very hard. One of the questions that was asked -- I thought it was a very good question -- was about the inner cities. I mean, that's part of it. But we're going to work on education. We're going to work on lack -- you know, we're going to stop -- we're going to try and stop the crime. We have great law enforcement officials. We're going to try and stop crime. We're not going to try and stop, we're going to stop crime.

But it's very important to me. But this isn't Donald Trump that divided a nation. We went eight years with President Obama, and we went many years before President Obama. We lived in a divided nation. And I am going to try -- I will do everything within my power to fix that.

I want to thank everybody very much. It's a great honor to be with you. Thank you. Thank you very much. (Applause.)

END

2:13 P.M. EST



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Transcript of AP interview with Trump

The Associated Press
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A transcript of an Oval Office interview Friday with President Donald Trump by AP White House Correspondent Julie Pace. Where the audio recording of the interview is unclear, ellipses or a notation that the recording was unintelligible are used.

AP: I do want to talk to you about the 100 days.

TRUMP: Good.

AP: I want to ask a few questions on some topics that are happening toward the end of the interview.

TRUMP: Did you see Aya (Hijazi, an Egyptian-American charity worker who had been detained in the country for nearly three years) ...

AP: Can you tell me a little bit about how that came about?

TRUMP: No, just — you know, I asked the government to let her out. ...

TRUMP: You know Obama worked on it for three years, got zippo, zero.

AP: How did you hear about this story?

TRUMP: Many people, human rights people, are talking about it. It's an incredible thing, especially when you meet her. You realize — I mean, she was in a rough place.

AP: Did you have to strike a deal with (Egyptian President Abdel-Fattah) el-Sissi over this?

TRUMP: No. No deal. He was here. He — I said, "I really would appreciate it if you would look into this and let her out." And as you know, she went through a trial. And anyway, she was let go. And not only she, it was a total of eight people. ...

—

TRUMP: Yeah, it's funny: One of the best chemistries I had was with (German Chancellor Angela) Merkel.

(Crosstalk) AP: Really?

TRUMP: Chancellor Merkel.

TRUMP: And I guess somebody shouted out, "Shake her hand, shake her hand," you know. But I never heard it. But I had already shaken her hand four times. You know, because we were together for a long time.

AP: Did you expect you would have good chemistry with her?

TRUMP: No. Because, um, I'm at odds on, you know, the NATO payments and I'm at odds on immigration. We had unbelievable chemistry. And people have given me credit for having great chemistry with all of the leaders, including el-Sissi. ...

TRUMP: So it was a great thing to see that happen.

—

AP: Do you feel like you have changed the office of the presidency, how the presidency can be used to effect change?



TRUMP: I think the 100 days is, you know, it's an artificial barrier. It's not very meaningful. I think I've established amazing relationships that will be used the four or eight years, whatever period of time I'm here. I think for that I would be getting very high marks because I've established great relationships with countries, as President el-Sissi has shown and others have shown. Well, if you look at the president of China, people said they've never seen anything like what's going on right now. I really liked him a lot. I think he liked me. We have a great chemistry together. ...

TRUMP: I've developed great relationships with all of these leaders. Nobody's written that. In fact, they said, "Oh, well, he's not treating them nicely," because on NATO, I want them to pay up. But I still get along with them great, and they will pay up. In fact, with the Italian prime minister yesterday, you saw, we were joking, "Come on, you have to pay up, you have to pay up." He'll pay.

AP: Did he say that? In your meeting? Your private meeting?

TRUMP: He's going to end up paying. But you know, nobody ever asked the question. Nobody asked. Nobody ever asked him to pay up. So it's a different kind of a presidency.

AP: Do you feel like that's one thing that you've changed, that you maybe are actually asking the direct questions about some of these things?

TRUMP: Yeah. Let me give me an example. A little before I took office there was a terrible article about the F-35 fighter jet. It was hundreds of billions of dollars over budget. It was seven years behind schedule. It was a disaster. So I called in Lockheed and I said, "I'm sorry, we're going to have to bid this out to another company, namely Boeing," or whoever else. But Boeing. And I called in Boeing and I started getting competing offers back and forth. ...

TRUMP: I saved \$725 million on the 90 planes. Just 90. Now there are 3,000 planes that are going to be ordered. On 90 planes I saved \$725 million. It's actually a little bit more than that, but it's \$725 million. Gen. Mattis, who had to sign the deal when it came to his office, said, "I've never seen anything like this in my life." We went from a company that wanted more money for the planes to a company that cut. And the reason they cut — same planes, same everything — was because of me. I mean, because that's what I do.

TRUMP: Now if you multiply that times 3,000 planes, you know this is on 90 planes. In fact, when the Prime Minister (Shinzo) Abe of Japan came in because they bought a certain number of those ... The first thing he said to me, because it was right at the time I did it, he said, "Could I thank you?" I said, "What?" He said, "You saved us \$100 million." Because they got a \$100 million savings on the 10 or 12 planes that they (bought). Nobody wrote that story. Now you know that's a saving of billions and billions of dollars, many billions of dollars over the course of — it's between 2,500 and 3,000 planes will be the final order. But this was only 90 of those 2,500 planes.

AP: And you expect those savings to carry out across that full order?

TRUMP: More. I'm gonna get more than that. This was a thing that was out of control and now it's great. And the woman that runs Lockheed, Marillyn (Hewson), she was great. But all of a sudden it was a different kind of a thing. You know?

AP: Do you feel like you've been able to apply that kind of a relationship to your dealings with Congress as well?

TRUMP: I have great relationships with Congress. I think we're doing very well and I think we have a great foundation for future things. We're going to be applying, I shouldn't tell you this, but we're going to be announcing, probably on Wednesday, tax reform. And it's — we've worked on it long and hard. And you've got to understand, I've only been here now 93 days, 92 days. President Obama took 17 months to do Obamacare. I've been here 92 days but I've only been working on the health care, you know I had to get like a little bit of grounding right? Health care started after 30 day(s), so I've been working on health care for 60 days. ...You know, we're very close. And it's a great plan, you know, we have to get it approved.

AP: Is it this deal that's between the Tuesday Group and the Freedom Caucus, is that the deal you're looking at?

TRUMP: So the Republican Party has various groups, all great people. They're great people. But some are moderate, some are very conservative. The Democrats don't seem to have that nearly as much. You know the Democrats have, they don't have that. The Republicans do have that. And I think it's fine. But you know there's a pretty vast area in there. And I have a great relationship with all of them. Now, we have government not closing. I think we'll be in great shape on that. It's going very well. Obviously, that takes precedent.

AP: That takes precedent over health care? For next week?

TRUMP: Yeah, sure. Next week. Because the hundred days is just an artificial barrier. The press keeps talking about the hundred days. But we've done a lot. You have a list of things. I don't have to read it.

AP: You did put out though, as a candidate, you put out a 100-day plan. Do you feel like you should be held accountable to that plan?

TRUMP: Somebody, yeah, somebody put out the concept of a hundred-day plan. But yeah. Well, I'm mostly there on most items. Go over the items, and I'll talk to you ...

(Crosstalk.)

TRUMP: But things change. There has to be flexibility. Let me give you an example. President Xi, we have a, like, a really great relationship. For me to call him a currency manipulator and then say, "By the way, I'd like you to solve the North Korean problem," doesn't work. So you have to have a certain flexibility, Number One. Number Two, from the time I took office till now, you know, it's a very exact thing. It's not like generalities. Do you want a Coke or anything?

AP: I'm OK, thank you. No. ...

TRUMP: But President Xi, from the time I took office, he has not, they have not been currency manipulators. Because there's a certain respect because he knew I would do something or whatever. But more importantly than him not being a currency manipulator the bigger picture, bigger than even currency manipulation, if he's helping us with North Korea, with nuclear and all of the things that go along with it, who would call, what am I going to do, say, "By the way, would you help us with North Korea? And also, you're a currency manipulator." It doesn't work that way.

AP: Right.

TRUMP: And the media, some of them get it, in all fairness. But you know some of them either don't get it, in which case they're very stupid people, or they just don't want to say it. You know because of a couple of them said, "He didn't call them a currency manipulator." Well, for two reasons. Number One, he's not, since my time. You know, very specific formula. You would think it's like generalities, it's not. They have — they've actually — their currency's gone up. So it's a very, very specific formula. And I said, "How badly have they been," ... they said, "Since you got to office they have not manipulated their currency." That's Number One, but much more important, they are working with

us on North Korea. Now maybe that'll work out or maybe it won't. Can you imagine? ...

AP: So in terms of the 100-day plan that you did put out during the campaign, do you feel, though, that people should hold you accountable to this in terms of judging success?

TRUMP: No, because much of the foundation's been laid. Things came up. I'll give you an example. I didn't put Supreme Court judge on the 100 (day) plan, and I got a Supreme Court judge.

AP: I think it's on there.

TRUMP: I don't know. ...

AP: "Begin the process of selecting." You actually exceeded on this one. This says, "Begin the process of selecting a replacement."

TRUMP: That's the biggest thing I've done.

AP: Do you consider that your biggest success?

TRUMP: Well, I — first of all I think he's a great man. I think he will be a great, great justice of the Supreme Court. I have always heard that the selection and the affirmation of a Supreme Court judge is the biggest thing a president can do. Don't forget, he could be there for 40 years. ... He's a young man. I've always heard that that's the biggest thing. Now, I would say that defense is the biggest thing. You know, to be honest, there are a number of things. But I've always heard that the highest calling is the nomination of a Supreme Court justice. I've done one in my first 70 days.

TRUMP: Our military is so proud. They were not proud at all. They had their heads down. Now they have their heads up. ...

TRUMP: I'm rebuilding the military. We have great people. We have great things in place. We have tremendous borders. I mention the F-35 because if I can save \$725 million — look at that, that's a massive amount of money. And I'll save more as we make more planes. If I can save that on a small number of planes — Gen. (Jim) Mattis (the defense secretary) said, "I've

never seen anything like this,” because he had to sign the ultimate (unintelligible) ... He had to sign the ultimate, you know. He said, “I’ve never seen anything like this before, as long as I’ve been in the military.” You know, that kind of cutting.

AP: Right.

TRUMP: Now, if I can do that (unintelligible) ... As an example, the aircraft carriers, billions of dollars, the Gerald Ford, billions and billions over budget. That won’t happen.

AP: Is that something you’re going to take on?

TRUMP: (unintelligible) But as we order the other ones, because they want to order 12, the other ones are going to come in much less expensive. ...

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AP: Can I ask you, over your first 100 days — you’re not quite there yet — how do you feel like the office has changed you?

TRUMP: Well the one thing I would say — and I say this to people — I never realized how big it was. Everything’s so (unintelligible) like, you know the orders are so massive. I was talking to —

AP: You mean the responsibility of it, or do you mean —

TRUMP: Number One, there’s great responsibility. When it came time to, as an example, send out the 59 missiles, the Tomahawks in Syria. I’m saying to myself, “You know, this is more than just like, 79 (sic) missiles. This is death that’s involved,” because people could have been killed. This is risk that’s involved, because if the missile goes off and goes in a city or goes in a civilian area — you know, the boats were hundreds of miles away — and if this missile goes off and lands in the middle of a town or a hamlet every decision is much harder than you’d normally make. (unintelligible) ... This is involving death and life and so many things. ... So it’s far more responsibility. (unintelligible)The financial cost of everything is so massive, every agency. This is thousands of times bigger, the United States, than the biggest company in the world. The

second-largest company in the world is the Defense Department. The third-largest company in the world is Social Security. The fourth-largest — you know, you go down the list.

AP: Right.

TRUMP. It's massive. And every agency is, like, bigger than any company. So you know, I really just see the bigness of it all, but also the responsibility. And the human responsibility. You know, the human life that's involved in some of the decisions.

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AP: You've talked a little bit about the way that you've brought some business skills into the office. Is there anything from your business background that just doesn't translate into the presidency, that just simply is not applicable to this job?

TRUMP: Well in business, you don't necessarily need heart, whereas here, almost everything affects people. So if you're talking about health care — you have health care in business but you're trying to just negotiate a good price on health care, et cetera, et cetera. You're providing health. This is (unintelligible). Here, everything, pretty much everything you do in government, involves heart, whereas in business, most things don't involve heart.

AP: What's that switch been like for you?

TRUMP: In fact, in business you're actually better off without it.

AP: What's making that switch been like for you?

TRUMP: You have to love people. And if you love people, such a big responsibility. (unintelligible) You can take any single thing, including even taxes. I mean we're going to be doing major tax reform. Here's part of your story, it's going to be a big (unintelligible). Everybody's saying, "Oh, he's delaying." I'm not delaying anything. I'll tell you the other thing is (unintelligible). I used to get great press. I get the worst press. I get such dishonest reporting with the media. That's another thing that really has — I've never had anything like it before. It happened during the primaries, and I said, you know, when I won, I said,

“Well the one thing good is now I’ll get good press.” And it got worse. (unintelligible) So that was one thing that a little bit of a surprise to me. I thought the press would become better, and it actually, in my opinion, got more nasty.

—
AP: But in terms of tax reform, how are you going to roll that out next week?

TRUMP: Well I’m going to roll (out) probably on Wednesday, around Wednesday of next week, we’re putting out a massive tax reform — business and for people — we want to do both. We’ve been working on it (unintelligible). Secretary Mnuchin is a very talented person, very smart. Very successful (unintelligible). ... We’re going to be putting that out on Wednesday or shortly thereafter. Let me leave a little room just in case (unintelligible). ... And that’s a big story, because a lot of people think I’m going to put it out much later.

AP: Do you have any details on that in terms of rates?

TRUMP: Only in terms that it will be a massive tax cut. It will be bigger, I believe, than any tax cut ever. Maybe the biggest tax cut we’ve ever had. ...

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AP: Obviously, that’s going to come in a week where you’re going to be running up against the deadline for keeping the government open. If you get a bill on your desk that does not include funding for the wall, will you sign it?

TRUMP: I don’t know yet. People want the border wall. My base definitely wants the border wall, my base really wants it — you’ve been to many of the rallies. OK, the thing they want more than anything is the wall. My base, which is a big base; I think my base is 45 percent. You know, it’s funny. The Democrats, they have a big advantage in the electoral college. Big, big, big advantage. I’ve always said the popular vote would be a lot easier than the electoral college. The electoral college — but it’s a whole different campaign (unintelligible). The electoral college is very difficult for a Republican to win, and I will tell

you, the people want to see it. They want to see the wall, they want to see security. Now, it just came out that they're 73 percent down. ... That's a tremendous achievement. ... Look at this, in 100 days, that down to the lowest in 17 years and it's going lower. Now, people aren't coming because they know they're not going to get through, and there isn't crime. You know the migration up to the border is horrible for women, you know that? (Unintelligible.) Now, much of that's stopped because they can't get through.

AP: It sounds like maybe you're beginning to send a message that if you do get a spending bill that doesn't have border funding in there, you would sign it.

TRUMP: Well, first of all, the wall will cost much less than the numbers I'm seeing. I'm seeing numbers, I mean, this wall is not going to be that expensive.

AP: What do you think the estimate on it would be?

TRUMP: Oh I'm seeing numbers — \$24 billion, I think I'll do it for \$10 billion or less. That's not a lot of money relative to what we're talking about. If we stop 1 percent of the drugs from coming in — and we'll stop all of it. But if we stop 1 percent of the drugs because we have the wall — they're coming around in certain areas, but if you have a wall, they can't do it because it's a real wall. That's a tremendously good investment, 1 percent. The drugs pouring through on the southern border are unbelievable. We're becoming a drug culture, there's so much. And most of it's coming from the southern border. The wall will stop the drugs.

AP: But, just trying to nail you down on it one more time, will you sign a spending bill if it doesn't have —

TRUMP: I don't want to comment. I just don't know yet. I mean, I have to see what's going on. I really do. But the wall's a very important thing to — not only my base, but to the people. And even if it wasn't, I mean I'll do things that aren't necessarily popular. ... The wall is very important to stopping drugs.

AP: If you don't have a funding stream, your message to your base is what?

TRUMP: My base understands the wall is going to get built, whether I have it funded here or if I get it funded shortly thereafter, that wall's getting built, OK? One hundred percent. One hundred percent it's getting built. And it's also getting built for much less money — I hope you get this — than these people are estimating. The opponents are talking \$25 billion for the wall. It's not going to cost anywhere near that.

AP: You think \$10 billion or less.

TRUMP: I think \$10 billion or less. And if I do a super-duper, higher, better, better security, everything else, maybe it goes a little bit more. But it's not going to be anywhere near (those) kind of numbers. And they're using those numbers; they're using the high numbers to make it sound impalatable (sic). And the fact it's going to cost much less money, just like the airplane I told you about, which I hope you can write about.

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(Off-the-record discussion.)

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TRUMP: They had a quote from me that NATO's obsolete. But they didn't say why it was obsolete. I was on Wolf Blitzer, very fair interview, the first time I was ever asked about NATO, because I wasn't in government. People don't go around asking about NATO if I'm building a building in Manhattan, right? So they asked me, Wolf ... asked me about NATO, and I said two things. NATO's obsolete — not knowing much about NATO, now I know a lot about NATO — NATO is obsolete, and I said, "And the reason it's obsolete is because of the fact they don't focus on terrorism." You know, back when they did NATO there was no such thing as terrorism.

AP: What specifically has NATO changed?

TRUMP: (Cites Wall Street Journal article) ... I did an interview with Wolf Blitzer, and I said NATO was obsolete — I said two things — obsolete, and the country's aren't paying. I was right about both. I took such heat for about three days on both, because nobody ever criticized NATO. I took heat like you

wouldn't believe. And then some expert on NATO said, "You know, Trump is right." But I said it was obsolete because they weren't focused on terror. ...

It's not fair that we're paying close to 4 percent and other countries that are more directly affected are paying 1 percent when they're supposed to be paying 2 percent. And I'm very strong on it and I'm going to be very strong on it when I go there in a month."

—

AP: This morning you tweeted that after the possible terrorist attack in Paris, that it will have a big effect on the upcoming French election. What did you mean by that?

TRUMP: Well, I think it will have a big effect on who people are going to vote for in the election.

AP: Do you think it's going to help Marine Le Pen?

TRUMP: I think so.

AP: Do you believe that she should be the president?

TRUMP: No, I have no comment on that, but I think that it'll probably help her because she is the strongest on borders and she is the strongest on what's been going on in France.

AP: Do you worry at all that by saying that, that a terrorist attack would have an impact on a democratic election, that it would actually embolden terrorists to try to —.

TRUMP: No. Look, everybody is making predictions who is going to win. I am no different than you, you could say the same thing. ...

AP: I just wonder if you are encouraging, you are the president of the United States, so to say that you worry that it encourages terrorists ...

TRUMP: No, I am no different than — no, I think it discourages terrorists, I think it discourages. I think what we've done on the border discourages it. I think that my stance on having people

come in to this country that we have no idea who they are and in certain cases you will have radical Islamic terrorism. I'm not going to have it in this country. I'm not going to let what happened to France and other places happen here. And it's already largely, you know — we have tens — we have hundreds of thousands of people that have been allowed into our country that should not be here. They shouldn't be here. We have people allowed into our country with no documentation whatsoever. They have no documentation and they were allowed under the previous administrations, they were allowed into our country. It's a big mistake.

AP: Just so that I am clear. You are not endorsing her for the office, but you are —

TRUMP: I am not endorsing her and I didn't mention her name.

AP: Right, I just wanted to make sure I have that clear.

TRUMP: I believe whoever is the toughest on radical Islamic terrorism and whoever is the toughest at the borders will do well at the election. I am not saying that person is going to win, she is not even favored to win, you know. Right now, she is in second place.

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AP: I have a question on the markets, actually. One thing that I think has been different about this White House is that you do point to the markets as a sign of progress. Do you worry, though — I mean, the markets go up and down.

TRUMP: You live by the sword, you die by the sword, to a certain extent. But we create a lot of jobs, 500,000 jobs as of two months ago, and plenty created since. Five hundred thousand. ... As an example, Ford, General Motors. I've had cases where the gentleman from China, Ma, Jack Ma (chairman of Alibaba Group), he comes up, he says, "Only because of you am I making this massive investment." Intel, only because of you. ... The press never writes that.

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AP: What about NAFTA? What's the plan on NAFTA?

TRUMP: What would you like to know?

AP: I would like to know what your plan is in terms of renegotiating.

TRUMP: I am very upset with NAFTA. I think NAFTA has been a catastrophic trade deal for the United States, trading agreement for the United States. It hurts us with Canada, and it hurts us with Mexico. Most people don't even think of NAFTA in terms of Canada. You saw what happened yesterday in my statements, because if you look at the dairy farmers in Wisconsin and upstate New York, they are getting killed by NAFTA.

AP: Is your plan still, though, to renegotiate the whole deal?

TRUMP: I am going to either renegotiate it or I am going to terminate it.

AP: Termination is still on the table.

TRUMP: Absolutely. If they don't treat fairly, I am terminating NAFTA.

AP: What's a timeline for that decision?

TRUMP: It's a six-month termination clause, I have the right to do it, it's a six-month clause.

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AP: If I could fit a couple of more topics. Jeff Sessions, your attorney general, is taking a tougher line suddenly on Julian Assange, saying that arresting him is a priority. You were supportive of what WikiLeaks was doing during the campaign with the release of the Clinton emails. Do you think that arresting Assange is a priority for the United States?

TRUMP: When Wikileaks came out ... never heard of Wikileaks, never heard of it. When Wikileaks came out, all I was just saying is, "Well, look at all this information here, this is pretty good stuff." You know, they tried to hack the Republican, the RNC,

but we had good defenses. They didn't have defenses, which is pretty bad management. But we had good defenses, they tried to hack both of them. They weren't able to get through to Republicans. No, I found it very interesting when I read this stuff and I said, "Wow." It was just a figure of speech. I said, "Well, look at this. It's good reading."

AP: But that didn't mean that you supported what Assange is doing?

TRUMP: No, I don't support or unsupport. It was just information. They shouldn't have allowed it to get out. If they had the proper defensive devices on their internet, you know, equipment, they wouldn't even allow the FBI. How about this — they get hacked, and the FBI goes to see them, and they won't let the FBI see their server. But do you understand, nobody ever writes it. Why wouldn't (former Hillary Clinton campaign chairman John) Podesta and Hillary Clinton allow the FBI to see the server? They brought in another company that I hear is Ukrainian-based.

AP: CrowdStrike?

TRUMP: That's what I heard. I heard it's owned by a very rich Ukrainian, that's what I heard. But they brought in another company to investigate the server. Why didn't they allow the FBI in to investigate the server? I mean, there is so many things that nobody writes about. It's incredible.

AP: Can I just ask you, though — do you believe it is a priority for the United States, or it should be a priority, to arrest Julian Assange?

TRUMP: I am not involved in that decision, but if Jeff Sessions wants to do it, it's OK with me. I didn't know about that decision, but if they want to do it, it's OK with me.

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AP: On Iran, which is another thing you talked a lot on the campaign —

TRUMP: And the other thing that we should go after is the leakers. ...

AP: On Iran, you also talked about it quite a bit on the campaign trail. And you said in the press conference yesterday that you think that Iran is violating the spirit of the agreement. When you say that, do you mean in terms of the actual nuclear accord, or do you mean what they are doing in the region?

TRUMP: In terms of what they are doing all over the Middle East and beyond.

AP: So you believe that they are complying with the agreement?

TRUMP: No, I don't say that. I say that I believe they have broken the spirit of the agreement. There is a spirit to agreements, and they have broken it.

AP: In terms of what they are doing elsewhere in the Middle East?

TRUMP: In terms of what they are doing of all over.

AP: When you talk to European leaders, when you talk to Merkel, for example, or Teresa May, what do they say about the nuclear deal? Do they want you to stay in that deal?

TRUMP: I don't talk to them about it.

AP: You don't talk to them about the Iran deal?

TRUMP: I mention it, but it's very personal when I talk to them, you know, it's confidential. No, they have their own opinions. I don't say that they are different than my opinions, but I'd rather have you ask them that question.

AP: At this point, do you believe that you will stay in the nuclear deal?

TRUMP: It's possible that we won't.

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AP: Dreamers, you've talked about them, you've talked about heart earlier. This is one area where you have talked —

TRUMP: No, we aren't looking to do anything right now. Look, the dreamers ... this is an interesting case, they left and they came back and he's got some problems, it's a little different than the dreamer case, right? But we are putting MS-13 in jail and getting them the hell out of our country. They've taken over towns and cities and we are being really brutal with MS-13, and that's what we should be. They are a bad group, and somebody said they are as bad as al-Qaida, which is a hell of a reference. So we are moving criminals out of our country and we are getting them out in record numbers and those are the people we are after. We are not after the dreamers, we are after the criminals.

AP: And that's going to be the policy of your administration to allow the dreamers to stay?

TRUMP: Yes. Yes. That's our policy. I am not saying ... long-term, we are going to have to fix the problem, the whole immigration problem. But I will tell you: Right now we have a great gentleman, one of my real stars is Gen. (John) Kelly, now (Homeland Security) Secretary Kelly. We are down 73 percent at the border, we are cleaning out cities and towns of hard-line criminals, some of the worst people on earth, people that rape and kill women, people that are killing people just for the sake of having fun. They are being thrown in jails and they are being ... all over the country and nobody's ever done it like us, so we are being unbelievably thorough with that. We are out in Long Island cleaning out the MS-13 scum, they are all scum, that's probably the worst gang anywhere on Earth. ...

AP: A lot of the dreamers have been hoping to hear something from you. I don't want to give them the wrong message with this.

TRUMP: Here is what they can hear: The dreamers should rest easy. OK? I'll give you that. The dreamers should rest easy. ...

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(An aide talks about the president's address to Congress.)

TRUMP: A lot of the people have said that, some people said it was the single best speech ever made in that chamber.

AP: You seem like you enjoyed it.

TRUMP: I did. I did. I believed in it and I enjoyed it. It was a great feeling to introduce the wife of a great young soldier who died getting us very valuable information. Have you seen the tremendous success? ... That's another thing that nobody talks about. Have you seen the tremendous success we've had in the Middle East with the ISIS (an abbreviation for the Islamic State group)? When (current Iraqi Prime Minister Haider al) Abadi left from Iraq, he said Trump has more success in eight weeks than Obama had in eight years. ... We have had tremendous success, but we don't talk about it. We don't talk about it.

AP: Do you mean you don't talk about it personally because you don't want to talk about it?

TRUMP: I don't talk about it. No. And the generals don't talk about it.

AP: You had put a request into the Pentagon to put forward an ISIS plan within 30 days. I know they have sent that over. Have you accepted a plan? Are you moving forward on a strategy?

TRUMP: We have a very strong plan, but we cannot talk about it, Julie.

AP: So you have decided on a plan?

TRUMP: Remember how many times have you been to the speech where I talked about Mosul.

AP: Right.

TRUMP. Right. Mosul. Four months we are going in, three months. We are still fighting Mosul. You know why? Because they were prepared. If we would have gone in and just done it, it would have been over three months ago.

AP: Can you say generally what the strategy is? Should people —

TRUMP: Generally is we have got to get rid of ISIS. We have no choice. And other terrorist organizations.

AP: Should Americans who are serving in the military expect that you are going to increase troop numbers in the Middle East to fight ISIS?

TRUMP: No, not much.

AP: In terms of the strategy, though, that you have accepted, it sounds like, from the generals —

TRUMP: Well, they've also accepted my strategy.

AP: Does that involve more troops on the ground, it sounds like?

TRUMP: Not many.

AP: So a small increase?

TRUMP: It could be an increase, then an increase. But not many more. I want to do the job, but not many more. ... This is an important story. I've done a lot. I've done more than any other president in the first 100 days and I think the first 100 days is an artificial barrier. And I'm scheduled ... the foundations have been set to do some great things. With foreign countries. Look at, look at President Xi. I mean ...

AP: What do you think it was about your chemistry?

TRUMP: We had good chemistry. Now I don't know that I think that's going to produce results but you've got a good chance.

AP: Uh-huh.

TRUMP: Look, he turned down many coal ships. These massive coal ships are coming where they get a lot of their income. They're coming into China and they're being turned away. That's never happened before. The fuel, the oil, so many different things. You saw the editorial they had in their paper saying they cannot be allowed to have nuclear, you know, et cetera. People have said they've never seen this ever before in China. We have the same relationship with others. There's a great foundation that's built. Great foundation. And I think it's going to produce tremendous results for our country.

—

AP: One more 100 days question.

TRUMP: That's fine.

AP: ... is do you think you have the right team in place for your next 100 days?

TRUMP: Yes. I think my team has been, well, I have different teams. I think my military team has been treated with great respect. As they should be. I think my other team hasn't been treated with the respect that they should get. We have some very talented people, and very diverse people.

AP: Do you mean your White House team when you say that?

TRUMP: Yeah, my White House team. I think Reince (Priebus) has been doing an excellent job. I think that, you know, this is a very tough environment not caused necessarily by me. Although the election has, you know, look, the Democrats had a tremendous opportunity because the electoral college, as I said, is so skewed to them. You start off by losing in New York and California, no matter who it is. If, if Abe Lincoln came back to life, he would lose New York and he would lose California. It's just the registration, there's nothing you can do. So you're losing the two biggest states, that's where you start. OK. The Electoral College is so skewed in favor of a Democrat that it's very, very hard. Look at Obama's number in the Electoral College. His numbers on the win were ... but the Electoral College numbers were massive. You lose New York, you lose Illinois. Illinois is impossible to win. And you look at, so now you lose New York, Illinois, no matter what you do, and California. Right. And you say, man. Now you have to win Florida, you have to win Ohio, you have to win North Carolina. You have to win all these states, and then I won Wisconsin and Michigan and all of these other places, but you remember there was no way to, there was no way to 270.

AP: Right.

TRUMP: So she had this massive advantage, she spent hundreds of millions of dollars more money than I spent. Hundreds of millions ... Yeah. Or more, actually because we were \$375 she was at \$2.2 billion. But whatever. She spent massive amounts of

money more and she lost. Solidly lost, because you know it wasn't 270, it was 306. So there's anger. But there was massive anger before I got there, so it's not easy for a White House staff to realize that you are going into a situation where you are going to be at no, where are going to get no votes. I mean, here's a judge who is No. 1 at Columbia, No. 1 at Harvard and an Oxford scholar. And he got three votes.

AP: Three Democratic votes, but yeah.

TRUMP: Three Democratic votes. OK. He's an Oxford scholar at the highest level. The No. 1, you know, one of the great academics, one of the great writers. No bad decisions with all ... nothing. He's like a ...

AP: Do you think that you can break through that? I mean this

—

TRUMP: Yeah, I do.

AP: Is one of the biggest challenges for a president.

TRUMP: I think (I) can to an extent. But there's a, there's a basic hard-line core that you can't break though, OK, that you can't break through. There's a hard-line group you can't break through, you can't. It's sad. You can't. Look, I met with Congressman Cummings and I really liked him, a lot. Elijah Cummings (of Maryland). I really liked him a lot. And during the conversation because we have a very strong mutual feeling on drug prices. He came to see me, at my invitation, because I saw him talking about, he came to see me about drug prices because drug prices are ridiculous. And I am going to get them way, way, way down and he liked that. He said you will be the greatest president. He said you will be, in front of five, six people, he said you will be the greatest president in the history of this country.

AP: He disputed that slightly.

TRUMP: That's what he said. I mean, what can I tell you?

AP: Yeah.

TRUMP: There's six people sitting here. What did he, what, what do you mean by slightly?

AP: He said, he said that he felt like you could be a great president if and then —

TRUMP: Well he said, you'll be the greatest president in the history of, but you know what, I'll take that also, but that you could be. But he said, will be the greatest president but I would also accept the other. In other words, if you do your job, but I accept that. Then I watched him interviewed and it was like he never even was here. It's incredible. I watched him interviewed a week later and it's like he was never in my office. And you can even say that.

—

AP: And that's one of the difficulties I think presidents have had is that you can have these personal relationships with people from the other party, but then it's hard to actually change how people vote or change how people —

TRUMP: No I have, it's interesting, I have, seem to get very high ratings. I definitely. You know Chris Wallace had 9.2 million people, it's the highest in the history of the show. I have all the ratings for all those morning shows. When I go, they go double, triple. Chris Wallace, look back during the Army-Navy football game, I did his show that morning.

AP: I remember, right.

TRUMP: It had 9.2 million people. It's the highest they've ever had. On any, on air, (CBS "Face the Nation" host John) Dickerson had 5.2 million people. It's the highest for "Face the Nation" or as I call it, "Deface the Nation." It's the highest for "Deface the Nation" since the World Trade Center. Since the World Trade Center came down. It's a tremendous advantage.

I have learned one thing, because I get treated very unfairly, that's what I call it, the fake media. And the fake media is not all of the media. You know they tried to say that the fake media was all the, no. The fake media is some of you. I could tell you who it is, 100 percent. Sometimes you're fake, but — but the fake

media is some of the media. It bears no relationship to the truth. It's not that Fox treats me well, it's that Fox is the most accurate.

AP: Do you believe that? That Fox —

TRUMP: I do. I get treated so badly. Yesterday, about the thing, you know when I said it's a terrorism ... it may be. I said it may be a terrorist attack and MSNBC, I heard, went crazy, "He called it a terrorist attack." They thought it was a bank robbery. By the way, I'm 10-0 for that. I've called every one of them. Every time they said I called it way too early and then it turns out I'm ... Whatever. Whatever. In the meantime, I'm here and they're not.

—

AP: Do you feel that one of the things with cable is there's such real-time reaction with everything you say?

TRUMP: Yeah.

AP: Can you separate that sometimes from that actual decision?

TRUMP: The one thing —

AP: That you have to do —

TRUMP: OK. The one thing I've learned to do that I never thought I had the ability to do. I don't watch CNN anymore.

AP: You just said you did.

TRUMP: No. No, I, if I'm passing it, what did I just say (inaudible)?

AP: You just said —

TRUMP: Where? Where?

AP: Two minutes ago.

TRUMP: No, they treat me so badly. No, I just said that. No, I, what'd I say, I stopped watching them. But I don't watch CNN anymore. I don't watch MSNBC. I don't watch it. Now I heard yesterday that MSNBC, you know, they tell me what's going on.

AP: Right.

TRUMP: In fact, they also did. I never thought I had the ability to not watch. Like, people think I watch (MSNBC's) "Morning Joe." I don't watch "Morning Joe." I never thought I had the ability to, and who used to treat me great by the way, when I played the game. I never thought I had the ability to not watch what is unpleasant, if it's about me. Or pleasant. But when I see it's such false reporting and such bad reporting and false reporting that I've developed an ability that I never thought I had. I don't watch things that are unpleasant. I just don't watch them.

AP: And do you feel like that's, that's because of the office that you now occupy —

TRUMP: No.

AP: That you've made that change?

TRUMP: I don't know why it is, but I've developed that ability, and it's happened over the last, over the last year.

AP: That's interesting.

TRUMP: And I don't watch things that I know are going to be unpleasant. CNN has covered me unfairly and incorrectly and I don't watch them anymore. A lot of people don't watch them anymore, they're now in third place. But I've created something where people are watching ... but I don't watch CNN anymore. I don't watch MSNBC anymore. I don't watch things, and I never thought I had that ability. I always thought I'd watch.

AP: Sure.

TRUMP: I just don't. And that's taken place over the last year. And you know what that is, that's a great, it's a great thing because you leave, you leave for work in the morning you know, you're, you don't watch this total negativity. I never thought I'd be able to do that and for me, it's so easy to do now. Just don't watch.

AP: That's interesting.

TRUMP: Maybe it's because I'm here. I don't know.

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by Taboola

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

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

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY and ELAINE DUKE, in her
official capacity as Acting Secretary of the
Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

**DECLARATION OF DR. CLARENCE
BRADDOCK III**

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STATE OF CALIFORNIA, STATE OF MAINE, STATE OF MARYLAND, and STATE OF MINNESOTA.

Plaintiffs.

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05235-WHA

CITY OF SAN JOSE, a municipal corporation.

Plaintiffs.

v.

DONALD J. TRUMP, President of the United States, in his official capacity, ELAINE C. DUKE, in her official capacity, and the UNITED STATES OF AMERICA.

Defendants.

CASE NO. 17-CV-05329-WHA

DULCE GARCIA, MIRIAM GONZALEZ AVILA, SAUL JIMENEZ SUAREZ, VIRIDIANA CHABOLLA MENDOZA, NORMA RAMIREZ, and JIRAYUT LATTHIVONGSKORN,

Plaintiffs,

v.

UNITED STATES OF AMERICA, DONALD J. TRUMP, in his official capacity as President of the United States, U.S. DEPARTMENT OF HOMELAND SECURITY, and ELAINE DUKE, in her official capacity as Acting Secretary of Homeland Security,

Defendants.

CASE NO. 17-CV-05380-WHA

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COUNTY OF SANTA CLARA and
SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
States; ELAINE DUKE, in her official
capacity as Acting Secretary of the Department
of Homeland Security; and U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

CASE NO. 17-CV-05813-WHA

1 I, CLARENCE BRADDOCK III, DECLARE:

2 1. I am Vice Dean of Education at the David Geffen School of Medicine at the University of
3 California Los Angeles ("UCLA Medicine"). The matters set forth herein are true and correct of my
4 own personal knowledge and, if called as a witness, I could and would testify competently thereto.

5 2. I have been Vice Dean of Education at UCLA Medicine for nearly four years. In my
6 position, I oversee all aspects of medical education, including undergraduate, graduate, and postgraduate
7 medical programs. I develop, manage, and implement strategies, initiatives and programs to promote
8 and support education and training.

9 3. We have several Deferred Action for Childhood Arrivals ("DACA") status medical
10 students at UCLA Medicine, including 4th year medical students. The David Geffen School of
11 Medicine, like the wider University of California system, is dedicated to providing a place for students
12 who are the most qualified, meritorious and committed to their medical training and future patient care.
13 The DACA students currently enrolled at the David Geffen School of Medicine exemplify these
14 qualities. They are emblematic of our fundamental role as an institution of higher learning: to train the
15 most talented, hard-working, passionate young scholars to become the doctors and biomedical
16 researchers of tomorrow, regardless of gender, race, ethnicity or citizenship. These students are here not
17 because of their DACA status, but because they are exceptionally qualified and share a genuine desire to
18 care for, and heal, the sick.

19 4. If these UCLA medical student and residents lose their DACA status, they become
20 unemployable as physicians. They will not be able to practice medicine or even complete their residency
21 in the United States as both require employment authorization. Without DACA, these students and
22 residents would have no choice but to leave the United States in order to become practicing physicians.
23 This would result in a loss of promising young doctors from our medical care system.

24 5. The DACA policy rescission has also created the specific risk that our fourth year
25 students will not be offered medical residency positions. Because they will lose their employment
26 authorization without DACA status, they will be unable to complete or potentially even start their
27 residency programs. Our faculty and UCLA residency program advisors have shared with me their
28 significant concern about DACA students losing their status before or during residency, which means

1 that our hard-working and bright DACA students might not be offered residency interviews and/or
2 positions at all. This concern has become so acute that UCLA Medicine has offered to include language
3 in the Dean's Letter for our fourth year students explaining DACA status and expressing our support for
4 our DACA students. A Dean's Letter is provided to fourth year students applying for residency to
5 describe each student's potential as a doctor and encourage their acceptance into a residency program.
6 This language is being included in hopes it might help DACA students be considered for residency
7 programs.

8 6. Our DACA students have played an important role in enriching UCLA Medicine's
9 educational environment and curriculum. At UCLA Medicine, we consider cultivating a diverse
10 academic community as a way to drive excellence. A significant part of a medical student's training as a
11 future physician is cultural sensitivity and a thoughtful, candid, respectful connection with patients,
12 community members, and peers. Our DACA students come from incredibly diverse backgrounds and in
13 my experience have helped their peers to build a more culturally sensitive and competent educational
14 environment by sharing their perspectives and shaping our curriculum. For example, DACA students
15 have provided unique insight on delivering care to immigrant populations, stemming from their
16 understanding of both the American health system and the challenges immigrant families and
17 communities often face. Our DACA students are often able to draw on their own and their family's
18 experiences—in a way their peers cannot easily do—to provide context for the patient's choices and the
19 right approach to delivering health care to that patient. As a medical educator, I believe that first-hand
20 perspectives help all of our students to develop essential empathy and cross-cultural understanding that
21 makes them better doctors for California's diverse population.

22 7. Our DACA students' unique perspectives have also driven specific improvements in our
23 curriculum. Among the foundational concepts of our medical curriculum are understanding concepts
24 like implicit bias, stereotype threat, and micro-aggressions. Our DACA students brought to UCLA
25 Medicine's attention that some of our own case studies contained stereotypical descriptions and bias in
26 the terms used to describe a minority patient and, in another case, a migrant worker. This started
27 conversations about the existence of stereotypes and bias in the healthcare environment led by DACA
28 students, which sparked changes to these cases in our curriculum.

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8. Because of the DACA policy rescission, I believe we will see fewer diverse applicants to our programs from students who would otherwise have received DACA. This frustrates UCLA Medicine's concerted effort to recruit diverse students through programs like Programs in Medical Education ("PRIME"). UCLA PRIME is a five-year concurrent/dual degree program focusing on the development of leaders in medicine by addressing policy, care and research in healthcare for medically underserved communities. We look for candidates who have leadership experience and are experienced with and committed to working with underserved populations. DACA students often have all of these qualifications. About one third of our current UCLA Medical DACA students are also PRIME program students. The rescission of the DACA policy frustrates UCLA Medicine's efforts to select and train these talented future leaders of medical care for Californians.

9. Finally, I am concerned that the rescission of the DACA policy will have a broader negative impact on the UCLA community, particularly if any DACA recipients become the target of immigration enforcement. Recent news reports of immigration agents arresting undocumented individuals in courthouses and hospitals or near schools have already caused concern among our community. Our undocumented patients may choose to stay at home rather than seek the medical help they need in the face of this heightened immigration enforcement risk.

10. The decision to rescind the DACA policy harms our DACA recipient students, their peers, UCLA Medicine, their future patients and our broader community.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on October 25, 2017 in Los Angeles.


CLARENCE BRADDOCK III

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18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**
20 **SAN FRANCISCO DIVISION**

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

23 Plaintiffs,

24 v.

25 U.S. DEPARTMENT OF HOMELAND
SECURITY and ELAINE DUKE, in her
26 official capacity as Acting Secretary of the
Department of Homeland Security,

27 Defendants.
28

CASE NO. 17-CV-05211-WHA

DECLARATION OF SHAWN BRICK

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STATE OF CALIFORNIA, STATE OF MAINE, STATE OF MARYLAND, and STATE OF MINNESOTA,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05235-WHA

CITY OF SAN JOSE, a municipal corporation,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, ELAINE C. DUKE, in her official capacity, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05329-WHA

DULCE GARCIA, MIRIAM GONZALEZ AVILA, SAUL JIMENEZ SUAREZ, VIRIDIANA CHABOLLA MENDOZA, NORMA RAMIREZ, and JIRAYUT LATTHIVONGSKORN,

Plaintiffs,

v.

UNITED STATES OF AMERICA, DONALD J. TRUMP, in his official capacity as President of the United States, U.S. DEPARTMENT OF HOMELAND SECURITY, and ELAINE DUKE, in her official capacity as Acting Secretary of Homeland Security,

Defendants.

CASE NO. 17-CV-05380-WHA

1 COUNTY OF SANTA CLARA and
2 SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

CASE NO. 17-CV-05813-WHA

3 Plaintiffs,

4 v.

5 DONALD J. TRUMP, in his official capacity
6 as President of the United States, JEFFERSON
7 BEAUREGARD SESSIONS, in his official
8 capacity as Attorney General of the United
9 States; ELAINE DUKE, in her official
capacity as Acting Secretary of the Department
of Homeland Security; and U.S.
DEPARTMENT OF HOMELAND
SECURITY,

10 Defendants.

1 I, SHAWN BRICK, DECLARE:

2 1. I am the Associate Director for Student Financial Support at the University of California
3 Office of the President ("UCOP"). The matters set forth herein are true and correct of my own personal
4 knowledge and, if called as a witness, I could and would testify competently thereto.

5 I have held various positions in student financial aid and admissions in the University of California
6 ("UC") system for fifteen years and am currently the Associate Director for Student Financial Support at
7 the UCOP. As Associate Director for Student Financial Support, my duties include policy analysis,
8 development, and implementation. I am responsible for producing complex analyses, executive
9 summaries, and talking points on UC enrollment and affordability of UC education.

10 2. This declaration describes UC's population of undocumented students and students who
11 have Deferred Action for Childhood Arrivals status ("DACA students"), and the financial investment
12 UC has made in those students. It then explains the investment that UC expects undocumented and
13 DACA students (and their families) to make in their own education. It then provides figures on UC's
14 investment in graduate students. Finally, it provides the average debt of professional students upon
15 graduation from UC. The rescission of the DACA program puts at risk the financial investment that UC
16 and these students and families have made in their education.

17 3. UC's mission includes provision of public undergraduate, graduate, and professional
18 education. A key measure of our success is the percentage of entering students who complete their
19 degrees. DACA students have earned their positions in programs at UC through their academic merit
20 and accomplishments. UC invests in all its students, including DACA students, to enable them to
21 continue their programs, complete their degree(s), graduate and become contributing members of
22 society, including pursuing the careers for which UC trained them.

23 4. As described below, the University has provided financial support to its DACA and
24 undocumented students enrolled as of the 2016-2017 academic year in the cumulative amount of
25 between approximately \$87 million to \$252 million since 2013. The same students and their parents
26 would have to have invested approximately \$73 million to \$180 million over the same period.

27

28

1 who were pursuing degrees at UC as of the 2016-2017 academic year (based on dollar figures from
2 preliminary 2016-2017 data). This is the approximate, cumulative investment in the cohort of
3 undocumented and DACA students enrolled as of 2016-2017 at UC, over the course of their enrollment
4 at UC from 2013 to the 2016-2017 academic year. The estimates are from 2013 onward because this was
5 the earliest year that California DREAM Act data was received by UC, and it was this data that enabled
6 me to assess the populations of undocumented and DACA student populations as described above.

8 **UC Expectation of Student and Parent Investment in DACA Students' Education**

9 10. All students and their parents are expected to invest in paying for the student's college
10 education. UC's financial aid policy for undergraduates approaches paying for the total cost of
11 attendance (tuition, fees, living expenses, books and supplies) as a partnership between parents, students,
12 state and federal governments, and UC. Parents and students are expected to contribute based on their
13 resources as reported on either the FAFSA (not applicable to undocumented students or DACA students,
14 who are ineligible for federal aid) or the California DREAM Act application. UC then uses the same
15 formula for all students to determine financial aid, based on demonstrated financial need. The average
16 expected parent contribution for the 4,200 undocumented students was roughly \$700 per year, as
17 calculated using this same formula for all students, based on financial need.

18 11. UC also expects all students that are financial aid recipients to contribute "self-help"
19 amounts to their education through work or loans in the amount of \$10,000 per year. Many students
20 who have DACA work authorization hold jobs to satisfy this portion of their financial obligation.
21 Without DACA work authorization, it will be much more difficult for undocumented students to satisfy
22 the self-help contribution that UC expects of all students.

23 12. The combined expected family investment is therefore \$10,700 per year by students and
24 parents, or \$42,800 for a completion of a four-year undergraduate degree. For our DACA and
25 undocumented students, this totals between approximately \$73 million (based on the DACA-only
26 estimate of 1,700 students) and \$180 million (based on the 4,200 potentially undocumented estimate).

Average Investment Graduate Academic and Professional Students

13. Because financial aid often works differently in UC graduate and professional programs, I am unable to accurately estimate our population of undocumented or DACA graduate and professional students based on financial aid records. However, UC believes that there are enrolled graduate and professional students who are DACA students.

14. The University invests heavily in its graduate academic and professional students. In 2015-2016, UC paid \$523 million in University-funded fellowships to all of its graduate and professional students.

15. Graduate students are primarily supported through fellowships and employment as research and teaching assistants. In 2015-2016, UC's graduate academic students received an average combined fellowship and assistanceship award of more than \$37,000 per student per year, including any graduate DACA students.

16. By contrast, professional degree students primarily finance their degree by investing themselves through student loans. The UCOP tracks student loan borrowing patterns by professional students to estimate students' debt incurred for their own degrees. The average student loan debt for professional students is as follows, by program:

Average Professional Student Debt Upon Graduation

Degree Type	Cumulative Borrowing, 2015-2016 Graduating Cohort
Law	\$124,000
MBA	\$81,000
Medicine	\$154,000
Education	\$37,000
Other Health Professions	\$112,000
Other Non-Health	\$54,000

17. Without DACA, it will be difficult if not impossible for many of these graduate and professional students to complete their degrees and then to repay their significant debt from those degrees. Some of these degrees require work experience as a condition of graduation, such as a researcher or graduate student instructor. Further, without DACA, these students will lose the

1 employment authorization that enabled them to work in their chosen profession at a salary
2 commensurate with the debt incurred for their advanced degree.

3
4 **Conclusion**

5 18. As indicated above, this assessment of investments of UC and its students in their
6 education are conservative in many respects and the actual investment in undocumented and DACA
7 students is likely greater.

8 19. The rescission of DACA puts in jeopardy the cumulative financial investments in the
9 education of these talented students by the UC, the State of California, their families and the students
10 themselves, as well as the ability of students to repay the debt incurred to pursue their education.

11 I declare under penalty of perjury under the laws of the United States that the foregoing is true
12 and correct.

13 Executed on October 23, 2017 in Oakland, California.

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18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**
20 **SAN FRANCISCO DIVISION**

21 THE REGENTS OF THE UNIVERSITY OF
22 CALIFORNIA and JANET NAPOLITANO,
23 in her official capacity as President of the
24 University of California,

23 Plaintiffs,

24 v.

25 U.S. DEPARTMENT OF HOMELAND
26 SECURITY and ELAINE DUKE, in her
27 official capacity as Acting Secretary of the
28 Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

DECLARATION OF DR. ROBIN HOLMES-SULLIVAN

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STATE OF CALIFORNIA, STATE OF MAINE, STATE OF MARYLAND, and STATE OF MINNESOTA,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05235-WHA

CITY OF SAN JOSE, a municipal corporation,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, ELAINE C. DUKE, in her official capacity, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05329-WHA

DULCE GARCIA, MIRIAM GONZALEZ AVILA, SAUL JIMENEZ SUAREZ, VIRIDIANA CHABOLLA MENDOZA, NORMA RAMIREZ, and JIRAYUT LATTHIVONGSKORN,

Plaintiffs,

v.

UNITED STATES OF AMERICA, DONALD J. TRUMP, in his official capacity as President of the United States, U.S. DEPARTMENT OF HOMELAND SECURITY, and ELAINE DUKE, in her official capacity as Acting Secretary of Homeland Security,

Defendants.

CASE NO. 17-CV-05380-WHA

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COUNTY OF SANTA CLARA and
SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
States; ELAINE DUKE, in her official
capacity as Acting Secretary of the Department
of Homeland Security; and U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

CASE NO. 17-CV-05813-WHA

1 I, ROBIN HOLMES-SULLIVAN, DECLARE:

2 1. I am the Vice President for Student Affairs at the University of California (“UC”). The
3 matters set forth herein are true and correct of my own personal knowledge and, if called as a witness, I
4 could and would testify competently thereto.

5 2. In my role as Vice President, I oversee the overall student experience across UC’s
6 campuses, and I work closely with the UC President and Provost in efforts to enhance the diversity,
7 experiences, and successes of UC students, especially undergraduate students. This includes not only
8 overseeing the UC undergraduate application process for admissions and financial support program, but
9 also monitoring diversity and campus climate, overseeing student mental health and wellness,
10 overseeing policies guiding student conduct, student activities, admissions and financial aid, and also
11 serving as an intermediary between UC campuses, UC Office of the President, and student
12 groups/leadership. In my role, I visit all UC campuses on a regular basis, where I meet and talk with
13 faculty, staff and students. My office provides overall guidance and support to a plethora of Presidential
14 Initiatives carried out on each of the campuses, including the President’s Advisory Council on
15 Undocumented Students, Student Veterans, LGBT Students, Faculty and Staff, the Global Climate
16 Leadership Council, the California Community College Transfer Initiative, and the Global Food
17 Initiative, to name a few. I enjoy a close working relationship with different individuals across our
18 campuses, including student leaders and each Vice Chancellor of Student Affairs.

19 3. In my role, I have observed and heard firsthand about the abilities and experiences of
20 DACA students, as well as how the announced rescission of the DACA policy has affected them. UC
21 data shows that with the implementation of DACA in 2012, the first-year persistence rate (i.e., percent
22 of students continuing on to the second year) increased significantly for these students who could count
23 on receiving financial aid, and no longer feared deportation.

24 4. Our DACA students are very talented and make important contributions to the State of
25 California and the United States as a whole. From August 1, 2017 to August 20, 2017, Tom K. Wong of
26 the University of California, San Diego; United We Dream (UWD); the National Immigration Law
27 Center (NILC); and the Center for American Progress fielded a national survey to further analyze the
28 economic, employment, educational, and societal experiences of DACA recipients. This is the largest

1 study to date of DACA recipients with a sample size of 3,063 respondents in 46 states as well as the
2 District of Columbia. The data illustrate that DACA recipients continue to make positive and significant
3 contributions to the economy, including earning higher wages, which translates into higher tax revenue
4 and economic growth that benefits all Americans
5 ([https://www.americanprogress.org/issues/immigration/news/2017/08/28/437956/daca-recipients-
6 economic-educational-gains-continue-grow/](https://www.americanprogress.org/issues/immigration/news/2017/08/28/437956/daca-recipients-economic-educational-gains-continue-grow/)).

7 5. Additionally, our undocumented and DACA graduate students make amazing
8 contributions to medicine and technology, including through discoveries that have the potential to help
9 communities throughout California. For instance, one of our former DACA PhD students researched the
10 indicators for sudden cardiac death—the leading natural cause of death in Americans. This vital research
11 has the potential to save countless lives.

12 6. Due to their talent and chosen fields of study, DACA students serve as academic role
13 models to other students across UC’s campuses. DACA students at all 10 of the campuses serve as
14 teaching assistants (“TAs”). There are, for instance, four DACA-recipient PhD students at UC Merced
15 who work as TAs. At UC Merced, 55 percent of the baccalaureate degrees awarded are in science,
16 technology, and math, and several of the DACA PhD students’ focuses lie in those fields. The industries
17 that students and graduate students with science, technology, or math degrees enter are among the least
18 diverse sectors of the economy
19 (http://www.air.org/sites/default/files/downloads/report/AGEP_Lit_Review_10-26-09_0.pdf), and part
20 of both the University and UC Merced’s mission to diversify historically non-diverse industries. Our
21 DACA-recipient TAs not only promise to diversify those fields upon entering the workforce, but they
22 also serve as inspiration to the diverse undergraduate students in their classes that careers in those fields
23 are attainable for them, too.

24 7. Our undocumented and DACA students’ influence is not limited to the classroom. Many
25 serve as role models in the broader community. Some of our campuses are located in regions of the state
26 where a fair percentage of K-12 students are undocumented youth or members of the migrant farm
27 community. We have DACA-recipients who volunteer at these K-12 schools, showing local children
28 that a college education is attainable and worthwhile.

1 8. UC values diversity, and exposure to other perspectives is a critical part of a complete
2 education. Developing robust cultural competency requires exposure to different cultures and
3 viewpoints, and exposing others to the viewpoints of DACA recipients is an important component of
4 that. Indeed, our undocumented and DACA students are vital members of our community. We have
5 DACA students who serve as leaders of local chapters of national Greek Societies and in various student
6 clubs, are influential student leaders and serve in student government, and are heavily involved in
7 important events, such as performing the national anthem at school commencements. Through this
8 engagement—both in the classroom and around campus—DACA students interact with many people
9 and are able to share their unique perspectives with them. This enriches the social and educational
10 environment for all. The valuable cultural exchange would be impoverished if undocumented students—
11 including DACA recipients—were not on campus or were not as willing to share their stories and
12 perspectives.

13 9. DACA recipients are often model students on campus and are valuable to UC. Not only
14 do undocumented students perform very well academically, but also they are highly involved in other
15 aspects of student life and have few disciplinary issues. For example, at UC Santa Barbara, University
16 Service Awards are given each year to recognize the contributions and achievements of outstanding
17 graduating seniors and graduate students who have performed above and beyond the call of duty in
18 service to the University, the student body, and the community or have succeeded while facing
19 extraordinary challenges. For the 2016-17 year, several of the annual University Service Awards were
20 given to DACA recipients.

21 10. The announcement to rescind the DACA policy has created several harms. Our students
22 report stressors ranging from a fear of deportation, increased discrimination, and the possibility of being
23 unable to continue their studies. The most instantly recognizable impact for me—other than the various
24 psychological and emotional strains our DACA recipients report—is our current inability to provide our
25 students with the counseling resources they need.

26 11. I have spoken with DACA students who are afraid that they or their family members will
27 be detained or deported. One DACA student explained that she did not feel safe driving from campus to
28 her parents' house because doing so required passing through an immigration checkpoint. She is afraid

1 that immigration officers will learn her identity and follow her home or to campus. Not only is she
2 scared, but her fear is preventing her from visiting her family, a valuable support network for her. This is
3 not a unique story. This climate of fear has intensified since the announcement to rescind the DACA
4 policy.

5 12. We have observed an increase in anti-immigrant incidents on campus following the 2016
6 presidential election and the announcement to rescind DACA. On multiple occasions, racist posters
7 targeted at immigrants have been put up on campuses overnight. There have also been several incidents
8 where UC students are presumed to be immigrants and yelled at that they “do not belong” and that they
9 should “go home.” Our DACA students are afraid that they will be harassed or attacked because of their
10 immigration status or the fact that they “look like immigrants.”

11 13. The uncertainty of being able to pay for school is also a significant source of stress for
12 our students. Financial aid often covers part of the full tuition for DACA students, but students are
13 expected to pay for some of the cost—approximately \$10,000—out of their own pockets. Many DACA
14 recipients thus rely on their ability to work, pursuant to work authorization, to pay for this cost of
15 attendance. Beyond the need to support themselves, some DACA recipients work to provide for their
16 families. When this is the case, some DACA students view school as a lower priority than working to
17 earn as much as possible before their DACA status—and consequently their work authorization—ends.

18 14. One consequence of all these stressors is that DACA students are presently unable to
19 focus on their studies with the same intensity that they have in the past. I have heard from academic
20 counselors who have observed a dip in the academic performance of DACA recipients since the
21 rescission was announced. Professors are also concerned and report that many DACA students have
22 reached out to them to report difficulty studying, completing assignments or focusing on their school
23 work due to the stress they are experiencing. Our campus support staff have received a flood of emails
24 from faculty who are concerned for their DACA students and are unsure how best to support them. We
25 are working diligently to train our teachers about what resources exist and what they can do personally
26 to help our DACA students.

27 15. The stress caused by rescission of the DACA policy has resulted in a dramatic increase in
28 the number of requests from DACA students for mental health services. For example, at UC Merced,

1 over the weeks following the announcement to rescind DACA, demand for counseling services more
2 than doubled from 11% of the total student population to 23% of the student population. At UC
3 Berkeley, the number of appointments and walk-ins for mental health counseling increased by 90%
4 following the announcement.

5 16. I have also heard from my staff and from DACA students themselves that we need
6 psychologists and other experts who are familiar with the challenges faced by undocumented
7 individuals. Again, we are devoting time and rerouting resources to address this. Doing so undoubtedly
8 places more demands on these services by the campus community as a whole. On some campuses we
9 have increased the number of full-time staff members and hired more peer counselors to staff our mental
10 health facilities. We have also reached out to our local contacts and brought in attorneys to run “know
11 your rights” workshops. We have also invested time and money into our UndocuAlly training program,
12 through which we teach our counselors and some of our faculty about what it means to be
13 undocumented in this country. This better prepares our staff to provide our DACA students the services
14 they need.

15 17. Our staff is working tirelessly to address the acute demand for services following the
16 announcement to rescind the DACA policy. I have observed the increased hours and emotional toll that
17 this has had on our staff as they try to provide DACA students with information and support, and I am
18 concerned that staff members will burn out and seek employment elsewhere.

19 18. I and some of my colleagues are also concerned that the uncertainty surrounding the
20 DACA policy will result in a loss of current and future students. For example, I have heard that two
21 undergraduate students at UCLA called to cancel their enrollment after DACA’s rescission was
22 announced. I have heard from several Vice Chancellors who are preparing for the possibility that DACA
23 students will leave on an upcoming break from classes and will not return to school. Some of these
24 students may decide not to return due to a desire to work and support their families while they can or to
25 minimize the student debt they accrue before their DACA status expires. For others, though, the choice
26 is out of their hands. Some families are deciding to leave the country and are taking their children with
27 them. Still others depend on their DACA status for basic necessities. We have at least one DACA
28 student who serves as a resident advisor, a position that comes with room and board but requires work

1 authorization. If this student loses their work authorization—which they will when their DACA status
2 expires—they will lose their home.

3 19. Our PhD students and others will not be able to continue as TAs without work
4 authorization. Being a TA is a full-year commitment, and part of a TA’s compensation is graduate
5 school tuition reduction. When these students lose DACA status, they can no longer be employed as
6 TAs, and their tuition will be higher, directly impacting their ability to pay for graduate school. UC will
7 also have to scramble to find replacement TAs to take over teaching responsibilities mid-term. This, like
8 our other efforts, will require time, energy, and money on UC’s part. But beyond the administrative
9 costs, losing our DACA TAs also deprives us of their impact as role models to diverse undergraduates
10 who might be considering advanced degrees in historically non-diverse fields. Accordingly, if we lose
11 these diverse PhD candidates, then our commitment to diversifying these fields is harmed.

12 20. I, my staff, and the high school counselors we interact with are all concerned about a
13 possible decrease in the number of undocumented applicants to UC as a result of the uncertainty created
14 by the rescission of DACA. High school students are concerned about whether they will be accepted by
15 their peers and the institution. They are also worried about the financial burden. As discussed, UC
16 students need to cover some of the cost of attendance, and high school students are worried that, without
17 work authorization, they will be unable to support themselves through school.

18 21. We are trying to respond to the possible loss of both current and future students by
19 creating focused communication campaigns. Currently, we are ramping up our efforts to convince our
20 current students that they belong here and that we are doing all we can to provide them the institutional
21 support they need. One of our staff members is spending time writing and sending out weekly updates
22 discussing DACA-related news and campus resources. Vice Chancellors are spending time personally
23 reaching out to donors, trying to raise money that we can provide to undocumented students and DACA-
24 recipients as stipends or grants.

25 22. In addition to diverting money, we are also spending time and energy making sure that
26 qualified high school students who would normally apply to UC still do so this year. We have hosted
27 outreach conferences around the state in order to provide information to address the current confusion
28 and concern that exists among high school counselors and their students. Nevertheless, the fear and

1 uncertainty looms large and, according to our outreach counselors, is having a negative impact on the
2 recruitment of students who have DACA, despite our positive messages.

3 23. We are also trying to secure replacement housing for the DACA RA who faces the
4 looming threat of losing their home. Thus, we are rapidly diverting resources to address these serious,
5 imminent harms.

6 24. We are not the only institution that has recognized these pending harms, but we are
7 quickly deploying our resources to address them. Other educational institutions like local community
8 colleges and high schools are concerned about the same issues and have reached out to us for help and
9 advice creating their own resources or borrowing from our approach.

10 25. UC recognizes that the institution and broader community are harmed if we lose current
11 students and qualified future students. By losing our undergraduate and graduate DACA students and by
12 missing out on qualified students who would otherwise attend, we are losing inspiring individuals who
13 have served as role models to various kinds of students, brilliant minds, and a source of diversity that is
14 important to building cultural competency and diversifying traditionally non-diverse professions.

15 I declare under penalty of perjury under the laws of the United States that the foregoing is true
16 and correct.

17 Executed on October 24, 2017 in Oakland, California.

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21 DR. ROBIN HOLMES-SULLIVAN

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19 **UNITED STATES DISTRICT COURT**
20 **NORTHERN DISTRICT OF CALIFORNIA**
SAN FRANCISCO DIVISION

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

23 Plaintiffs,

24 v.

25 U.S. DEPARTMENT OF HOMELAND
SECURITY and ELAINE DUKE, in her
26 official capacity as Acting Secretary of the
Department of Homeland Security,

27 Defendants.
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CASE NO. 17-CV-05211-WHA

DECLARATION OF JANET NAPOLITANO

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STATE OF CALIFORNIA, STATE OF MAINE, STATE OF MARYLAND, and STATE OF MINNESOTA,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05235-WHA

CITY OF SAN JOSE, a municipal corporation,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, ELAINE C. DUKE, in her official capacity, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05329-WHA

DULCE GARCIA, MIRIAM GONZALEZ AVILA, SAUL JIMENEZ SUAREZ, VIRIDIANA CHABOLLA MENDOZA, NORMA RAMIREZ, and JIRAYUT LATTHIVONGSKORN,

Plaintiffs,

v.

UNITED STATES OF AMERICA, DONALD J. TRUMP, in his official capacity as President of the United States, U.S. DEPARTMENT OF HOMELAND SECURITY, and ELAINE DUKE, in her official capacity as Acting Secretary of Homeland Security,

Defendants.

CASE NO. 17-CV-05380-WHA

1 COUNTY OF SANTA CLARA and
2 SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

CASE NO. 17-CV-05813-WHA

3 Plaintiffs,

4 v.

5 DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
6 BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
7 States; ELAINE DUKE, in her official
capacity as Acting Secretary of the Department
8 of Homeland Security; and U.S.
DEPARTMENT OF HOMELAND
9 SECURITY,

10 Defendants.

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1 I, JANET NAPOLITANO, DECLARE:

2 1. I am President of the University of California ("UC") and have served in that
3 position since September 2013; before that, I served as the United States Secretary of Homeland
4 Security under President Barack Obama from 2009-2013. Unless otherwise explicitly stated, I
5 have personal knowledge of the matters set forth in this Declaration and could competently testify
6 to them if called as a witness.

7 2. As Governor of Arizona, Secretary of the U.S. Department of Homeland Security
8 ("DHS"), and now president of the largest public research university system in the world, I have
9 seen the consequences of our broken immigration system at every level. Understanding these
10 problems and recognizing that our nation's immigration laws were not designed to be blindly
11 enforced without consideration given to the individual circumstances of each case, on June 15,
12 2012, I launched a new policy at DHS to establish a clear and efficient process for exercising
13 prosecutorial discretion, on an individual basis, by deferring action against individuals who passed
14 an extensive background check and met other exacting criteria. This policy was Deferred Action
15 for Childhood Arrivals (DACA).

16 3. The policy put in place a rigorous application and security review
17 process. Applicants for DACA were only approved if they were in or had graduated from high
18 school or college, were in the military, or were an honorably discharged veteran. They cannot have
19 been convicted of a felony or significant misdemeanor or otherwise posed a threat to national
20 security or public safety to receive DACA. To date, DACA has protected from deportation nearly
21 800,000 individuals (referred to as "Dreamers") who qualify under the terms of the policy.

22 4. Protecting these Dreamers, who were brought as children to the United States and
23 in many cases do not know the country where they were born or speak its language, has, in my
24 view, proven to be a smart, effective policy. It directs the U.S. Government's limited law
25 enforcement resources to be spent on those who pose a risk to our communities, not on those who
26 contribute to our state and national economies.

1 **DACA Student and Staff Contributions to the University**

2 5. UC admits undergraduate and graduate students on the basis of their individual
3 achievements and without regard to their immigration status. I understand that UC currently has
4 approximately 4,000 undocumented students who have earned their place in the UC student body.
5 Most of these students are the first in their families to attend college, and a substantial number of
6 them are DACA recipients. I understand that UC also has employees who are DACA recipients
7 who are not students.

8 6. As an institution whose core mission is serving the interests of the State of
9 California, the University seeks "to achieve diversity among its student bodies and among its
10 employees." See Academic Senate of the Univ. of Cal., Regents Policy 4400: Policy of University
11 of California Diversity Statement, UNIV. OF CAL.: BOARD OF REGENTS,
12 <http://regents.universityofcalifornia.edu/governance/policies/4400.html>. The University recognizes
13 the importance of diversity to its academic mission, as it allows "students and faculty [to] learn to
14 interact effectively with each other, preparing them to participate in an increasingly complex and
15 pluralistic society." *Id.* The educational experience of all University students is fuller and more
16 enriching when ideas are "born and nurtured in a diverse community." *Id.*

17 7. DACA students at the University are an integral part of our community. Their
18 talent, perspectives, and experiences are invaluable contributions to University life.

19 8. DACA recipients also make significant contributions to University life in their role
20 as employees. They fill crucial roles at UC campuses and in UC medical centers as teaching
21 assistants, research assistants, post-docs, and health care providers. DACA recipients often possess
22 valuable foreign language skills.

23 9. By allowing DACA recipients to work lawfully, DACA moved recipients out of the
24 informal economy, increasing the pool of talent from which UC could fill positions at the
25 University.

26 10. DACA recipients who are enrolled as students rely on their earnings to support
27 themselves and cover a portion of their tuition and total costs of attendance through their part-time

1 work. UC expects all of its students to contribute some funding to their studies in this way. For
2 many of these students, DACA work authorization plays a significant role in their ability to attend
3 UC and to continue each year with their chosen program of study.

4 11. The University has invested considerable resources in recruiting and retaining these
5 individuals—as students and employees. It has made scarce enrollment space available to these
6 students on the basis of their individual achievements. It also has invested substantial time,
7 financial aid, research dollars, housing benefits, and other resources in them on the expectation
8 that these students—like other students—will complete their course of study and become
9 productive members of the communities in which the University operates, and other communities
10 throughout the nation. The University has significant interests in retaining this wealth of talent and
11 in continuing to enjoy the many benefits of their participation in University life.

12 12. Furthermore, by allowing recipients to receive deferred action and obtain work
13 authorization, DACA opened myriad opportunities to them. As noted above, DACA recipients
14 became eligible for federal work authorization, which significantly improved their opportunities
15 for employment and higher paying jobs. Under the program, DACA recipients received social
16 security numbers and therefore were able to open bank accounts. DACA also enabled recipients to
17 obtain driver's licenses in a number of states where they otherwise could not. It also protected
18 these individuals' right to travel freely by making them eligible to receive "advance parole,"
19 which allowed them to travel abroad temporarily for humanitarian, educational, or employment
20 purposes, and to return to the United States lawfully. *See* 8 C.F.R. § 212.5(f); USCIS FAQs.
21 DACA students rely on their ability to travel freely (domestically and abroad) to take full
22 advantage of the opportunities UC offers its students and to expand the contributions they make to
23 the education, research and service mission of the University.

24 **Negative Impact of DACA's Rescission**

25 13. Defendants' decision to rescind the program will have immense and devastating
26 effects on the University and all of its students. As a result of the termination of the program, the
27 University and its students will lose the vital contributions that DACA recipients have made as

1 students and employees. The civic life of the school will be diminished, the exchange of ideas will
2 be reduced, teaching and research will be impaired, and diversity of viewpoints and experiences
3 will be reduced. The University and its students benefit from cohesive family units, robust civic
4 participation, and the strength of social and educational communities. The rescission damages
5 each of these interests, in California and nationwide.

6 14. The University also will lose the resources it has spent educating students who
7 ultimately are unable to graduate.

8 15. As a result of the rescission, DACA students will be unable to work to pay their
9 tuition and other expenses. Students subject to these hardships may be forced to withdraw from
10 UC altogether.

11 16. DACA recipients also will be at risk of removal. Indeed, in a set of "Talking
12 Points" released the same day of the rescission, DHS "urge[d] DACA recipients to use the time
13 remaining on their work authorizations to prepare for and arrange their departure from the United
14 States." See Talking Points—DACA Rescission. Removal will self-evidently result in the loss of
15 employment, education, and relationships with others in the United States.

16 I declare under penalty of perjury under the laws of the United States that the
17 foregoing is true and correct.

18 Executed on Oct. 23, 2017, at Oakland California.

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JANET NAPOLITANO

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19 **UNITED STATES DISTRICT COURT**
20 **NORTHERN DISTRICT OF CALIFORNIA**
21 **SAN FRANCISCO DIVISION**

21 THE REGENTS OF THE UNIVERSITY OF
22 CALIFORNIA and JANET NAPOLITANO,
23 in her official capacity as President of the
24 University of California,

23 Plaintiffs,

24 v.

25 U.S. DEPARTMENT OF HOMELAND
26 SECURITY and ELAINE DUKE, in her
27 official capacity as Acting Secretary of the
28 Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

DECLARATION OF DIANA TELLEFSON

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STATE OF CALIFORNIA, STATE OF MAINE, STATE OF MARYLAND, and STATE OF MINNESOTA,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05235-WHA

CITY OF SAN JOSE, a municipal corporation,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, ELAINE C. DUKE, in her official capacity, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05329-WHA

DULCE GARCIA, MIRIAM GONZALEZ AVILA, SAUL JIMENEZ SUAREZ, VIRIDIANA CHABOLLA MENDOZA, NORMA RAMIREZ, and JIRAYUT LATTHIVONGSKORN,

Plaintiffs,

v.

UNITED STATES OF AMERICA, DONALD J. TRUMP, in his official capacity as President of the United States, U.S. DEPARTMENT OF HOMELAND SECURITY, and ELAINE DUKE, in her official capacity as Acting Secretary of Homeland Security,

Defendants.

CASE NO. 17-CV-05380-WHA

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COUNTY OF SANTA CLARA and
SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
States; ELAINE DUKE, in her official
capacity as Acting Secretary of the Department
of Homeland Security; and U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

CASE NO. 17-CV-05813-WHA

1 I, Diana Tellefson, declare and state as follows:

- 2 1. I am the Executive Director of the UFW Foundation, a nonprofit, § 501(c)(3) organization
3 dedicated to serving farm workers and immigrants in some of the most isolated and
4 underserved communities in California. The UFW Foundation's mission is to open the
5 doors of opportunity to working people and their communities. The UFW Foundation has
6 5 offices in California in the cities of Los Angeles, Bakersfield, Fresno, Salinas, and
7 Oxnard. The UFW Foundation has been working for over 10 years on immigration policy,
8 advocacy, legal services, and grassroots community education.
- 9 2. The UFW Foundation has a Service Center program staffed by twenty-two Department of
10 Justice, Office of Legal Access Programs ("OLAP") Accredited Representatives who
11 provide immigration legal services to immigrant Californians. The UFW Foundation is the
12 nonprofit with the largest number of OLAP accredited representatives in agricultural
13 regions in California, and serves over 60,000 immigrants annually.
- 14 3. The UFW Foundation's immigration team has focused on assisting individuals prepare the
15 documentation and paperwork necessary for DACA applications and renewals. Given the
16 isolated communities that the UFW Foundation serves, the organization's limited staff and
17 resources is unable to fully meet the high demand for its services.
- 18 4. UFW Foundation currently offers regular DACA clinics and in-office appointments
19 throughout California and assists DACA-eligible individuals by providing
20 comprehensive immigration screenings to Californians. Since 2012, the UFW Foundation
21 has assisted with over 4,140 DACA applications on behalf of its clients. The UFW
22 Foundation assists its DACA-eligible clients with initial applications as well as renewals.
- 23 5. Over 250 UFW Foundation clients have DACA that expires between September 5, 2017
24 and March 5, 2018 and are therefore subject to the mandatory October 5, 2017 renewal
25 deadline. Some of these UFW Foundation clients have received notices from Defendants
26 advising them to renew "as soon as possible" and within 120 to 150 days before their
27 status expires. Defendants' notices have made no mention of the October 5, 2017
28

- 1 deadline. None of these UFW Foundation members or clients have received a corrected
2 notice from Defendants informing them of the mandatory October 5, 2017 deadline for
3 renewals.
- 4 6. Several UFW Foundation clients, were eligible for DACA as of September 5, 2017, but
5 had not yet submitted their initial applications. Most of them were in the process of
6 assembling the documentation and filing fees necessary to satisfy the DACA eligibility
7 requirements. Other youth clients of UFW Foundation were not eligible for DACA on
8 September 5, 2017 but will become eligible for DACA in the future, under the terms of
9 the 2012 Guidance.
- 10 7. UFW Foundation's clients face hindrances to bringing suit to protect their own interests,
11 including but not limited to lack of notice, privacy concerns, fear of retaliation (against
12 themselves and/or their families), language barriers, and lack of resources. Defendants'
13 planned unlawful termination of the DACA program has already directly harmed UFW
14 Foundation by causing the organization to divert its resources from other time sensitive
15 immigration cases to assist individuals to apply for renewals by October 5, 2017, and to
16 conduct additional screenings of its clients (members and non-members) to determine
17 whether they are eligible for other forms of immigration relief.
- 18 8. Since September 5, 2017, the UFW Foundation has extended its hours and accommodated
19 all potential applicants that walked into its offices to be able to assist DACA renewal
20 applicants that would not be needed if Defendants had not terminated the program. Our
21 staff had to divert our already limited resources and staff to be able to help as many people
22 as possible with such a short timeline. This has also involved the extra administrative
23 burden of calling and rescheduling numerous appointments and delaying work on other
24 active cases.
- 25 9. In addition, UFW Foundation's Service Center team has expended its limited resources
26 creating know-your-rights materials, answering calls, addressing walk-in questions, and
27 mailing renewal applications.
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10. UFW Foundation has spent additional money on priority shipping fees for renewal applications to ensure they arrive by the October 5 deadline. Additionally, to complete the applications, the organization has incurred other unexpected administrative costs.

11. The rescission of DACA also impacts my organization in a different way. Because my organization employs four (4) DACA recipients, the organization will need to incur the administrative burden of terminating the employment of these individuals when their DACA expires, and expending resources to find, hire, and train replacement employees. The loss of these valued employees and associated costs will impact the productivity of our organization.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed on October 10, 2017 in Los Angeles, CA.



DIANA TELLEFSON

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18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**
20 **SAN FRANCISCO DIVISION**

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

23 Plaintiffs,

24 v.

25 U.S. DEPARTMENT OF HOMELAND
SECURITY and ELAINE DUKE, in her
26 official capacity as Acting Secretary of the
Department of Homeland Security,

27 Defendants.
28

CASE NO. 17-CV-05211-WHA

DECLARATION OF NATALIE CARDENAS

1 STATE OF CALIFORNIA, STATE OF
2 MAINE, STATE OF MARYLAND, and
STATE OF MINNESOTA,

CASE NO. 17-CV-05235-WHA

3 Plaintiffs,

4 v.

5 U.S. DEPARTMENT OF HOMELAND
6 SECURITY, ELAINE DUKE, in her official
7 capacity as Acting Secretary of the Department
of Homeland Security, and the UNITED
STATES OF AMERICA,

8 Defendants.

9 CITY OF SAN JOSE, a municipal corporation,

CASE NO. 17-CV-05329-WHA

10 Plaintiffs,

11 v.

12 DONALD J. TRUMP, President of the United
13 States, in his official capacity, ELAINE C.
DUKE, in her official capacity, and the
UNITED STATES OF AMERICA,

14 Defendants.

15 DULCE GARCIA, MIRIAM GONZALEZ
16 AVILA, SAUL JIMENEZ SUAREZ,
17 VIRIDIANA CHABOLLA MENDOZA,
NORMA RAMIREZ, and JIRAYUT
LATTHIVONGSKORN,

CASE NO. 17-CV-05380-WHA

18 Plaintiffs,

19 v.

20 UNITED STATES OF AMERICA, DONALD
21 J. TRUMP, in his official capacity as President
22 of the United States, U.S. DEPARTMENT OF
HOMELAND SECURITY, and ELAINE
23 DUKE, in her official capacity as Acting
Secretary of Homeland Security,

24 Defendants.

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COUNTY OF SANTA CLARA and
SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
States; ELAINE DUKE, in her official
capacity as Acting Secretary of the Department
of Homeland Security; and U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

CASE NO. 17-CV-05813-WHA

1 workshops, which were held on September 16 and September 23, 2017 at our office in Chula Vista,
2 Dulce assisted DACA recipients with filling out their DACA renewal applications for free. I assisted
3 Dulce during one of these workshops.

4 8. I have had numerous and lengthy conversations with Dulce about the many hardships she
5 has experienced as an undocumented immigrant and what it has meant for her to have DACA status.
6 Dulce has explained to me that, because she did not have legal status growing up, she struggled to obtain
7 things that were easily accessible to others. For example, because Dulce did not have a social security
8 number, she told me that she was not eligible to obtain a California driver's license and therefore could
9 not drive. She told me that her high school guidance counselor told her to give up her dreams of going
10 to college because she was an illegal immigrant. She also told me that not having valid work
11 authorization prevented her from obtaining internships and jobs, like the rest of her peers were doing
12 around her. Despite these obstacles—and on top of growing up poor—Dulce told me how she worked
13 her way through college and law school.

14 9. Since getting her DACA status, Dulce has established her own law firm with two
15 offices—one in San Diego and another in Chula Vista, which she recently opened. Between the two
16 offices, Dulce currently has over 70 active cases. Over half of these pending cases are immigration-
17 related. The majority of the firm's clients are native Spanish speakers. Dulce has told me that, as an
18 immigrant, she feels an obligation to practice immigration law to help individuals in her community. In
19 fact, she told me that she opened her second office in Chula Vista because Chula Vista has a larger
20 concentration of immigrants than San Diego, and therefore there is a greater need for immigration
21 lawyers.

22 10. During our numerous conversations, Dulce has also told me that she relied on her DACA
23 status and the ability to renew that status to invest her time and resources into establishing her law firm
24 in San Diego. In connection with opening her own law practice, Dulce has hired employees and has
25 made obligations to represent clients. Dulce currently has over 70 active cases, so over 70 clients are
26 relying on Dulce to represent them in their legal disputes.

27 11. It is devastating for me to think that if Dulce's DACA status is rescinded, she may be
28 deported and lose everything she has accomplished, including her law practice, which is her livelihood

1 and the culmination of her lifetime dream. If she were to be deported to Mexico, she would also lose her
2 family, friends, and community in the United States. She has also told me that she has no family or
3 friends in Mexico, so she will have to start a new life there from scratch and without any support.

4 12. If Dulce's DACA status is terminated, I also fear that I will lose my job. The majority of
5 Dulce's clients are those with immigration cases and Dulce would be putting herself at risk for
6 detention by immigration authorities if she attended her client's immigration hearings. Therefore, my
7 understanding is that a significant portion of Dulce's clients will have to find other lawyers to represent
8 them if Dulce loses her DACA status. Since Dulce pays me my salary out of the fees she collects from
9 paying clients, Dulce will be unable to pay my salary if she does not have enough clients.

10 13. If Dulce loses her DACA status, not only would I lose a job I love and that provides me
11 with a good income, but I would lose an important mentor and friend who has already enriched my life
12 in so many ways.

13
14 I declare under penalty of perjury under the laws of the United States of America that the
15 foregoing is true and correct.

16 Executed on October 27, 2017, in San Diego, California.

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19 _____
20 NATALIE CARDENAS
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY and ELAINE DUKE, in her
official capacity as Acting Secretary of the
Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

DECLARATION OF KATHRYN EIDMANN

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STATE OF CALIFORNIA, STATE OF MAINE, STATE OF MARYLAND, and STATE OF MINNESOTA,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05235-WHA

CITY OF SAN JOSE, a municipal corporation,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, ELAINE C. DUKE, in her official capacity, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05329-WHA

DULCÉ GARCIA, MIRIAM GONZALEZ AVILA, SAUL JIMENEZ SUAREZ, VIRIDIANA CHABOLLA MENDOZA, NORMA RAMIREZ, and JIRAYUT LATTHIVONGSKORN,

Plaintiffs,

v.

UNITED STATES OF AMERICA, DONALD J. TRUMP, in his official capacity as President of the United States, U.S. DEPARTMENT OF HOMELAND SECURITY, and ELAINE DUKE, in her official capacity as Acting Secretary of Homeland Security,

Defendants.

CASE NO. 17-CV-05380-WHA

1 COUNTY OF SANTA CLARA and
2 SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

3 Plaintiffs,

4 v.

5 DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
6 BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
7 States; ELAINE DUKE, in her official
capacity as Acting Secretary of the Department
8 of Homeland Security; and U.S.
DEPARTMENT OF HOMELAND
9 SECURITY,

10 Defendants.

CASE NO. 17-CV-05813-WHA

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DECLARATION OF KATHRYN EIDMANN

I, KATHRYN EIDMANN, declare as follows:

1. I am a Supervising Senior Staff Attorney at Public Counsel. Public Counsel is the nation's largest not-for profit law firm specializing in delivering pro bono legal services. Founded in 1970, Public Counsel strives to protect the legal rights of disadvantaged children, represent immigrants who have been the victims of torture, persecution, domestic violence, trafficking, and other crimes, and foster economic justice by providing individuals and institutions in underserved communities with access to quality legal representation. I have personal knowledge of the facts set forth in this declaration, and if called as a witness, I could and would competently testify to them.

2. I am the Robins Kaplan Supervising Senior Staff Attorney in Public Counsel's Opportunity Under Law Project. In this capacity, I bring impact litigation to advance economic justice, including in the areas of education equity, children's rights, economic rights, and immigrants' rights. I currently supervise a team of six attorneys, two community organizers, and one paralegal. I have worked at Public Counsel since January 2013. (The Opportunity Under Law Project was called the Impact Litigation Project until approximately August 2014). Previously, I was a litigation associate at the law firm of Munger, Tolles & Olson LLP and clerked for Judge Thomas B. Griffith of the U.S. Court of Appeals, District of Columbia Circuit. I graduated from Yale Law School in 2009 and Harvard College in 2006.

3. I came to know Viridiana Chabolla (Viri) through her work at Public Counsel. I participated in Viri's hiring at Public Counsel. Together with Catherine Lhamon, the Directing Attorney of the Impact Litigation Project at the time, I initially interviewed Viri in April 2013. At the time, I was particularly impressed with Viri's emotional intelligence, passion, and commitment to working on behalf of disenfranchised communities. Over the course of four years, Viri worked closely with me and the other lawyers in our unit to develop and pursue innovative education equity and civil rights litigation as a community organizer in Public Counsel's Opportunity Under Law project.

4. Viri's contribution to Public Counsel has been quite significant. She was the driving force behind *Cruz v. California*, an education rights class action that resulted in the elimination of contentless courses through statewide legislation. *Cruz v. California* involved students at low-income

1 elementary, middle, and high schools in the Bay Area and Southern California, who were receiving less
2 meaningful learning time than students in better-resourced California schools serving more affluent
3 students. After two years of litigation, we were successfully resolved the litigation. A new state law,
4 AB 1012 was passed to eliminate the scheduling and course assignment practices that led to students
5 losing valuable learning time statewide. The California Department of Education, the State Board of
6 Education, and the State Superintendent of Public Instruction additionally agreed to immediately assist
7 six schools in Compton, Los Angeles, and Oakland to secure compliance with AB 1012.

8 5. Viri's work was indispensable to the initiation and ultimate success of *Cruz v. California*.
9 Viri identified, developed, and maintained relationships with scores of student declarants and teachers
10 throughout Southern California, including coordinating all communications regarding declarations,
11 discovery, and potential trial testimony. She did much of the work that attorneys would otherwise be
12 doing, including interviewing witnesses and drafting declarations.

13 6. Public Counsel trusted Viri to represent our work in the community and in the media.
14 She initiated and fostered relationships with numerous, diverse community-based organizations, work
15 that has been instrumental in developing consistent and reliable advocacy partners. She also served
16 effectively as a spokesperson for Spanish-language media.

17 7. Viri is an intelligent, capable, and skilled advocate, as well as an empathetic, passionate,
18 and inspiring person. She developed impressive rapport and skillfully gained the trust of clients,
19 witnesses, and community partners. She demonstrated remarkable sensitivity and empathy in
20 appropriately addressing emotional, delicate, or challenging conversations. She treated everyone she
21 encountered with honor and respect, taking time and care not only to develop, but to maintain,
22 longstanding and effective relationships with clients and community members. She quietly did a
23 tremendous amount of work that sometimes went unnoticed to foster a solid and trusting relationship
24 with clients: sending birthday and graduation cards,
25 providing help with college admissions, or stopping by to offer emotional support to young people in
26 crisis.

27 8. Viri is incredibly hard-working and demonstrated impressive flexibility, reliability, and
28 responsiveness in response to the urgency and unpredictability that often characterize litigation, often

1 working late at night, early in the mornings, and all through the weekends. Through her work at Public
2 Counsel, Viri has already become a tremendously skilled advocate. She has a rare combination of
3 intellect and interpersonal skills that will no doubt make her an outstanding attorney.

4 9. I have had several conversations with Viri over the years about her professional plans
5 after leaving Public Counsel. Based on these conversations, I understand that Viri would not have
6 elected to attend law school if she did not have DACA status, which would permit her to obtain
7 employment in the legal field after she completes her studies.

8 10. Based on numerous conversations I had with her over the years, I understand that Viri is
9 pursuing a legal degree so she can advocate on behalf of families and communities like her own. She is
10 precisely the type of lawyer that our profession desperately needs. If DACA were rescinded and Viri
11 were not able to obtain employment as an attorney, the years of training and preparation that Viri has
12 spent working to prepare to enter the legal field would be lost. Moreover, immigrant and low-income
13 communities—communities that are often in desperate need of legal services but are often unable to
14 obtain these services due to resource limitations—would be deprived of a rare advocate who is not only
15 capable and zealous, but has a deep and nuanced understanding of the concerns and perspectives of the
16 community derived from her own personal experiences.

17 I declare under penalty of perjury under the laws of the United States of America that the
18 foregoing is true and correct.

19 Executed on October 27, 2017, in Los Angeles, California.

20
21 
22 KATHRYN EIDMANN
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12 *her official capacity as President of the*
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Attorneys for Plaintiffs County of Santa Clara and
Service Employees International Union Local 521

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

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

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY and ELAINE DUKE, in her
official capacity as Acting Secretary of the
Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

DECLARATION OF KATHRYN ABRAMS

1 STATE OF CALIFORNIA, STATE OF
 2 MAINE, STATE OF MARYLAND, and
 STATE OF MINNESOTA.

3 Plaintiffs,

4 v.

5 U.S. DEPARTMENT OF HOMELAND
 SECURITY, ELAINE DUKE, in her official
 6 capacity as Acting Secretary of the Department
 of Homeland Security, and the UNITED
 7 STATES OF AMERICA,

8 Defendants.

CASE NO. 17-CV-05235-WILA

9 CITY OF SAN JOSE, a municipal corporation,

10 Plaintiffs,

11 v.

12 DONALD J. TRUMP, President of the United
 States, in his official capacity, ELAINE C.
 13 DUKE, in her official capacity, and the
 UNITED STATES OF AMERICA,

14 Defendants.

CASE NO. 17-CV-05329-WILA

15 DULCE GARCIA, MIRIAM GONZALEZ
 16 AVILA, SALL JIMENEZ SUAREZ,
 VIRIDIANA CILABOLLA MENDOZA,
 17 NORMA RAMIREZ, and JIRAYUT
 LATTHIVONGSKORN,

18 Plaintiffs,

19 v.

20 UNITED STATES OF AMERICA, DONALD
 21 J. TRUMP, in his official capacity as President
 of the United States, U.S. DEPARTMENT OF
 22 HOMELAND SECURITY, and ELAINE
 DUKE, in her official capacity as Acting
 23 Secretary of Homeland Security,

24 Defendants.

CASE NO. 17-CV-05380-WHA

1 COUNTY OF SANTA CLARA and
2 SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

3 Plaintiffs,

4 v.

5 DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
6 BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
7 States; ELAINE DUKE, in her official
capacity as Acting Secretary of the Department
8 of Homeland Security; and U.S.
DEPARTMENT OF HOMELAND
9 SECURITY,

10 Defendants.

CASE NO. 17-CV-05813-WIA

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1 I, KATHRYN ABRAMS, DECLARE:

2 1. I am a professor of law at the University of California Berkeley ("UC Berkeley"). The
3 matters set forth herein are true and correct of my own personal knowledge and, if called as a witness, I
4 could and would testify competently thereto.

5 2. I have been a professor of law since 1985 and a professor at UC Berkeley for sixteen
6 years. My research includes examination of dissident and performative citizenship in the undocumented
7 immigrants' rights movement, feminist jurisprudence, voting rights and constitutional law. I teach
8 several classes at UC Berkeley, presently including *Law and Social Change: The Immigrant Rights*
9 *Movement* and *Constitutional Law*. My primary research project right now is regarding the mobilization
10 of the immigrants' rights movement in Arizona, and in conjunction with this I have collaborated with
11 undergraduate students through the Undergrad Research Apprenticeship Program ("URAP").

12 3. I am currently working with Joel Sati, a Deferred Action for Childhood Arrivals
13 ("DACA")-recipient student. I first met Joel Sati during the Berkeley JSD admitted students' day. He
14 was a much sought after, promising candidate with an already distinguished academic record.

15
16 **Joel's Significant Contributions to My Class at UC Berkeley**

17 4. Joel is now my Graduate Student Instructor ("GSI") for the course *Law and Social*
18 *Change: The Immigrant Rights Movement*. Our class meets once a week for three hours for
19 approximately 13 weeks during the semester. It includes about 20 students in their second through fourth
20 years of college at UC Berkeley.

21 5. This fall my father became seriously ill, and I had to leave Berkeley to care for him in
22 Michigan. This posed a serious challenge for delivering my classes as scheduled. I spoke to the Director
23 of Legal Studies, and we decided I would work with several graduate students who could assist with the
24 development of and support for the *Law and Social Change: The Immigrant Rights Movement* course.

25 6. I worked with Joel and another graduate student to prepare a lecture on the history of
26 DACA and the modern immigrations rights movement, which they were scheduled to co-deliver without
27 me. The night before the lecture, the other grad student unexpectedly dropped the commitment to teach
28 the class. This left me in a difficult position, but Joel immediately stepped up to help. I taught the first

1 hour of class that the other graduate student was supposed to cover, then Joel taught the remaining two
2 hours of the class by himself. He successfully led the students in a discussion of early DREAM Act
3 legislation, including analysis of the legislation, elements of narratives invoked by DREAMERS, and the
4 pros and cons of these narrative choices that were used to appeal to legislators. As Joel explains so
5 eloquently, by focusing on the exceptional characteristics of certain DREAMERS, the narrative in
6 support of this type of legislation excluded other undocumented immigrants from legitimacy in the eyes
7 of the public and from the dialogue on broader immigration reform in the United States.

8 7. The following week, I checked-in with students on their lecture and discussions with
9 Joel. The students were deeply impressed by Joel's ability to bring the narrative complexity and
10 discussion to life. His experiences as an activist in the immigrants' rights movement—for example,
11 campaigning for the Maryland DREAM Act—were crucial to the class's understanding. Joel conveys
12 his personal narrative in a uniquely compelling way to students. I think the students found his class
13 discussions so meaningful because they can identify with Joel as a peer and role model, who is so
14 accomplished for his age and yet so similar to them. His first-hand perspective is invaluable.

15 8. Joel's perspective is incredibly unique and important not just for my class, but to our
16 entire field of study. He has a highly unusual trifecta of experience: he has a first-hand understanding of
17 what it means to be personally at risk and affected by immigration status; he has actively participated in
18 shaping legal rights for immigrants; and he is a distinguished scholar in citizenship theory. I study
19 individuals like Joel who are part of the movement, but I am not on the front lines myself, nor am I
20 personally an at-risk immigrant. I have never had the opportunity to co-teach with anyone that has Joel's
21 experiences before. Joel's unique background enables him to act as an essential bridge between the on-
22 the-ground immigrants' rights movements and broader academic theories of citizenship.

23
24 **Harms to Joel, UC Berkeley and Myself from the DACA Rescission**

25 9. Not having Joel at UC Berkeley would be like losing a unique, bilingual language
26 speaker: Joel has the rare gift of speaking the immigrants' rights movement language and the language
27 of academia. I understand Joel is applying to law school, which will add a further layer of special
28 expertise to his research, making his perspective even more invaluable to the field.

1 10. Joel's work for me is particularly impressive given that he is already acting as a full-time
2 GSI for another class with Professor Sarah Song. It is unusual to serve as a GSI for more than one class.
3 It is even more unusual to take on the significant role of leading lectures and discussion as Joel has done
4 for my class, particularly for a student, like Joel, who is just starting the second year of a Ph.D.

5 11. Joel's GSI position with my class requires employment authorization. Without DACA
6 employment authorization, Joel will lose his GSI job. This would be a great loss for Joel and for me, as
7 well as for the students in our class and for UC Berkeley, because of the rescission of the DACA policy.

8 12. Joel's ability to continue in his academic career is also jeopardized by the rescission of
9 the DACA policy. The rescission has produced immediate harm to Joel. He was denied advance parole
10 to attend prestigious academic conferences in Malta and Germany this fall because of the rescission of
11 the DACA policy. It is vital for graduate students to attend such conferences in order to meet their peers
12 and leading academics in their field and learn how to present their work. This is even more so in Joel's
13 field of the international study of citizenship and migration, which by its nature necessitates
14 international study and connections. The inability to travel internationally is a serious impediment to
15 Joel's career. The rescission of DACA is a huge impediment to Joel establishing his academic profile
16 and becoming the significant scholar that he is poised to be and has invested in becoming.

17 13. I have also engaged with other DACA recipient students who have provided meaningful
18 insight and value to my academic research. For example, I collaborated with another DACA-recipient
19 undergraduate student in conjunction with URAP, and in that role she helped me to understand the
20 reluctance of undocumented populations to confront the mental health challenges engendered by the
21 often precarious day-to-day uncertainty of their lives. Discussions with this student informed the
22 questions that I asked in my later study of emotional strategies used in Arizona's immigrants' rights
23 movements. This helped me to focus my attention on a specific project in Arizona that uses art to help
24 undocumented persons heal from their experiences and provide them with tools to address their
25 emotional trauma. I will be publishing a book on my Arizona research that will include examination of
26 this approach to art and trauma for undocumented immigrants. I relied on DACA students' perspectives
27 for this project, and they are the best-situated to assist with my research and framing for this book as I
28

1 continue writing it. The rescission of the DACA policy means likely losing the contributions of these
2 DACA students and their unique, firsthand insights that enrich my research at Berkeley.

3 I declare under penalty of perjury under the laws of the United States that the foregoing is true
4 and correct.

5 Executed on October 25, 2017 in Berkeley, California.

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KATHRYN ABRAMS

EXHIBIT II

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JIRAYUT LATTHIVONGSKORN

13 *[Additional Counsel Listed on Next Page]*

14
15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**
17 **SAN FRANCISCO DIVISION**

18 DULCE GARCIA, MIRIAM GONZALEZ
19 AVILA, SAUL JIMENEZ SUAREZ,
VIRIDIANA CHABOLLA MENDOZA,
20 NORMA RAMIREZ, and JIRAYUT
LATTHIVONGSKORN,

21 Plaintiffs,

22 v.

23 UNITED STATES OF AMERICA;
DONALD J. TRUMP, in his official capacity
24 as President of the United States; U.S.
DEPARTMENT OF HOMELAND
25 SECURITY; and ELAINE DUKE, in her
official capacity as Acting Secretary of
26 Homeland Security,

27 Defendants.

CASE NO. 17-CV-05380-WHA

DECLARATION OF PAMELA BECKWITH

Action Filed: September 18, 2017

Hon. William H. Alsup

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DECLARATION OF PAMELA BECKWITH

I, PAMELA BECKWITH, declare as follows:

1. I am the Human Resources Manager at Public Counsel. I have been in this position since August, 2006.

2. In my role as Human Resources Manager, I oversee Public Counsel's compliance with employment-related legal requirements and supervise the onboarding of new employees, and am responsible for verifying employment eligibility for individuals who work at Public Counsel.

3. In order to be in compliance with federal law, Public Counsel verifies identity and work authorization for each person it hires by using the Form I-9. I ensure proper completion of the Form I-9 for each individual Public Counsel hires. In connection with this process, an employee must attest to his or her employment authorization and present acceptable documents that evidence identity and employment authorization.

4. Public Counsel is unable to hire immigrants who do not have the necessary documentation to satisfy the requirements set out in the Form I-9.

5. Viridiana Chabolla worked at Public Counsel from May 2013 to July 2017.

6. I ensured that Ms. Chabolla satisfactorily completed a Form I-9 in connection with her employment at Public Counsel. In order to complete her form I-9, Ms. Chabolla presented her employment authorization card. She also presented her renewed employment authorization cards in 2014 and 2016 to be eligible to continue working at Public Counsel. Attached as Exhibit "A" is Ms. Chabolla's I-9 form, which includes copies of her employment authorization cards.

7. It is my understanding that Ms. Chabolla has a social security number and Employment Authorization Document because she is a DACA recipient. Without documents verifying her work eligibility, she would not have been able to complete the Form I-9 and Public Counsel would not have been able to hire her.

8. If Ms. Chabolla were to lose her work authorization through DACA and did not have other means of establishing her eligibility to work in the United States, Public Counsel would be unable to hire her in the future.

1 I declare under penalty of perjury under the laws of the United States of America that the foregoing is
2 true and correct.

3
4 Executed on October 26, 2017, in Los Angeles, California.

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7 PAMELA BECKWITH

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EXHIBIT A



Employment Eligibility Verification
 Department of Homeland Security
 U.S. Citizenship and Immigration Services

**USCIS
 Form I-9**
 OMB No. 1615-0047
 Expires 03/31/2016

► **START HERE.** Read instructions carefully before completing this form. The instructions must be available during completion of this form.
ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work-authorized individuals. Employers **CANNOT** specify which document(s) they will accept from an employee. The refusal to hire an individual because the documentation presented has a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Attestation (Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.)

Last Name (Family Name) <i>Chabella-Mendoza</i>		First Name (Given Name) <i>Viridiana</i>		Middle Initial <i>S</i>	Other Names Used (if any) <i>Viridiana Chabolla</i>	
Address (Street Number and Name) [REDACTED]			Apt. Number [REDACTED]	City or Town [REDACTED]	State [REDACTED]	Zip Code [REDACTED]
Date of Birth (mm/dd/yyyy) [REDACTED]	U.S. Social Security Number [REDACTED]	E-mail Address [REDACTED]			Telephone Number [REDACTED]	

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I attest, under penalty of perjury, that I am (check one of the following):

- A citizen of the United States
- A noncitizen national of the United States (See instructions)
- A lawful permanent resident (Alien Registration Number/USCIS Number): _____
- An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy) 12/6/2014. Some aliens may write "N/A" in this field. (See instructions)

For aliens authorized to work, provide your Alien Registration Number/USCIS Number OR Form I-94 Admission Number:

1. Alien Registration Number/USCIS Number: [REDACTED]

OR

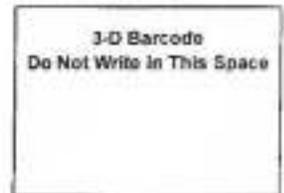
2. Form I-94 Admission Number: _____

If you obtained your admission number from CBP in connection with your arrival in the United States, include the following:

Foreign Passport Number: _____

Country of Issuance: _____

Some aliens may write "N/A" on the Foreign Passport Number and Country of Issuance fields. (See instructions)



Signature of Employee: <i>Viridiana Chabolla</i>	Date (mm/dd/yyyy): <i>05/29/2013</i>
--	--------------------------------------

Preparer and/or Translator Certification (To be completed and signed if Section 1 is prepared by a person other than the employee.)

I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.

Signature of Preparer or Translator:			Date (mm/dd/yyyy):		
Last Name (Family Name)			First Name (Given Name)		
Address (Street Number and Name)		City or Town	State	Zip Code	

STOP *Employer Completes Next Page* STOP

Section 2. Employer or Authorized Representative Review and Verification

(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR examine a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents" on the next page of this form. For each document you review, record the following information: document title, issuing authority, document number, and expiration date, if any.)

Employee Last Name, First Name and Middle Initial from Section 1:

List A Identity and Employment Authorization	OR	List B Identity	AND	List C Employment Authorization
Document Title: Employment Authorization Card		Document Title:		Document Title:
Issuing Authority: U.S. Citizenship & Imm. Services		Issuing Authority:		Issuing Authority:
Document Number: [REDACTED]		Document Number:		Document Number:
Expiration Date (if any) (mm/dd/yyyy): 12/06/2014		Expiration Date (if any) (mm/dd/yyyy):		Expiration Date (if any) (mm/dd/yyyy):
Document Title:				
Issuing Authority:				
Document Number:				
Expiration Date (if any) (mm/dd/yyyy):				
Document Title:				
Issuing Authority:				
Document Number:				
Expiration Date (if any) (mm/dd/yyyy):				

3-D Barcode
Do Not Write in This Space

Certification

I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.

The employee's first day of employment (mm/dd/yyyy): **05/28/2013** (See instructions for exemptions.)

Signature of Employer or Authorized Representative: <i>Pamela Beckwith</i>	Date (mm/dd/yyyy): 05/29/2013	Title of Employer or Authorized Representative: Human Resources Manager	
Last Name (Family Name): Beckwith	First Name (Given Name): Pamela	Employer's Business or Organization Name: Public Counsel	
Employer's Business or Organization Address (Street Number and Name): 610 S. Ardmore Avenue	City or Town: Los Angeles	State: CA	Zip Code: 90005

Section 3. Reverification and Rehires (To be completed and signed by employer or authorized representative.)

A. New Name (if applicable) Last Name (Family Name) First Name (Given Name) Middle Initial	B. Date of Rehire (if applicable) (mm/dd/yyyy):
--	---

C. If employee's previous grant of employment authorization has expired, provide the information for the document from List A or List C the employee presented that establishes current employment authorization in the space provided below.

Document Title: EMPLOYMENT AUTHORIZATION CARD	Document Number: [REDACTED]	Expiration Date (if any) (mm/dd/yyyy): 10/30/2016
---	--------------------------------	---

I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative: <i>Pamela Beckwith</i>	Date (mm/dd/yyyy): 11/17/2014	Print Name of Employer or Authorized Representative: PAMELA BECKWITH
---	---	--

* SEE ATTACHED REVERIFICATION - 10/05/2018

CHABOLLA MENDOZA [REDACTED] **CHABOLLA MENDOZA**
Given Name: **VIRIDIANA S**
EYES [REDACTED] Category Code [REDACTED]
Country of Birth: [REDACTED]
MAY 1988
Terms and Conditions: [REDACTED]
Race: [REDACTED]
Date of Birth: [REDACTED] Sex: **F**
Valid From: **12/07/12**
Card Expires: **12/06/14**
NOT VALID FOR REENTRY TO U.S.



Viridiana S. Chabollla Mendoza

21500660



U.S. Citizenship
and Immigration
Services

This card is not evidence of U.S. citizenship or permanent residence.
This document is valid if allowed, and may be received by the U.S. Government.
This person identified is authorized to work in the U.S. for the validity of this card.

FORM I-945 (04/2015)

U.S. DEPARTMENT OF HOMELAND SECURITY



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LAUSA

Section 2. Employer or Authorized Representative Review and Verification

(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR examine a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents" on the next page of this form. For each document you review, record the following information: document title, issuing authority, document number, and expiration date, if any.)

Employee Last Name, First Name and Middle Initial from Section 1: CHABOLLA MENDOZA, VIRIDIANA S.

List A Identity and Employment Authorization	OR	List B Identity	AND	List C Employment Authorization
Document Title:		Document Title:		Document Title:
Issuing Authority:		Issuing Authority:		Issuing Authority:
Document Number:		Document Number:		Document Number:
Expiration Date (if any)(mm/dd/yyyy):		Expiration Date (if any)(mm/dd/yyyy):		Expiration Date (if any)(mm/dd/yyyy):
Document Title:				
Issuing Authority:				
Document Number:				
Expiration Date (if any)(mm/dd/yyyy):				
Document Title:				
Issuing Authority:				
Document Number:				
Expiration Date (if any)(mm/dd/yyyy):				

3-D Barcode
Do Not Write in This Space

Certification

I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.

The employee's first day of employment (mm/dd/yyyy): _____ (See instructions for exemptions.)

Signature of Employer or Authorized Representative:		Date (mm/dd/yyyy)	Title of Employer or Authorized Representative Human Resources Manager	
Last Name (Family Name) Beckwith	First Name (Given Name) Pamela	Employer's Business or Organization Name Public Counsel		
Employer's Business or Organization Address (Street Number and Name) 610 S. Ardmore Avenue		City or Town Los Angeles	State CA	Zip Code 90005

Section 3. Reverification and Rehires (To be completed and signed by employer or authorized representative.)

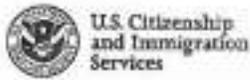
A. New Name (if applicable) Last Name (Family Name) First Name (Given Name) Middle Initial B. Date of Rehire (if applicable) (mm/dd/yyyy):

C. If employee's previous grant of employment authorization has expired, provide the information for the document from List A or List C the employee presented that establishes current employment authorization in the space provided below.

Document Title: <u>EMPLOYMENT AUTHORIZATION CARD</u>	Document Number: [REDACTED]	Expiration Date (if any)(mm/dd/yyyy): <u>10/05/15 to 2018</u>
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I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative: <u>Pamela Beckwith</u>	Date (mm/dd/yyyy): <u>10/27/2016</u>	Print Name of Employer or Authorized Representative: <u>PAMELA BECKWITH</u>
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A [REDACTED] K

EXHIBIT JJ

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28 *Latthivongskorn*

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Attorneys for Plaintiffs County of Santa Clara and
Service Employees International Union Local 521

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

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

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY and ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

DECLARATION OF BILL BLAZAR

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STATE OF CALIFORNIA, STATE OF MAINE, STATE OF MARYLAND, and STATE OF MINNESOTA,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05235-WHA

CITY OF SAN JOSE, a municipal corporation,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, ELAINE C. DUKE, in her official capacity, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05329-WHA

DULCE GARCIA, MIRIAM GONZALEZ AVILA, SAUL JIMENEZ SUAREZ, VIRIDIANA CHABOLLA MENDOZA, NORMA RAMIREZ, and JIRAYUT LATTHIVONGSKORN,

Plaintiffs,

v.

UNITED STATES OF AMERICA, DONALD J. TRUMP, in his official capacity as President of the United States, U.S. DEPARTMENT OF HOMELAND SECURITY, and ELAINE DUKE, in her official capacity as Acting Secretary of Homeland Security,

Defendants.

CASE NO. 17-CV-05380-WHA

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COUNTY OF SANTA CLARA and
SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
States; ELAINE DUKE, in her official
capacity as Acting Secretary of the Department
of Homeland Security; and U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

CASE NO. 17-CV-05813-WHA

1 I, BILL BLAZAR, declare:

2 1. My name is Bill Blazar. I am the Senior Vice President of Public Affairs and
3 Business Development for the Minnesota Chamber of Commerce. I have been employed with the
4 Chamber since 1992. The Chamber is Minnesota's largest business organization, representing more
5 than 2,300 businesses in Minnesota.

6 2. The growth rate of the Minnesota workforce is declining, due in part to shifting
7 demographics. Minnesota's workforce is aging and has insufficient natural growth to sustain the
8 development and expansion of Minnesota's economy. As a result, there is a shortage of skilled workers
9 in Minnesota.

10 3. Rescinding DACA will have an adverse impact on Minnesota businesses.
11 Nationwide, the Deferred Action for Childhood Arrivals (DACA) program allows nearly 800,000 young
12 people who were brought to the United States as children to work and study without the threat of
13 deportation. DACA has empowered a number of these residents to join the Minnesota workforce.
14 Many DACA recipients are employed by Minnesota businesses in a variety of fields. Depriving DACA
15 recipients of their work authorization will further exacerbate Minnesota's workforce shortage.

16 4. Minnesota businesses have hired and retained DACA recipients because of their
17 qualifications, skills, and contributions to their workforces. The rescission of DACA will cause DACA
18 recipients to lose their work authorization, resulting in Minnesota businesses losing the important skills
19 of these employees. Minnesota businesses will lose their investment of time and resources in their
20 DACA recipient employees and will incur expenses in hiring, training, and managing new employees.

21 5. Nationwide, DACA recipients contribute to the global competitive advantage of
22 the United States. DACA recipients help alleviate the shortage of skilled workers in Minnesota. The
23 rescission of DACA will harm some Minnesota businesses.

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I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on 24 October, 2017, in St. Paul, Minnesota.


BILL BLAZAR

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11 *University of California and Janet Napolitano, in*
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13 *University of California*

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21 *Chabolla Mendoza, Norma Ramirez, and Jirayut*
22 *Latthivongskorn*

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Attorneys for Plaintiffs County of Santa Clara and
Service Employees International Union Local 521

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

20 THE REGENTS OF THE UNIVERSITY OF
21 CALIFORNIA and JANET NAPOLITANO,
22 in her official capacity as President of the
23 University of California,

23 Plaintiffs,

24 v.

25 U.S. DEPARTMENT OF HOMELAND
26 SECURITY and ELAINE DUKE, in her
27 official capacity as Acting Secretary of the
28 Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

DECLARATION OF MIRIAM FELDBLUM

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STATE OF CALIFORNIA, STATE OF MAINE, STATE OF MARYLAND, and STATE OF MINNESOTA,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05235-WHA

CITY OF SAN JOSE, a municipal corporation,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, ELAINE C. DUKE, in her official capacity, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05329-WHA

DULCE GARCIA, MIRIAM GONZALEZ AVILA, SAUL JIMENEZ SUAREZ, VIRIDIANA CHABOLLA MENDOZA, NORMA RAMIREZ, and JIRAYUT LATTHIVONGSKORN,

Plaintiffs,

v.

UNITED STATES OF AMERICA, DONALD J. TRUMP, in his official capacity as President of the United States, U.S. DEPARTMENT OF HOMELAND SECURITY, and ELAINE DUKE, in her official capacity as Acting Secretary of Homeland Security,

Defendants.

CASE NO. 17-CV-05380-WHA

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COUNTY OF SANTA CLARA and
SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
States; ELAINE DUKE, in her official
capacity as Acting Secretary of the Department
of Homeland Security; and U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

CASE NO. 17-CV-05813-WHA

DECLARATION OF MIRIAM FELDBLUM

I, MIRIAM FELDBLUM, declare as follows:

1. I am the Vice President for Student Affairs and the Dean of Students at Pomona College. I am also a Politics professor and an immigration scholar. Located in Claremont, California, Pomona College is a highly selective, private liberal arts college that provides a comprehensive education in the liberal arts and sciences to a student body of about 1,650 undergraduates, awarding bachelor of arts and bachelor of science degrees to approximately 400 students each year. Since 2008, the college has fully reviewed undocumented students who graduate from a U.S. high school both for need-blind admission and for every type of private full-need financial aid the college offers.

2. I first met Ms. Viridiana Chabolla (“Viri”) during her first year at Pomona in 2009. As part of our practice at Pomona, we sought to reach out to undocumented students to let them know about the resources and support on campus. Viri was very engaged and committed, working with my colleagues and me about how best to support undocumented students on campus. Viri was also a student leader at Pomona, working in the Draper Center for Community Partnerships, and in student peer mentoring and campus organizations.

3. As a Politics professor and immigration scholar, I had the pleasure of hearing from Viri about her work as a sociology major. Over the four years I interacted with Viri, her skills and abilities grew in wonderful ways, and she matured impressively both as a student-scholar and leader. Her current accomplishments in law school and the community continue to impress me.

4. The challenges facing undocumented students prior to the advent of Deferred Action for Childhood Arrivals (DACA) were tremendous. Prior to DACA, undocumented students at Pomona faced significant barriers to fully take advantage of their education, find support on and off campus, and as importantly, to contribute back to their community.

5. Prior to DACA, undocumented students at Pomona had no access to employment on campus, even as many student employment positions are key student leadership and educational opportunities that foster students’ skills, abilities, and talents. These positions include resident advisor, research assistant, program assistant, head mentor positions, and so on. While Viri was a student at Pomona, we worked with her and other undocumented students to identify student leadership

1 opportunities that they could pursue that did not require work authorization. While we worked over the
2 years to identify and develop potential experiential learning fellowship positions that were not
3 employment based positions, these opportunities were very limited, as they could not be in service to the
4 College, faculty, staff, or other students, and they must incorporate specific kinds of educational
5 components.

6 6. Undocumented students at Pomona and elsewhere were also unable to participate in
7 Study Abroad, which is integral to the undergraduate educational experience, and required, in fact, for
8 some majors. While we worked with students and faculty to identify alternative domestic programs or
9 provide waivers from a study abroad requirement in certain majors, the inability to go abroad for
10 educational reasons detracted from the liberal arts educational experience for these students.

11 7. Overall, while Pomona College treated undocumented students as domestic students for
12 the purposes of admission and institutional financial aid, undocumented students on our campus still
13 faced numerous challenges both on and off campus. Beyond issues of employment and academic
14 opportunities, undocumented students at Pomona were not sure they could trust us with information
15 regarding their status, or who they should go to with questions about financial issues, academic
16 concerns, or family situations that were related to their status. Off-campus, undocumented Pomona
17 students faced numerous barriers as well, including lack of drivers' licenses or official state-issued
18 identification cards, inability to access federal or state financial aid, and so on. Undocumented students
19 at Pomona came from across the country, and so many also had to travel domestically to get to and from
20 home. These students were worried about immigration enforcement for themselves and their families.

21 8. As a student at Pomona before she received DACA, Viri faced all these significant
22 challenges. And, even as a student, Viri was also very involved in helping us at the college identify the
23 ways in which we could provide effective support for the growing numbers of undocumented students
24 on our campus.

25 9. Prior to the advent of DACA, we worked with Viri and other students to develop support
26 for undocumented students in terms of policy, people, practices, and programs. As noted above, a
27 foundational part of the College's support has been our policy in place since 2008, to treat
28 undocumented students as domestic students for the purposes of admission and financial aid. However,

1 in listening to and working with our undocumented students, we recognized that access to campus was
2 only one component of the support that students needed to thrive and succeed at Pomona. Other key
3 components included: (1) identifying key staff members and faculty advisors to provide direct support to
4 students, and who could serve as links to a student support network and other kinds of outreach; (2)
5 providing program funding for the student support network and peer mentoring; (3) training staff and
6 providing consultation for faculty on how to support undocumented students, including providing
7 historical and policy contexts; (4) developing non-employment based opportunities for leadership and
8 learning opportunities; and (5) identifying emergency grant funding for student needs.

9 10. Overall, we worked to develop a proactive, visible network of support, programs, and
10 funding for undocumented students on campus, and moved away from a “don’t ask, don’t tell”
11 approach. At the same time, we were also very mindful of the need to safeguard student privacy and
12 confidentiality.

13 11. Because of our extensive work with undocumented students prior to the advent of
14 DACA, Pomona College is well positioned to comment on the already powerful benefits of DACA for
15 Viri, and other college students, as well as the devastating impact that the termination of the program
16 has already had and will certainly continue to have unless something is done. Approximately 4% of the
17 Pomona undergraduate population is “DACAmended” or undocumented, with the vast majority of
18 students being DACA recipients.

19 12. As DACA recipients, we have witnessed numerous Pomona College students who have
20 now been able to further their educational experiences through study abroad, research assistantships, job
21 opportunities, internships, and work on campus as student leaders, future scholars and leaders of our
22 communities. Pomona College alumni, who are DACA recipients, have gone on to medical school,
23 teaching and graduate school, as well as work in the high tech industry, business and community
24 organizations. Viri’s incredible success as a law student, as well as her work in the community, are a
25 testament to her potential as a future leader and societal contributor.

26 13. DACA transformed the daily lives of our undocumented students, including through
27 employment on campus as resident advisors, research assistants, head mentors, tutors, and more, the
28 ability to go on Study Abroad, work in community-based organizations, and to travel to conferences and

1 research or job opportunities during the academic year and summer, all without the fear of deportation.
2 Our undocumented students were able to receive drivers' licenses, which also opened up additional
3 opportunities. While DACAmented students continued to face challenges on and off campus, the level
4 of anxiety among these students significantly decreased, and many of them engaged in long-term
5 planning. In the past five years, among Pomona College DACAmented students and alumni, many have
6 pursued and received outstanding job offers across many different industries and graduate school
7 acceptances (academic fields, law, and medicine), which in turn, have helped them to provide for their
8 families and start to build for their future. Almost without exception, all these students and alumni have
9 also been very engaged in the community, looking to pay it forward, and to contribute to supporting
10 others and the communities in which they live.

11 14. With the new changes in interior enforcement since January 2017, and the announcement
12 of the rescinding of DACA in September 2017, life has once again changed for our students and alumni
13 who are DACA recipients – this time in devastating ways. From deteriorating emotional wellbeing to
14 reporting grave concerns about family members, from losing access to go on study abroad to the
15 diminishment and precariousness of future work and life prospects, our students and alumni have been
16 gravely harmed by the rescinding of DACA.

17 15. Since the termination of DACA earlier this year, I have had the opportunity to speak with
18 Viri, other alumni and many of our current students like Viri about how they are feeling. In a gathering
19 of our DACAmented and undocumented students after the announcement on September 5, students
20 expressed deep fear, anxiety, numbness, uncertainty, and concern. The termination has devastated those
21 students who are DACA recipients. They are scared about what their futures hold, and uncertain about
22 whether they will be able to continue their schooling or continue on to the dream jobs that they all are
23 striving for. The fear and stress have manifested itself as depression and increased anxiety in many of
24 our students, and has impacted their ability to excel in school as they did before. The impacts of the
25 termination are already palpable on campus and, unless it is stopped, the harm to these students and our
26 campus generally will be irreparable.

27 16. In an September 5, 2017 op-ed piece for *USA Today*, Victor Cuicahua, a senior history
28 major at Pomona College who grew up in Alabama, where he was a co-founder of the Immigrant Youth

1 Leadership Initiative of Alabama, wrote eloquently about what the loss of the DACA means to him
2 personally: “DACA changed everything. It allowed me to work in cramped restaurant kitchens across
3 Birmingham for 60 hours a week to save for an education that was expensive but no longer inaccessible.
4 It allowed me to become the first undocumented student at the University of Alabama, from which I
5 later transferred to one of the best colleges in the country. It allowed me to imagine returning to
6 Alabama as a history teacher after graduation, ready to serve a future generation of students. But the
7 rescindment of DACA closes the door to a classroom I had hoped to enter for years.”

8 17. While the College continues to provide emergency grant funding for students, and has
9 developed a pro-bono legal resource network for students, alumni, and their families along with other
10 resources, the winding down of DACA is forcing our students and alumni back into a precarious
11 “limbo” as Roberto Gonzales describes in his 2015 book on undocumented immigrant youth. In a letter
12 written to other college and university presidents, our current President Gabi Starr and President
13 Emeritus David Oxtoby wrote: “Ending DACA means that these young people – Americans in all but
14 legal status – will be vulnerable to deportation,” said Starr and Oxtoby. “They will lose their ability to
15 contribute fully to our campuses, to our communities and to our country. Their loss, and that of other
16 undocumented young people, is fundamentally our country’s loss.” We at Pomona are very proud to
17 support Viri Chabolla, a student leader while she was on campus, and now, an inspiring community
18 leader.

19
20 I declare under penalty of perjury under the laws of the United States of America that the
21 foregoing is true and correct.

22 Executed on October 30, 2017, in Claremont, California.

23
24 

25 MIRIAM FELDBLUM

EXHIBIT LL

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY and ELAINE DUKE, in her
official capacity as Acting Secretary of the
Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

DECLARATION OF NORBERTO DUENAS

Date: December 20, 2017
Time: 8:00 a.m.
Judge: Honorable William Alsup
Dept.: Courtroom 8

Complaint Filed: September 14, 2017
Trial Date: February 05, 2018

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STATE OF CALIFORNIA, STATE OF
MAINE, STATE OF MARYLAND, and
STATE OF MINNESOTA,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY, ELAINE DUKE, in her official
capacity as Acting Secretary of the Department
of Homeland Security, and the UNITED
STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05235-WHA

CITY OF SAN JOSE, a municipal corporation,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United
States, in his official capacity, ELAINE C.
DUKE, in her official capacity, and the
UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05329-WHA

DULCE GARCIA, MIRIAM GONZALEZ
AVILA, SAUL JIMENEZ SUAREZ,
VIRIDIANA CHABOLLA MENDOZA,
NORMA RAMIREZ, and JIRAYUT
LATTHIVONGSKORN,

Plaintiffs,

v.

UNITED STATES OF AMERICA, DONALD
J. TRUMP, in his official capacity as President
of the United States, U.S. DEPARTMENT OF
HOMELAND SECURITY, and ELAINE
DUKE, in her official capacity as Acting
Secretary of Homeland Security,

Defendants.

CASE NO. 17-CV-05380-WHA

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COUNTY OF SANTA CLARA and
SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
States; ELAINE DUKE, in her official
capacity as Acting Secretary of the Department
of Homeland Security; and U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

CASE NO. 17-CV-05813-WHA

I, **NORBERTO DUENAS**, declare and state as follows:

1. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, could and would testify competently thereto.

2. I was the City Manager of the City of San Jose, California (“San Jose”) from 2015 until October 2017. I began my career in public service in 1984 as an intern, before ultimately taking on a variety of roles over my 33 years of rising through the ranks of city government. Prior to my current position, I attended San Jose State University for both my bachelor’s in political science and master’s in public administration.

3. My experience as a Cuban refugee and international upbringing, along with my decades of educational and administrative experience in San Jose, have singularly enabled me act as a link between the immigrant community and the City. It has been my judgment based on the many projects I have overseen during my tenure that our employees’ collaborative spirit and dedication to public service are what have most contributed to our City’s successes and achievements. This same collaborative spirit and dedication has served us well during the good as well as the challenging times.

4. San Jose is the third largest city in California, the tenth largest city in the United States, and one of the most racially diverse cities in California. Immigrants from all over the world have come to San Jose. On its website, San Jose has a Fact Sheet that provides important information about the

1 city. Attached hereto as Exhibit A is a true and correct copy of the Fact Sheet, which can also be found
2 at <http://www.sanjoseca.gov/DocumentCenter/View/780>.

3 5. San Jose is extremely diverse, with recent immigrants making up nearly 40% of its
4 population. Immigrants contribute an estimated \$77 billion to the economy of Santa Clara County as a
5 whole. Of these immigrants, it is estimated that at least 77,000 are either eligible for or have received the
6 benefits of the DACA program.

7 6. San Jose has made it a central mission to aid these DACA recipients, and to foster full
8 participation among them in our community. Consistent with that, the City Council authorized the
9 creation of an Office of Immigrant Affairs to coordinate responses upon the advent of DACA. The
10 following is a sample of the City's dedication to and dependence on immigration communities within its
11 borders:

- 12 a. In September 2016, the Mayor and City Council adopted a "Welcoming San Jose"
13 Resolution that described guiding principles for making San Jose a more welcoming
14 and inclusive place for all residents. Afterward, the Office of Immigrant Affairs
15 developed a three-year immigrant integration plan.
- 16 b. Also in 2016, the City of San Jose became a member of Welcoming America, a
17 national organization leading the movement to create more inclusive communities.
- 18 c. San Jose partnered thereafter with the White House's Building Welcoming
19 Communities Campaign and Cities United for Action. As a result of active
20 participation in these networks and successful progress made on developing the Plan,
21 San Jose has benefitted from national attention on the issue of immigration.
- 22 d. The White House selected ten cities to co-host a convening to discuss immigrant
23 integration strategies, and San Jose was one of the cities honored with the
24 opportunity.
- 25 e. San Jose's Office of Immigrant Affairs is a recipient of the "Gateways for Growth
26 Challenge" grant from the Partnership for a New American Economy. This grant
27 provides the Office a research brief with data on local immigrants.

28

1 7. In order to properly serve its residents, San Jose must have employees who are fluent in
2 languages other than English, and who are sensitive to the different cultures and backgrounds of its
3 residents. This is especially true when San Jose experiences a disaster: it is critical to have city
4 employees who can communicate with the affected residents and understand the residents' immediate
5 needs. We were again reminded of this all too powerfully during recent flooding events, when the
6 language and cultural skills unique to DACA recipients were in short supply.

7 8. Finding qualified employees is always difficult for municipalities, but it is particularly
8 challenging for San Jose because of competition with Silicon Valley companies. San Jose has not been
9 able to hire all the qualified employees that it needs. As the Fact Sheet, Exhibit A, confirms, Silicon
10 Valley employers like Cisco Systems, eBay, PayPal, IBM Corporation, Adobe Systems, and Kaiser
11 Permanente hire thousands of San Jose residents as employees. Luckily, unemployment in San Jose is
12 low. It is therefore important for San Jose and the companies in the Silicon Valley to have as many
13 potential employees as possible.

14 9. As a result of the enactment of DACA (Deferred Action for Childhood Arrivals) in June
15 of 2012, the employment pool for San Jose and Silicon Valley companies increased. San Jose does not
16 ask about immigration status on its employment applications; therefore, it cannot quantify the number of
17 DACA recipients who work for the City of San Jose. However, there is no question that San Jose has
18 benefited by being able to hire DACA recipients because the pool of qualified applicants has increased.

19 10. Under federal regulations, employees who begin work are required to demonstrate that
20 they have authorization to work in the United States. If DACA is rescinded, San Jose would have to
21 take steps to make sure that all of its employees have valid authorization to continue working. If DACA
22 is rescinded, San Jose will not be able to retain as employees anyone who is not authorized to work.

23 11. The loss of even one San Jose employee because of the rescission of DACA will hurt San
24 Jose, not to mention the individual employee, because San Jose spends time and resources to train
25 employees. San Jose has spent particular resources for training and outreach related to the DACA
26 program. Moreover, the experience that employees gain in their jobs is invaluable in the provision of
27 critical City services.

28

1 12. I speak to community leaders and residents on a regular basis as part of my job duties.
2 Since President Trump's election, there has been fear in the immigrant community that his
3 administration would start mass deportations, especially of people of Mexican heritage. After the
4 announcement that DACA would be rescinded, that fear and anxiety has increased. It is not only fear
5 and anxiety by DACA recipients, but also their families and the entire immigrant community. Not only
6 with DACA's rescission harm San Jose's workforce, but based upon projections I have reviewed, San
7 Jose stands to lose tax revenues if DACA is rescinded.

8 13. DACA's recession will result in direct harm to our city residents insofar as it would result
9 in the City's losing employees. The residents would lose critical services at a time when we are already
10 stretched thin with hundreds of vacancies at City Hall. The City would suffer tangible losses from
11 DACA's rescission given the significant services, work product, and taxes that these employees
12 currently contribute.

13 14. As an immigrant to the United States myself, I have a deep and personal appreciation of
14 the challenges of joining a new society, the opportunities that exist in America, and the contributions
15 that immigrants make that enrich our communities. I also have profound respect for the courage and
16 talents of immigrants to our community, for I know it is not an easy transition. The City of San Jose
17 understands that our neighborhoods and our businesses gain so much from what immigrants bring: their
18 energy, their skills, and their perspectives that strengthen the vitality of our city.

19 I declare under the penalty of perjury under the laws of the United States that the foregoing is
20 true and correct and that this declaration was executed on October 27 2017 at San Jose,
21 California.

22
23 
24 NORBERTO DUENAS

EXHIBIT A



FACT SHEET: HISTORY & GEOGRAPHY

Department of Planning, Building & Code Enforcement, Planning Division

HISTORIC ORIGIN

FOUNDED:

November 29, 1777 (as Pueblo de San Jose, California's first civilian settlement)

INCORPORATED:

March 27, 1850 (as City of San Jose)



Downtown San Jose, Circa 1950

TERRITORY

Incorporated area – 180.2 square miles



Downtown San Jose, 2000

GEOGRAPHIC DATA

COORDINATES:

Longitude: -121.89

Latitude: 37.33

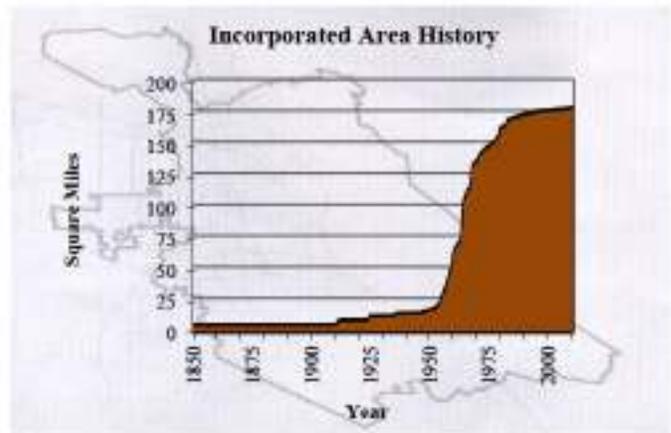
(at Cesar Chavez Plaza, Downtown)

ELEVATION

Minimum: Sea level (Alviso)

Maximum: 4,372'

(Copernicus Peak, near Lick Observatory at Mt. Hamilton)





FACT SHEET: DEMOGRAPHICS

Department of Planning, Building & Code Enforcement, Planning Division

POPULATION FACTS

San Jose is the:

- Largest City in the nine-County Bay Area
- 3rd Largest City in California
- 10th Largest City in the United States

POPULATION HISTORY

Year	Number of Persons
1777	66
1850	4,000
1900	21,500
1950	95,280
1960	204,196
1970	459,913
1980	629,442
1990	782,248
2000	894,943
2010	945,942
2016	1,042,094

Source: US Census Bureau, California Department of Finance

AGE COMPOSITION

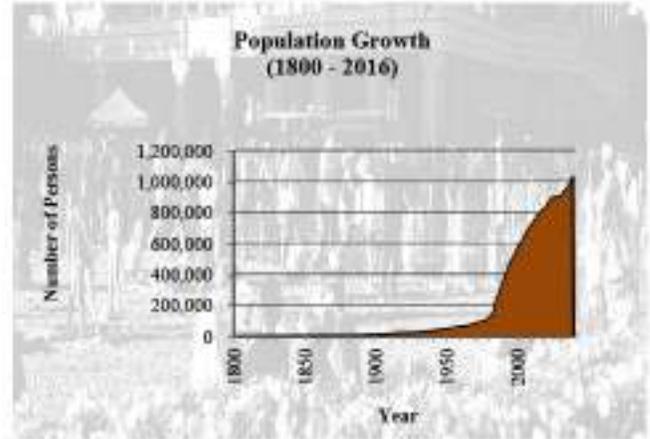
Age Groups	% of Total
Under 18 years	23.4%
18-24 years	9.4%
25-44 years	30.1%
45-64 years	25.4%
65 and over years	11.7%
Median Age	36.5 years

Source: US Census Bureau, American Community Survey, 2014

LANGUAGE SPOKEN AT HOME

Language	% of Total
English	43.2%
Spanish	23.5%
Asian/Pac. Is.	25.6%
Other	7.7%

Source: US Census Bureau, American Community Survey, 2014



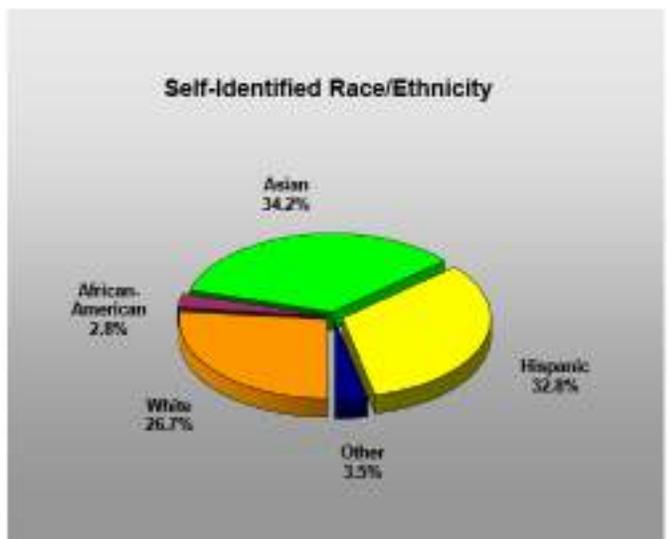
Source: City of San Jose

HOUSEHOLD SIZE

Year	Number of Households	Persons Per Household
1970	130,607	3.35
1980	218,177	2.96
1990	250,135	3.08
2000	276,598	3.20
2010	301,366	3.09
2014	312,227	3.21

Source: US Census Bureau, California Department of Finance

RACIAL COMPOSITION



Source: US Census Bureau, American Community Survey, 2014

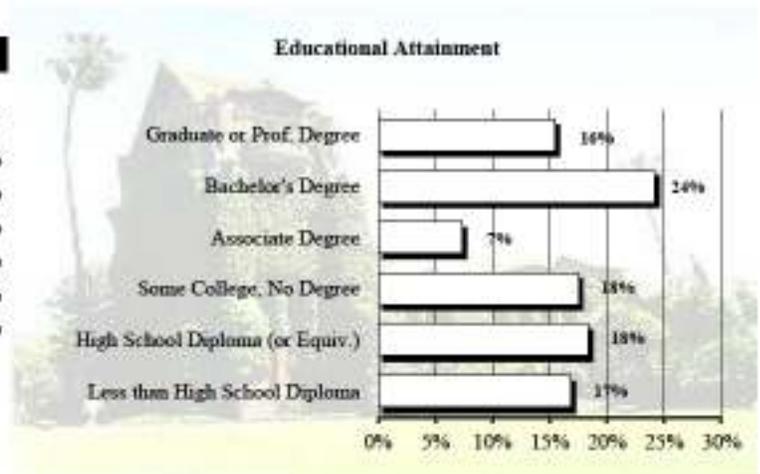


FACT SHEET: EDUCATION

Department of Planning, Building & Code Enforcement, Planning Division

EDUCATIONAL ATTAINMENT

	<i>Percent</i>
Graduate or Prof. Degree	16%
Bachelor's Degree	24%
Associate Degree	7%
Some College, No Degree	18%
High School Diploma (or Equiv.)	18%
Less than High School Diploma	17%



Source: US Census Bureau, American Community Survey, 2014

EDUCATIONAL FACILITIES

PRIMARY AND SECONDARY SCHOOL DISTRICTS

Alum Rock Union Elementary School District
 Berryessa Union Elementary School District
 Cambrian School District
 Campbell Union Elementary School District
 Campbell Union High School District
 Cupertino Union School District
 East Side Union High School District
 Evergreen School District

Franklin-McKinley School District
 Fremont Union High School District
 Luther Burbank School District
 Moreland School District
 Mount Pleasant School District
 Oak Grove Elementary School District
 Orchard School District
 Union Elementary School District

UNIFIED SCHOOL DISTRICTS

Morgan Hill Unified School District
 San Jose Unified School District
 Santa Clara Unified School District

UNIVERSITIES AND COLLEGES

Evergreen Valley College
 Lincoln Law School of San Jose
 San Jose City College
 San Jose State University
 Silicon Valley University
 St. Mary's College of California
 University of San Francisco

Source: City of San Jose; Santa Clara County Office of Education, 2012



FACT SHEET: INCOME

Department of Planning, Building & Code Enforcement, Planning Division

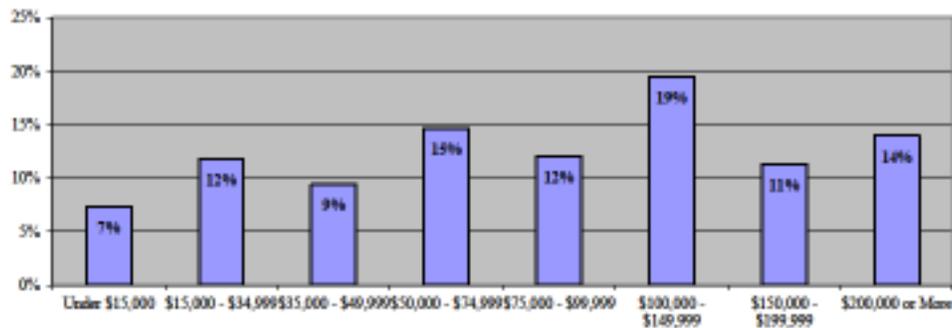
PERSONAL INCOME

Household Income		Nonfamily Income	
Median	\$87,210	Median	\$57,029
Average	\$111,952	Average	\$81,429
Family Income		Per Capita Income	
Median	\$96,706		\$33,142
Average	\$119,753		

Source: US Census Bureau, American Community Survey; 2014

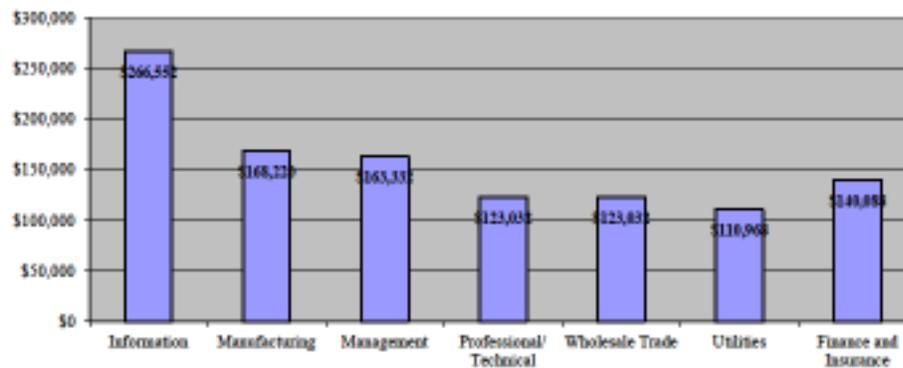
INCOME DISTRIBUTION AND WAGES

Income Distribution (Households)



Source: US Census Bureau, American Community Survey; 2014

Average Wages by Major Industry (Santa Clara County)





FACT SHEET: EMPLOYMENT AND EMPLOYERS

Department of Planning, Building & Code Enforcement, Planning Division

INDUSTRY EMPLOYMENT

<i>Industry Category</i>	<i>Employment in San Jose MSA* (thousands)</i>	<i>Percent</i>
Total, All Industries	1083.1	100.0%
Total Farm	5.4	0.5%
Total Nonfarm	1077.7	99.5%
Goods Producing	208.2	19.2%
Mining	0.2	0.0%
Construction	46.4	4.3%
Manufacturing	161.6	14.9%
Durable Goods	150.5	13.9%
Computer and Peripheral Equipment	48.9	4.5%
Semiconductor and Elec. Component	41.8	3.9%
Electronic Instrument	12.7	1.2%
Other	47.1	4.3%
Nondurable Goods	11.1	1.0%
Service Providing	869.5	80.3%
Trade, Transportation and Utilities	138.4	12.8%
Wholesale Trade	36.5	3.4%
Retail Trade	86.0	7.9%
Transp., Warehousing and Utilities	15.9	1.5%
Information	78.4	7.2%
Financial Activities	35.5	3.3%
Professional and Business Services	229.2	21.2%
Educational and Health Services	162.9	15.0%
Leisure and Hospitality	100.8	9.3%
Other	28.2	2.6%
Government	96.1	8.9%
Federal Government	9.9	0.9%
State and Local Government	86.2	8.0%

*San Jose Metropolitan Statistical Area (MSA) is equivalent to Santa Clara and San Benito Counties.

Note: numbers may not sum due to rounding.

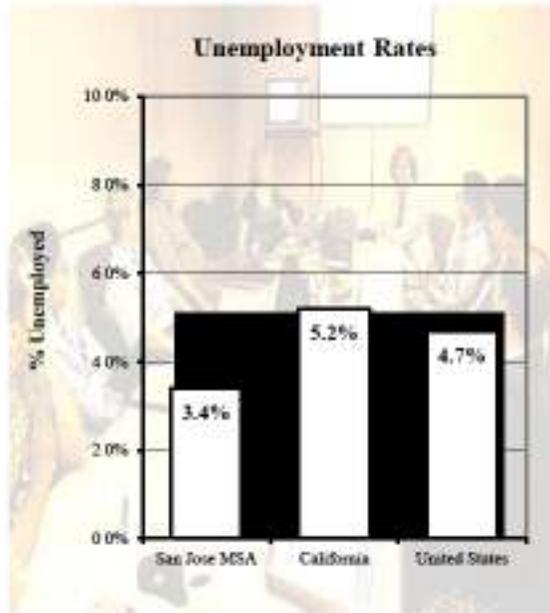
Source: California Employment Development Department, Labor Market Information Division; May 2016



FACT SHEET: EMPLOYMENT AND EMPLOYERS

Department of Planning, Building & Code Enforcement, Planning Division

UNEMPLOYMENT RATES



Source: California Employment Development Department, Labor Market Information Division; May 2016

MAJOR PRIVATE / PUBLIC EMPLOYERS

No.	Company/Organization	San Jose Employees
1	County of Santa Clara	17,800
2	Cisco Systems	14,000
3	City of San Jose	5,945
4	San Jose State University	4,300
5	Western Digital/HGST	3,000
6	eBay	2,800
7	Paypal, Inc.	2,800
8	IBM Corporation	2,800
9	Adobe Systems	2,100
10	Kaiser Permanente	2,100
11	Good Samaritan Hospital	2,000
12	Target Corporation	1,900
13	Brocade Communication	1,700
14	Cadence Design Systems Inc.	1,600
15	Maxim Integrated Products	1,600

Source: Office of Economic Development, City of San Jose; 2014

MAJOR HIGH TECH EMPLOYERS

No.	Company	Product	San Jose Employees
1	Cisco Systems	Computer Equipment	13,600
2	eBay	Online Auction	4,700
3	IBM	Computer Equipment	4,200
4	Hitachi	Storage	2,070
5	Adobe Systems	Software	2,000
6	Cadence Design Systems	Software	1,800
7	Sanmina-SCI	Electronics Manufacturing	1,770
8	Maxim Integrated	Semiconductors	1,650
9	Brocade Communications	Computer Equipment	1,470
10	Ericsson	Telecommunications	1,360
11	Xilinx	Semiconductor Equipment	1,300
12	Altera	Semiconductors	970
13	BD Bioscience	Biotechnology	920
14	SuperMicro	Computer Equipment	920
15	Micrel Semiconductor	Semiconductors	660

Source: Office of Economic Development, City of San Jose; 2013



FACT SHEET: HOUSING

Department of Planning, Building & Code Enforcement, Planning Division

HOUSING RENTALS

<i>Unit Type</i>	<i>Asking Rental Rate</i>
Studio	\$1,802
1 Bedroom	\$2,244
2 Bedroom	\$2,792
3 Bedroom	\$3,368
Average	\$2,473



Ohlone Court Apartments, South San Jose

Source: RealFacts; First Quarter 2016

HOUSING SALES

<i>Unit Type</i>	<i>Sales</i>	<i>Average Price</i>	<i>Median Price</i>	<i>Days on Market</i>
Single-Family Detached	299	\$889,423	\$811,000	36
Condominium/Townhouse	155	\$543,903	\$500,000	28

Source: Santa Clara County Assoc of Realtors; January 2016

HOUSING TENURE AND VACANCY

Tenure	
Owner Occupied Units	56.1%
Renter Occupied Units	43.9%
Vacancy Rate	4.5%

Source: US Census Bureau, American Community Survey; 2014

HOUSING UNITS BY TYPE

<i>Total Units</i>	<i>Single-Family</i>		<i>Multi-Family</i>	<i>Mobile Homes</i>	
	<i>Detached</i>	<i>Attached</i>			
San Jose	323,195	176,881	36,745	100,179	9,390
Santa Clara County	651,171	348,959	67,992	216,121	18,099



Los Esteros Apartments, North San Jose

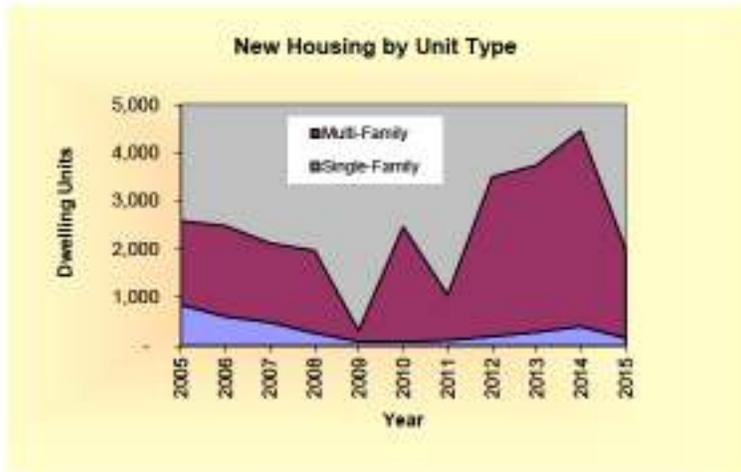
Source: California Department of Finance; 2014



FACT SHEET: HOUSING

Department of Planning, Building & Code Enforcement, Planning Division

RESIDENTIAL CONSTRUCTION



New Housing by Unit Type			
Year	Single-Family	Multi-Family	Total
2005	846	1,742	2,588
2006	604	1,875	2,479
2007	482	1,644	2,126
2008	260	1,709	1,969
2009	86	221	307
2010	82	2,382	2,464
2011	109	937	1,046
2012	193	3,304	3,497
2013	280	3,459	3,739
2014	394	4,066	4,460
2015	160	1,860	2,020
Average	318	2,109	2,427

Source: City of San Jose, 2015



Three Sixty Residences, Downtown



Tierra Encantada, Alhambra



Palma Sorrento, Edenvale



FACT SHEET: QUALITY OF LIFE

Department of Planning, Building & Code Enforcement, Planning Division

CULTURAL / RECREATIONAL RESOURCES



Family Resources

- Children's Discovery Museum
- Christmas in the Park
- Downtown Farmer's Market
- Dr. Martin Luther King, Jr. Library
- Happy Hollow Park and Zoo
- History Park
- HP Pavilion
- Japanese Friendship Garden in Kelley Park
- Lake Cunningham Park/Raging Waters
- Lick Observatory
- Logitech Ice at San Jose
- Mexican Heritage Plaza
- Outback Adventures
- Peralta Adobe and Fallon House Historic Site
- Prusch Farm Park
- Rosicrucian Egyptian Museum
- San Jose Municipal Rose Garden
- San Jose Museum of Art
- San Jose Museum of Quilts and Textiles
- The Tech Museum of Innovation
- Winchester Mystery House

Nightlife / Performing Arts Resources

- Ballet San Jose Silicon Valley
- Broadway San Jose
- Children's Musical Theater San Jose
- Opera San Jose
- San Jose Jazz
- San Jose Repertory Theatre
- San Jose Stage Company
- Symphony Silicon Valley



Professional Sports Resources

- Amgen Tour of California (Professional Cycling)
- San Jose Giants (Minor League Baseball)
- San Jose SaberCats (Arena Football League)
- San Jose Sharks (National Hockey League)
- San Jose Stealth (National Lacrosse League)

Source: City of San Jose; 2011



FACT SHEET: QUALITY OF LIFE

Department of Planning, Building & Code Enforcement, Planning Division

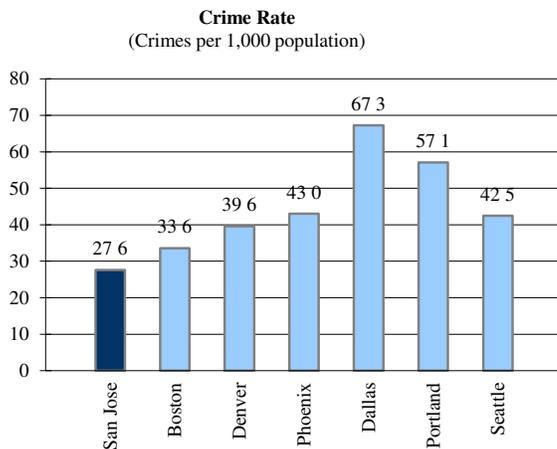
TRANSPORTATION

Air (Norman Y. Mineta San Jose Int'l)	
Annual Passengers	8.4 million
Major Passenger Airlines	11
Nonstop Service Destinations	32
Rapid Transit (BART)	
Under Construction (Berryessa)	Scheduled 2018
Commuter Rail (Caltrain)	
Weekday Ridership	Systemwide 42,354
Stations	33
Light Rail	
Annual Ridership	Countywide 10.0 million
Stops	62
Bus	
Annual Ridership	Countywide 32.0 million
Stops	4,300
Mean Travel Time to Work	26.8 minutes



Source: City of San Jose, 2014;
US Census Bureau, American Community Survey; 2014

PUBLIC SAFETY



San Jose is rated as one of the "Safest Big Cities" in the nation.

Source: Federal Bureau of Investigation; 2014

CLIMATE

Seasonal Temperatures

<u>Month</u>	<u>Avg. Temp</u>
January	50 °F
April	58 °F
July	70 °F
October	63 °F
Annual	60 °F

Seasonal Rainfall

<u>Month</u>	<u>Avg. Rainfall</u>
January	2.78 in.
April	1.17 in.
July	0.06 in.
October	0.90 in.
Annual	14.42 in.

EXHIBIT MM

Gene Hamilton

Martin Vidal, et al v. Elaine Duke, et al

10/20/2017

1

1 IN THE UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

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MARTIN JONATHAN BATALLA)
VIDAL, et al.,)
Plaintiffs,)
Case Nos.)
v) 1:16-CV-04756(NGG)(JO)
) 3:17-CV-05211

ELAINE C. DUKE, Acting)
Secretary Department of)
Homeland Security)
JEFFERSON BEAUREGARD)
SESSION III, Attorney)
General of the United)
States, and DONALD J TRUMP,)
President of the UNITED)
STATES,)
Defendants.)
-----x

14
15 Deposition of GENE HAMILTON
16 Washington, DC
17 Friday, October 20, 2017
18 9:17 a.m.

19
20 Job No.: 37567
21 Pages: 1 - 233
22 Reported by: Donna Marie Lewis, RPR, CSR (HI)

Gene Hamilton

Martin Vidal, et al v. Elaine Duke, et al

10/20/2017

205

1 multiple edits made to the document.

2 Q Did you draft that memorandum?

3 MR. GARDNER: You can answer that yes or
4 no.

5 THE WITNESS: Principally, yes.

6 BY MS. TUMLIN:

7 Q On what date did you first draft that
8 memo?

9 A I don't know.

10 Q What month?

11 A August or September. I don't remember
12 it was late August, early September.

13 Q Okay. You previously testified that the
14 final decision to terminate DACA was not made
15 until Acting Secretary Duke signed the memorandum
16 which you principally drafted. Is that correct?

17 A That is correct.

18 Q Did you also draft an alternative
19 memorandum that kept the DACA program in place?

20 MR. GARDNER: Objection. Calls for
21 information subject to the deliberative process
22 privilege. I instruct the witness not to answer.

Gene Hamilton

Martin Vidal, et al v. Elaine Duke, et al

10/20/2017

207

1 the DACA program had been made. Correct?

2 A That -- that is generally correct,
3 although I will say again, no final decision is
4 ever made until there is ink on paper. That is
5 the fundamental difference. There may have been
6 tentative decision, but until a secretary of a
7 cabinet department makes a decision in writing or
8 in whatever method is appropriate for the
9 circumstance the decision is technically not
10 final.

11 Q Was there a substantively alternative
12 version of a DACA memorandum that was circulating
13 prior to September the 5th that could have been
14 signed by Acting Secretary Duke?

15 MR. GARDNER: Objection. Calls for
16 disclosure of information subject to deliberative
17 process privilege. I instruct the witness not to
18 answer.

19 BY MS. TUMLIN:

20 Q Okay. Does DHS have a policy on how to
21 deal with litigation risk?

22

Gene Hamilton

Martin Vidal, et al v. Elaine Duke, et al

10/20/2017

208

1 A Do we have a policy on how to deal with
2 litigation risk?

3 Q Uh huh.

4 A Nothing in writing.

5 Q Okay. So there is -- is there any
6 policy on how to deal with threats to sue by state
7 or local officials?

8 A No. And that sounds like the craziest
9 policy you could ever have in a department. You
10 could never do anything if you were always worried
11 about being sued.

12 Q Are you familiar with the executive
13 order issued by President Trump with respect to
14 sanctuary jurisdictions?

15 A That -- I believe that is in Executive
16 Order 13768. I am familiar.

17 Q And are you aware that several
18 municipalities have sued the federal government on
19 the basis of that executive order?

20 A In general I am, yes.

21 Q Are you aware that some of these
22 lawsuits have successfully blocked parts of the

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REPORTER'S CERTIFICATE

I, DONNA M. LEWIS, RPR, Certified
Shorthand Reporter, certify;

That the foregoing proceedings were
taken before me at the time and place therein set
forth, at which time the witness, Gene Hamilton,
was put under oath by me;

That the testimony of the witness, the
questions propounded and all objections and
statements made at the time of the examination
were recorded stenographically by me and were
thereafter transcribed;

I declare that I am not of counsel to
any of the parties, nor in any way interested in
the outcome of this action.

As witness, my hand and notary seal this
22nd day of October, 2017.


Donna M. Lewis, RPR
Notary Public

My Commission expires:
March 14, 2018



EXHIBIT NN

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

THE REGENTS OF THE UNIVERSITY OF) Case No.
CALIFORNIA and JANET NAPOLITANO,) 17-CV-05211-WHA
in her official capacity as)
President of the University of)
California,)

Plaintiffs,)

v.)

U.S. DEPARTMENT OF HOMELAND)
SECURITY and ELAINE DUKE, in her)
official capacity as Acting)
Secretary of the Department of)
Homeland Security,)

Defendants.)

-----)

- - -
Friday, October 13, 2017
- - -

Videotaped deposition of JAMES D. NEALON,
taken at the offices of Covington & Burling,
850 Tenth Street NW, One City Center,
Washington, D.C., beginning at 7:32 a.m., before
Nancy J. Martin, a Registered Merit Reporter,
Certified Shorthand Reporter.

1 process privilege.

2 I instruct the witness not to answer.

3 MR. BERENGAUT: Sorry. I was receiving a
4 note to adjust the microphone on my tie.

5 MR. GARDNER: Everyone's a critic.

6 MR. BERENGAUT: Is that better?

7 THE VIDEOGRAPHER: Yes. Thank you.

8 MR. BERENGAUT: Thank you.

9 Q. Let me ask you about some other policy
10 benefits of DACA. Are you aware that DACA recipients
11 serve in this country's armed forces?

12 A. Yes.

13 Q. Would you say their service is a policy
14 benefit of DACA?

15 A. We certainly thank them for their service,
16 and anyone who serves in our military deserves our
17 gratitude.

18 BY MR. BERENGAUT:

19 Q. Can you think of any other -- now that we've
20 had a couple of other examples, any other policy
21 benefits of DACA?

22 A. Not off the top of my head.

23 Q. Do you have an understanding of what
24 "litigation risk" is?

25 A. Some understanding.

1 Q. What is your understanding?

2 A. Simply that. That policy may be at the risk
3 of litigation.

4 Q. And when you earlier described what you
5 called the "threat to DACA," would that be an example
6 of litigation risk, in your understanding?

7 A. That's what I was referring to.

8 Q. Setting aside DACA, are you aware of any
9 other existing policy in your service in government
10 that was rescinded because of litigation risk?

11 A. Nothing occurs to me.

12 Q. Are you aware of administration policy goals
13 in the immigration context apart from the rescission
14 of DACA?

15 A. Yes.

16 Q. What understanding do you have of those
17 goals?

18 A. I think the administration's general goals
19 related to administration emphasize the enforcement of
20 our laws. That's the best way to describe the
21 administration's approach towards immigration.

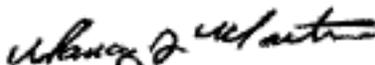
22 Q. Are you aware of an administrative --
23 administration policy goal of constructing a wall on
24 the border between the United States and Mexico?

25 A. I am.

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C E R T I F I C A T E

I do hereby certify that the aforesaid testimony was taken before me, pursuant to notice, at the time and place indicated; that said deponent was by me duly sworn to tell the truth, the whole truth, and nothing but the truth; that the testimony of said deponent was correctly recorded in machine shorthand by me and thereafter transcribed under my supervision with computer-aided transcription; that the deposition is a true and correct record of the testimony given by the witness; and that I am neither of counsel nor kin to any party in said action, nor interested in the outcome thereof.



Nancy J. Martin, RMR, CSR

Dated: October 16, 2017

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying shorthand reporter.)

EXHIBIT 00



U.S. Department of Justice
Immigration and Naturalization Service

HQOPP 50/4

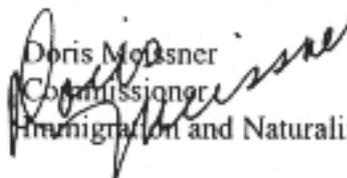
Office of the Commissioner

425 I Street NW
Washington, DC 20536

NOV 17 2000

MEMORANDUM TO REGIONAL DIRECTORS
DISTRICT DIRECTORS
CHIEF PATROL AGENTS
REGIONAL AND DISTRICT COUNSEL

FROM:


Doris Measner
Commissioner
Immigration and Naturalization Service

SUBJECT: Exercising Prosecutorial Discretion

Since the 1996 amendments to the Immigration and Nationality Act (INA) which limited the authority of immigration judges to provide relief from removal in many cases, there has been increased attention to the scope and exercise of the Immigration and Naturalization Service's (INS or the Service) prosecutorial discretion. This memorandum describes the principles with which INS exercises prosecutorial discretion and the process to be followed in making and monitoring discretionary decisions. Service officers are not only authorized by law but expected to exercise discretion in a judicious manner at all stages of the enforcement process—from planning investigations to enforcing final orders—subject to their chains of command and to the particular responsibilities and authority applicable to their specific position. In exercising this discretion, officers must take into account the principles described below in order to promote the efficient and effective enforcement of the immigration laws and the interests of justice.

More specific guidance geared to exercising discretion in particular program areas already exists in some instances,¹ and other program-specific guidance will follow separately.

¹ For example, standards and procedures for placing an alien in deferred action status are provided in the Standard Operating Procedures for Enforcement Officers: Arrest, Detention, Processing, and Removal (Standard Operating Procedures), Part X. This memorandum is intended to provide general principles, and does not replace any previous specific guidance provided about particular INS actions, such as "Supplemental Guidelines on the Use of Cooperating Individuals and Confidential Informants Following the Enactment of IIRIRA," dated December 29, 1997. This memorandum is not intended to address every situation in which the exercise of prosecutorial discretion may be appropriate. If INS personnel in the exercise of their duties recognize apparent conflict between any of their specific policy requirements and these general guidelines, they are encouraged to bring the matter to their supervisor's attention, and any conflict between policies should be raised through the appropriate chain of command for resolution.

Memorandum for Regional Directors, et al.
Subject: Exercising Prosecutorial Discretion

Page 2

However, INS officers should continue to exercise their prosecutorial discretion in appropriate cases during the period before more specific program guidance is issued.

A statement of principles concerning discretion serves a number of important purposes. As described in the “Principles of Federal Prosecution,”² part of the U.S. Attorneys’ manual, such principles provide convenient reference points for the process of making prosecutorial decisions; facilitate the task of training new officers in the discharge of their duties; contribute to more effective management of the Government’s limited prosecutorial resources by promoting greater consistency among the prosecutorial activities of different offices and between their activities and the INS’ law enforcement priorities; make possible better coordination of investigative and prosecutorial activity by enhancing the understanding between the investigative and prosecutorial components; and inform the public of the careful process by which prosecutorial decisions are made.

Legal and Policy Background

“Prosecutorial discretion” is the authority of an agency charged with enforcing a law to decide whether to enforce, or not to enforce, the law against someone. The INS, like other law enforcement agencies, has prosecutorial discretion and exercises it every day. In the immigration context, the term applies not only to the decision to issue, serve, or file a Notice to Appear (NTA), but also to a broad range of other discretionary enforcement decisions, including among others: Focusing investigative resources on particular offenses or conduct; deciding whom to stop, question, and arrest; maintaining an alien in custody; seeking expedited removal or other forms of removal by means other than a removal proceeding; settling or dismissing a proceeding; granting deferred action or staying a final order; agreeing to voluntary departure, withdrawal of an application for admission, or other action in lieu of removing the alien; pursuing an appeal; and executing a removal order.

The “favorable exercise of prosecutorial discretion” means a discretionary decision not to assert the full scope of the INS’ enforcement authority as permitted under the law. Such decisions will take different forms, depending on the status of a particular matter, but include decisions such as not issuing an NTA (discussed in more detail below under “Initiating Proceedings”), not detaining an alien placed in proceedings (where discretion remains despite mandatory detention requirements), and approving deferred action.

² For this discussion, and much else in this memorandum, we have relied heavily upon the Principles of Federal Prosecution, chapter 9-27.000 in the U.S. Department of Justice’s United States Attorneys’ Manual (Oct. 1997). There are significant differences, of course, between the role of the U.S. Attorneys’ offices in the criminal justice system, and INS responsibilities to enforce the immigration laws, but the general approach to prosecutorial discretion stated in this memorandum reflects that taken by the Principles of Federal Prosecution.

Memorandum for Regional Directors, et al.
Subject: Exercising Prosecutorial Discretion

Page 3

Courts recognize that prosecutorial discretion applies in the civil, administrative arena just as it does in criminal law. Moreover, the Supreme Court “has recognized on several occasions over many years that an agency’s decision not to prosecute or enforce, whether through civil or criminal process, is a decision generally committed to an agency’s absolute discretion.” Heckler v. Chaney, 470 U.S. 821, 831 (1985). Both Congress and the Supreme Court have recently reaffirmed that the concept of prosecutorial discretion applies to INS enforcement activities, such as whether to place an individual in deportation proceedings. INA section 242(g); Reno v. American-Arab Anti-Discrimination Committee, 525 U.S. 471 (1999). The “discretion” in prosecutorial discretion means that prosecutorial decisions are not subject to judicial review or reversal, except in extremely narrow circumstances. Consequently, it is a powerful tool that must be used responsibly.

As a law enforcement agency, the INS generally has prosecutorial discretion within its area of law enforcement responsibility unless that discretion has been clearly limited by statute in a way that goes beyond standard terminology. For example, a statute directing that the INS “shall” remove removable aliens would not be construed by itself to limit prosecutorial discretion, but the specific limitation on releasing certain criminal aliens in section 236(c)(2) of the INA evidences a specific congressional intention to limit discretion not to detain certain criminal aliens in removal proceedings that would otherwise exist. Personnel who are unsure whether the INS has discretion to take a particular action should consult their supervisor and legal counsel to the extent necessary.

It is important to recognize not only what prosecutorial discretion is, but also what it is not. The doctrine of prosecutorial discretion applies to law enforcement decisions whether, and to what extent, to exercise the coercive power of the Government over liberty or property, as authorized by law in cases when individuals have violated the law. Prosecutorial discretion does not apply to affirmative acts of approval, or grants of benefits, under a statute or other applicable law that provides requirements for determining when the approval should be given. For example, the INS has prosecutorial discretion not to place a removable alien in proceedings, but it does not have prosecutorial discretion to approve a naturalization application by an alien who is ineligible for that benefit under the INA.

This distinction is not always an easy, bright-line rule to apply. In many cases, INS decisionmaking involves both a prosecutorial decision to take or not to take enforcement action, such as placing an alien in removal proceedings, and a decision whether or not the alien is substantively eligible for a benefit under the INA. In many cases, benefit decisions involve the exercise of significant discretion which in some cases is not judicially reviewable, but which is not prosecutorial discretion.

Prosecutorial discretion can extend only up to the substantive and jurisdictional limits of the law. It can never justify an action that is illegal under the substantive law pertaining to the

Memorandum for Regional Directors, et al.
Subject: Exercising Prosecutorial Discretion

Page 4

conduct, or one that while legal in other contexts, is not within the authority of the agency or officer taking it. Prosecutorial discretion to take an enforcement action does not modify or waive any legal requirements that apply to the action itself. For example, an enforcement decision to focus on certain types of immigration violators for arrest and removal does not mean that the INS may arrest any person without probable cause to do so for an offense within its jurisdiction. Service officers who are in doubt whether a particular action complies with applicable constitutional, statutory, or case law requirements should consult with their supervisor and obtain advice from the district or sector counsel or representative of the Office of General Counsel to the extent necessary.

Finally, exercising prosecutorial discretion does not lessen the INS' commitment to enforce the immigration laws to the best of our ability. It is not an invitation to violate or ignore the law. Rather, it is a means to use the resources we have in a way that best accomplishes our mission of administering and enforcing the immigration laws of the United States.

Principles of Prosecutorial Discretion

Like all law enforcement agencies, the INS has finite resources, and it is not possible to investigate and prosecute all immigration violations. The INS historically has responded to this limitation by setting priorities in order to achieve a variety of goals. These goals include protecting public safety, promoting the integrity of the legal immigration system, and deterring violations of the immigration law.

It is an appropriate exercise of prosecutorial discretion to give priority to investigating, charging, and prosecuting those immigration violations that will have the greatest impact on achieving these goals. The INS has used this principle in the design and execution of its border enforcement strategy, its refocus on criminal smuggling networks, and its concentration on fixing benefit-granting processes to prevent fraud. An agency's focus on maximizing its impact under appropriate principles, rather than devoting resources to cases that will do less to advance these overall interests, is a crucial element in effective law enforcement management.

The Principles of Federal Prosecution governing the conduct of U.S. Attorneys use the concept of a "substantial Federal interest." A U.S. Attorney may properly decline a prosecution if "*no substantial Federal interest would be served by prosecution.*" This principle provides a useful frame of reference for the INS, although applying it presents challenges that differ from those facing a U.S. Attorney. In particular, as immigration is an exclusively Federal responsibility, the option of an adequate alternative remedy under state law is not available. In an immigration case, the interest at stake will always be Federal. Therefore, we must place particular emphasis on the element of substantiality. How important is the Federal interest in the case, as compared to other cases and priorities? That is the overriding question, and answering it requires examining a number of factors that may differ according to the stage of the case.

Memorandum for Regional Directors, et al.
Subject: Exercising Prosecutorial Discretion

Page 5

As a general matter, INS officers may decline to prosecute a legally sufficient immigration case if the Federal immigration enforcement interest that would be served by prosecution is not substantial.³ Except as may be provided specifically in other policy statements or directives, the responsibility for exercising prosecutorial discretion in this manner rests with the District Director (DD) or Chief Patrol Agent (CPA) based on his or her common sense and sound judgment.⁴ The DD or CPA should obtain legal advice from the District or Sector Counsel to the extent that such advice may be necessary and appropriate to ensure the sound and lawful exercise of discretion, particularly with respect to cases pending before the Executive Office for Immigration Review (EOIR).⁵ The DD's or CPA's authority may be delegated to the extent necessary and proper, except that decisions not to place a removable alien in removal proceedings, or decisions to move to terminate a proceeding which in the opinion of the District or Sector Counsel is legally sufficient, may not be delegated to an officer who is not authorized under 8 C.F.R. § 239.1 to issue an NTA. A DD's or CPA's exercise of prosecutorial discretion will not normally be reviewed by Regional or Headquarters authority. However, DDs and CPAs remain subject to their chains of command and may be supervised as necessary in their exercise of prosecutorial discretion.

Investigations

Priorities for deploying investigative resources are discussed in other documents, such as the interior enforcement strategy, and will not be discussed in detail in this memorandum. These previously identified priorities include identifying and removing criminal and terrorist aliens, deterring and dismantling alien smuggling, minimizing benefit fraud and document abuse, responding to community complaints about illegal immigration and building partnerships to solve local problems, and blocking and removing employers' access to undocumented workers. Even within these broad priority areas, however, the Service must make decisions about how best to expend its resources.

Managers should plan and design operations to maximize the likelihood that serious offenders will be identified. Supervisors should ensure that front-line investigators understand that it is not mandatory to issue an NTA in every case where they have reason to believe that an alien is removable, and agents should be encouraged to bring questionable cases to a supervisor's attention. Operational planning for investigations should include consideration of appropriate procedures for supervisory and legal review of individual NTA issuing decisions.

³ In some cases even a substantial immigration enforcement interest in prosecuting a case could be outweighed by other interests, such as the foreign policy of the United States. Decisions that require weighing such other interests should be made at the level of responsibility within the INS or the Department of Justice that is appropriate in light of the circumstances and interests involved.

⁴ This general reference to DDs and CPAs is not intended to exclude from coverage by this memorandum other INS personnel, such as Service Center directors, who may be called upon to exercise prosecutorial discretion and do not report to DDs or CPAs, or to change any INS chains of command.

⁵ Exercising prosecutorial discretion with respect to cases pending before EOIR involves procedures set forth at 8 CFR 239.2 and 8 CFR Part 3, such as obtaining the court's approval of a motion to terminate proceedings.

Memorandum for Regional Directors, et al.
Subject: Exercising Prosecutorial Discretion

Page 6

Careful design of enforcement operations is a key element in the INS' exercise of prosecutorial discretion. Managers should consider not simply whether a particular effort is legally supportable, but whether it best advances the INS' goals, compared with other possible uses of those resources. As a general matter, investigations that are specifically focused to identify aliens who represent a high priority for removal should be favored over investigations which, by their nature, will identify a broader variety of removable aliens. Even an operation that is designed based on high-priority criteria, however, may still identify individual aliens who warrant a favorable exercise of prosecutorial discretion.⁶

Initiating and Pursuing Proceedings

Aliens who are subject to removal may come to the Service's attention in a variety of ways. For example, some aliens are identified as a result of INS investigations, while others are identified when they apply for immigration benefits or seek admission at a port-of-entry. While the context in which the INS encounters an alien may, as a practical matter, affect the Service's options, it does not change the underlying principle that the INS has discretion and should exercise that discretion appropriately given the circumstances of the case.

Even when an immigration officer has reason to believe that an alien is removable and that there is sufficient evidence to obtain a final order of removal, it may be appropriate to decline to proceed with that case. This is true even when an alien is removable based on his or her criminal history and when the alien—if served with an NTA—would be subject to mandatory detention. The INS may exercise its discretion throughout the enforcement process. Thus, the INS can choose whether to issue an NTA, whether to cancel an NTA prior to filing with the immigration court or move for dismissal in immigration court (under 8 CFR 239.2), whether to detain (for those aliens not subject to mandatory detention), whether to offer an alternative to removal such as voluntary departure or withdrawal of an application for admission, and whether to stay an order of deportation.

The decision to exercise any of these options or other alternatives in a particular case requires an individualized determination, based on the facts and the law. As a general matter, it is better to exercise favorable discretion as early in the process as possible, once the relevant facts have been determined, in order to conserve the Service's resources and in recognition of the alien's interest in avoiding unnecessary legal proceedings. However, there is often a conflict

⁶ For example, operations in county jails are designed to identify and remove criminal aliens, a high priority for the Service. Nonetheless, an investigator working at a county jail and his or her supervisor should still consider whether the exercise of prosecutorial discretion would be appropriate in individual cases.

Memorandum for Regional Directors, et al.
Subject: Exercising Prosecutorial Discretion

Page 7

between making decisions as soon as possible, and making them based on evaluating as many relevant, credible facts as possible. Developing an extensive factual record prior to making a charging decision may itself consume INS resources in a way that negates any saving from forgoing a removal proceeding.

Generally, adjudicators may have a better opportunity to develop a credible factual record at an earlier stage than investigative or other enforcement personnel. It is simply not practicable to require officers at the arrest stage to develop a full investigative record on the equities of each case (particularly since the alien file may not yet be available to the charging office), and this memorandum does not require such an analysis. Rather, what is needed is knowledge that the INS is not legally required to institute proceedings in every case, openness to that possibility in appropriate cases, development of facts relevant to the factors discussed below to the extent that it is reasonably possible to do so under the circumstances and in the timeframe that decisions must be made, and implementation of any decision to exercise prosecutorial discretion.

There is no precise formula for identifying which cases warrant a favorable exercise of discretion. Factors that should be taken into account in deciding whether to exercise prosecutorial discretion include, but are not limited to, the following:

- Immigration status: Lawful permanent residents generally warrant greater consideration. However, other removable aliens may also warrant the favorable exercise of discretion, depending on all the relevant circumstances.
- Length of residence in the United States: The longer an alien has lived in the United States, particularly in legal status, the more this factor may be considered a positive equity.
- Criminal history: Officers should take into account the nature and severity of any criminal conduct, as well as the time elapsed since the offense occurred and evidence of rehabilitation. It is appropriate to take into account the actual sentence or fine that was imposed, as an indicator of the seriousness attributed to the conduct by the court. Other factors relevant to assessing criminal history include the alien's age at the time the crime was committed and whether or not he or she is a repeat offender.
- Humanitarian concerns: Relevant humanitarian concerns include, but are not limited to, family ties in the United States; medical conditions affecting the alien or the alien's family; the fact that an alien entered the United States at a very young age; ties to one's home country (e.g., whether the alien speaks the language or has relatives in the home country); extreme youth or advanced age; and home country conditions.
- Immigration history: Aliens without a past history of violating the immigration laws (particularly violations such as reentering after removal, failing to appear at hearing, or resisting arrest that show heightened disregard for the legal process) warrant favorable consideration to a greater extent than those with such a history. The seriousness of any such violations should also be taken into account.

Memorandum for Regional Directors, et al.
Subject: Exercising Prosecutorial Discretion

Page 8

- Likelihood of ultimately removing the alien: Whether a removal proceeding would have a reasonable likelihood of ultimately achieving its intended effect, in light of the case circumstances such as the alien's nationality, is a factor that should be considered.
- Likelihood of achieving enforcement goal by other means: In many cases, the alien's departure from the United States may be achieved more expeditiously and economically by means other than removal, such as voluntary return, withdrawal of an application for admission, or voluntary departure.
- Whether the alien is eligible or is likely to become eligible for other relief: Although not determinative on its own, it is relevant to consider whether there is a legal avenue for the alien to regularize his or her status if not removed from the United States. The fact that the Service cannot confer complete or permanent relief, however, does not mean that discretion should not be exercised favorably if warranted by other factors.
- Effect of action on future admissibility: The effect an action such as removal may have on an alien can vary—for example, a time-limited as opposed to an indefinite bar to future admissibility—and these effects may be considered.
- Current or past cooperation with law enforcement authorities: Current or past cooperation with the INS or other law enforcement authorities, such as the U.S. Attorneys, the Department of Labor, or National Labor Relations Board, among others, weighs in favor of discretion.
- Honorable U.S. military service: Military service with an honorable discharge should be considered as a favorable factor. See Standard Operating Procedures Part V.D.8 (issuing an NTA against current or former member of armed forces requires advance approval of Regional Director).
- Community attention: Expressions of opinion, in favor of or in opposition to removal, may be considered, particularly for relevant facts or perspectives on the case that may not have been known to or considered by the INS. Public opinion or publicity (including media or congressional attention) should not, however, be used to justify a decision that cannot be supported on other grounds. Public and professional responsibility will sometimes require the choice of an unpopular course.
- Resources available to the INS: As in planning operations, the resources available to the INS to take enforcement action in the case, compared with other uses of the resources to fulfill national or regional priorities, are an appropriate factor to consider, but it should not be determinative. For example, when prosecutorial discretion should be favorably exercised under these factors in a particular case, that decision should prevail even if there is detention space available.

Obviously, not all of the factors will be applicable to every case, and in any particular case one factor may deserve more weight than it might in another case. There may be other factors, not on the list above, that are appropriate to consider. The decision should be based on the totality of the circumstances, not on any one factor considered in isolation. General guidance such as this cannot provide a "bright line" test that may easily be applied to determine the "right" answer in every case. In many cases, minds reasonably can differ, different factors may point in different directions, and there is no clearly "right" answer. Choosing a course of action in difficult

Memorandum for Regional Directors, et al.
Subject: Exercising Prosecutorial Discretion

Page 9

cases must be an exercise of judgment by the responsible officer based on his or her experience, good sense, and consideration of the relevant factors to the best of his or her ability.

There are factors that may not be considered. Impermissible factors include:

- An individual's race, religion, sex, national origin, or political association, activities or beliefs;⁷
- The officer's own personal feelings regarding the individual; or
- The possible effect of the decision on the officer's own professional or personal circumstances.

In many cases, the procedural posture of the case, and the state of the factual record, will affect the ability of the INS to use prosecutorial discretion. For example, since the INS cannot admit an inadmissible alien to the United States unless a waiver is available, in many cases the INS' options are more limited in the admission context at a port-of-entry than in the deportation context.

Similarly, the INS may consider the range of options and information likely to be available at a later time. For example, an officer called upon to make a charging decision may reasonably determine that he or she does not have a sufficient, credible factual record upon which to base a favorable exercise of prosecutorial discretion not to put the alien in proceedings, that the record cannot be developed in the timeframe in which the decision must be made, that a more informed prosecutorial decision likely could be made at a later time during the course of proceedings, and that if the alien is not served with an NTA now, it will be difficult or impossible to do so later.

Such decisions must be made, however, with due regard for the principles of these guidelines, and in light of the other factors discussed here. For example, if there is no relief available to the alien in a removal proceeding and the alien is subject to mandatory detention if

⁷ This general guidance on factors that should not be relied upon in making a decision whether to enforce the law against an individual is not intended to prohibit their consideration to the extent they are directly relevant to an alien's status under the immigration laws or eligibility for a benefit. For example, religion and political beliefs are often directly relevant in asylum cases and need to be assessed as part of a prosecutorial determination regarding the strength of the case, but it would be improper for an INS officer to treat aliens differently based on his personal opinion about a religion or belief. Political activities may be relevant to a ground of removal on national security or terrorism grounds. An alien's nationality often directly affects his or her eligibility for adjustment or other relief, the likelihood that he or she can be removed, or the availability of prosecutorial options such as voluntary return, and may be considered to the extent these concerns are pertinent.

Memorandum for Regional Directors, et al.
Subject: Exercising Prosecutorial Discretion

Page 10

placed in proceedings, that situation suggests that the exercise of prosecutorial discretion, if appropriate, would be more useful to the INS if done sooner rather than later. It would be improper for an officer to assume that someone else at some later time will always be able to make a more informed decision, and therefore never to consider exercising discretion.

Factors relevant to exercising prosecutorial discretion may come to the Service's attention in various ways. For example, aliens may make requests to the INS to exercise prosecutorial discretion by declining to pursue removal proceedings. Alternatively, there may be cases in which an alien asks to be put in proceedings (for example, to pursue a remedy such as cancellation of removal that may only be available in that forum). In either case, the INS may consider the request, but the fact that it is made should not determine the outcome, and the prosecutorial decision should be based upon the facts and circumstances of the case. Similarly, the fact that an alien has not requested prosecutorial discretion should not influence the analysis of the case. Whether, and to what extent, any request should be considered is also a matter of discretion. Although INS officers should be open to new facts and arguments, attempts to exploit prosecutorial discretion as a delay tactic, as a means merely to revisit matters that have been thoroughly considered and decided, or for other improper tactical reasons should be rejected. There is no legal right to the exercise of prosecutorial discretion, and (as stated at the close of this memorandum) this memorandum creates no right or obligation enforceable at law by any alien or any other party.

Process for Decisions

Identification of Suitable Cases

No single process of exercising discretion will fit the multiple contexts in which the need to exercise discretion may arise. Although this guidance is designed to promote consistency in the application of the immigration laws, it is not intended to produce rigid uniformity among INS officers in all areas of the country at the expense of the fair administration of the law. Different offices face different conditions and have different requirements. Service managers and supervisors, including DDs and CPAs, and Regional, District, and Sector Counsel must develop mechanisms appropriate to the various contexts and priorities, keeping in mind that it is better to exercise discretion as early in process as possible once the factual record has been identified.⁸ In particular, in cases where it is clear that no statutory relief will be available at the immigration hearing and where detention will be mandatory, it best conserves the Service's resources to make a decision early.

Enforcement and benefits personnel at all levels should understand that prosecutorial discretion exists and that it is appropriate and expected that the INS will exercise this authority in appropriate cases. DDs, CPAs, and other supervisory officials (such as District and

⁸ DDs, CPAs, and other INS personnel should also be open, however, to possible reconsideration of decisions (either for or against the exercise of discretion) based upon further development of the facts.

Memorandum for Regional Directors, et al.
Subject: Exercising Prosecutorial Discretion

Page 11

Sector Counsels) should encourage their personnel to bring potentially suitable cases for the favorable exercise of discretion to their attention for appropriate resolution. To assist in exercising their authority, DDs and CPAs may wish to convene a group to provide advice on difficult cases that have been identified as potential candidates for prosecutorial discretion.

It is also appropriate for DDs and CPAs to develop a list of “triggers” to help their personnel identify cases at an early stage that may be suitable for the exercise of prosecutorial discretion. These cases should then be reviewed at a supervisory level where a decision can be made as to whether to proceed in the ordinary course of business, to develop additional facts, or to recommend a favorable exercise of discretion. Such triggers could include the following facts (whether proven or alleged):

- Lawful permanent residents;
- Aliens with a serious health condition;
- Juveniles;
- Elderly aliens;
- Adopted children of U.S. citizens;
- U.S. military veterans;
- Aliens with lengthy presence in United States (*i.e.*, 10 years or more); or
- Aliens present in the United States since childhood.

Since workloads and the type of removable aliens encountered may vary significantly both within and between INS offices, this list of possible trigger factors for supervisory review is intended neither to be comprehensive nor mandatory in all situations. Nor is it intended to suggest that the presence or absence of “trigger” facts should itself determine whether prosecutorial discretion should be exercised, as compared to review of all the relevant factors as discussed elsewhere in these guidelines. Rather, development of trigger criteria is intended solely as a suggested means of facilitating identification of potential cases that may be suitable for prosecutorial review as early as possible in the process.

Documenting Decisions

When a DD or CPA decides to exercise prosecutorial discretion favorably, that decision should be clearly documented in the alien file, including the specific decision taken and its factual and legal basis. DDs and CPAs may also document decisions based on a specific set of facts not to exercise prosecutorial discretion favorably, but this is not required by this guidance.

The alien should also be informed in writing of a decision to exercise prosecutorial discretion favorably, such as not placing him or her in removal proceedings or not pursuing a case. This normally should be done by letter to the alien and/or his or her attorney of record, briefly stating the decision made and its consequences. It is not necessary to recite the facts of the case or the INS’ evaluation of the facts in such letters. Although the specifics of the letter

Memorandum for Regional Directors, et al.
Subject: Exercising Prosecutorial Discretion

Page 12

will vary depending on the circumstances of the case and the action taken, it must make it clear to the alien that exercising prosecutorial discretion does not confer any immigration status, ability to travel to the United States (unless the alien applies for and receives advance parole), immunity from future removal proceedings, or any enforceable right or benefit upon the alien. If, however, there is a potential benefit that is linked to the action (for example, the availability of employment authorization for beneficiaries of deferred action), it is appropriate to identify it.

The obligation to notify an individual is limited to situations in which a specific, identifiable decision to refrain from action is taken in a situation in which the alien normally would expect enforcement action to proceed. For example, it is not necessary to notify aliens that the INS has refrained from focusing investigative resources on them, but a specific decision not to proceed with removal proceedings against an alien who has come into INS custody should be communicated to the alien in writing. This guideline is not intended to replace existing standard procedures or forms for deferred action, voluntary return, voluntary departure, or other currently existing and standardized processes involving prosecutorial discretion.

Future Impact

An issue of particular complexity is the future effect of prosecutorial discretion decisions in later encounters with the alien. Unlike the criminal context, in which statutes of limitation and venue requirements often preclude one U.S. Attorney's office from prosecuting an offense that another office has declined, immigration violations are continuing offenses that, as a general principle of immigration law, continue to make an alien legally removable regardless of a decision not to pursue removal on a previous occasion. An alien may come to the attention of the INS in the future through seeking admission or in other ways. An INS office should abide by a favorable prosecutorial decision taken by another office as a matter of INS policy, absent new facts or changed circumstances. However, if a removal proceeding is transferred from one INS district to another, the district assuming responsibility for the case is not bound by the charging district's decision to proceed with an NTA, if the facts and circumstances at a later stage suggest that a favorable exercise of prosecutorial discretion is appropriate.

Service offices should review alien files for information on previous exercises of prosecutorial discretion at the earliest opportunity that is practicable and reasonable and take any such information into account. In particular, the office encountering the alien must carefully assess to what extent the relevant facts and circumstances are the same or have changed either procedurally or substantively (either with respect to later developments, or more detailed knowledge of past circumstances) from the basis for the original exercise of discretion. A decision by an INS office to take enforcement action against the subject of a previous documented exercise of favorable prosecutorial discretion should be memorialized with a memorandum to the file explaining the basis for the decision, unless the charging documents on their face show a material difference in facts and circumstances (such as a different ground of deportability).

Memorandum for Regional Directors, et al.
Subject: Exercising Prosecutorial Discretion

Page 13

Legal Liability and Enforceability

The question of liability may arise in the implementation of this memorandum. Some INS personnel have expressed concerns that, if they exercise prosecutorial discretion favorably, they may become subject to suit and personal liability for the possible consequences of that decision. We cannot promise INS officers that they will never be sued. However, we can assure our employees that Federal law shields INS employees who act in reasonable reliance upon properly promulgated agency guidance within the agency's legal authority – such as this memorandum—from personal legal liability for those actions.

The principles set forth in this memorandum, and internal office procedures adopted hereto, are intended solely for the guidance of INS personnel in performing their duties. They are not intended to, do not, and may not be relied upon to create a right or benefit, substantive or procedural, enforceable at law by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

Training and Implementation

Training on the implementation of this memorandum for DDs, CPAs, and Regional, District, and Sector Counsel will be conducted at the regional level. This training will include discussion of accountability and periodic feedback on implementation issues. In addition, following these regional sessions, separate training on prosecutorial discretion will be conducted at the district level for other staff, to be designated. The regions will report to the Office of Field Operations when this training has been completed.

EXHIBIT PP

CO 241.11-P

TO : Commissioner

DATE: 15 JUL 1976

FROM : Sam Bernsen
General Counsel

SUBJECT: Legal Opinion Regarding Service Exercise of Prosecutorial Discretion

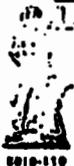
You have asked for my opinion regarding the authority of the Service to exercise prosecutorial discretion in administrative proceedings arising under the Immigration and Nationality Act. You have also asked for my opinion regarding the appropriate time and manner for the exercise of such discretion.

Prosecutorial discretion refers to the power of a law enforcement official to decide whether or not to commence or proceed with action against a possible law violator. See generally, K. Davis, Administrative Law Treatise, 1970 Supp., §4.08, at 188. This power is not restricted to those termed prosecutors, but is also exercised by others with law enforcement functions such as police and officials of various administrative agencies. ^{1/} The power extends to both civil and criminal cases. 38 Op. Att'y Gen. 98, 102 (1934)

The reasons for the exercise of prosecutorial discretion are both practical and humanitarian. There simply are not enough resources to enforce all of the rules and regulations presently on the books. As a practical matter, therefore, law enforcement officials have to make policy choices as to the most effective and desirable way in which to deploy their limited resources. Thus, for example, police and prosecutors may choose to concentrate on apprehension and prosecution of perpetrators of violent crimes, while choosing not to proceed against those committing so-called "victimless crimes," such as certain consensual sex acts and possession of small amounts of marijuana. In addition, there are times when defects in the quality, quantity, or method of gathering evidence will make it difficult to prove the matter before a court.

Aside from purely practical considerations, it is also obvious that in enacting a statute the legislature cannot possibly contemplate all of the possible circumstances in which the statute may be applied. In some situations, application of the literal letter of the law would simply be unconscionable and would serve no useful purpose. For instance, a prosecutor may well decide not to proceed against a terminally ill individual, even in the presence of overwhelming evidence of guilt.

^{1/} See e.g., Allen v. State, 336 U.S. 171, 182 (1957) (General Counsel of NLRB has unreviewable discretion to refuse to institute unfair labor practice complaint).



5010-110

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General Authority of Executive Branch

The ultimate source for the exercise of prosecutorial discretion in the Federal Government is the power of the President. Under Article II, Section 1 of the Constitution, the executive power is vested in the President. Article II, Section 3, states that the President "shall take care that the laws be faithfully executed."

Most discussions of the exercise of prosecutorial discretion on the federal level center on the Attorney General, since he is the chief legal officer of the Federal Government. Nevertheless, prosecutorial discretion is also exercised by a wide variety of other government officials with law-enforcement responsibilities. 2/

The Attorney General has the authority "to determine when the United States shall sue, to decide for what it shall sue, and to be responsible that such suits shall be brought in appropriate cases." U.S. v. San Jacinto Tin Co., 125 U.S. 273, 279 (1888). The power of the Attorney General to exercise his prosecutorial discretion does not end with the entry of judgment, but also embraces execution of the judgment. U.S. v. Morris, 23 U.S. (10 Wheat.) 246 (1825); 38 Op. Att'y Gen. 98, 102 (1934).

In a 1934 opinion, Attorney General Cummings pointed to three sources for the Attorney General's exercise of prosecutorial discretion: (1) inherent authority, (2) court decisions, and (3) various statutory enactments. 38 Op. Att'y Gen. 98 (1934). 3/

The inherent authority can be traced to the common law, where a prosecuting attorney had authority to terminate a suit at any time. See Confiscation Cases, 74 U.S. (7 Wall.) 454 (1868). As Attorney General Taney stated in 2 Op. Att'y Gen. 482, 486 (1831):

An attorney conducting a suit for a party has, in the absence of that party, a right to discontinue it whenever, in his judgment, the interest of his client requires it to be done. If he abuses this power, he is liable to the client whom he injures.... An attorney of the United States, except in so far as his power may be restrained by particular acts of Congress, has the same authority and control over the suits which he is conducting.

2/ Id.

3/ See also 2 Op. Att'y Gen. 482, 486 (1831); 22 Op. Att'y Gen. 491, 494 (1899); 23 Op. Att'y Gen. 507, 508-09 (1901). See generally Schwartz, Federal Criminal Jurisdiction and Prosecutors Discretion, 13 Law & Contemp. Prob. 64 (1948).

Numerous Supreme Court decisions have confirmed the power of the Attorney General to exercise his discretion in the institution, control, and settlement of suits in behalf of the United States. See e.g., Confiscation Cases, supra; U.S. v. San Jacinto Tin Co., supra; U.S. v. Throckmorton, 98 U.S. 61, 70 (1878); In re Neagle, 135 U.S. 1, 67 (1890); New York v. New Jersey, 256 U.S. 296, 308 (1921); Kern River Co. v. U.S., 257 U.S. 147, 155 (1921); Ponzi v. Fessenden, 258 U.S. 254, 262 (1922); Petite v. U.S., 361 U.S. 529 (1960). 4/

There is also a long line of lower court cases recognizing this authority. See e.g., U.S. v. Alessio, 528 F.2d 1079 (9 Cir. 1976); U.S. v. Cawley, 481 F.2d 702 (5 Cir. 1973); Inmates of Attica Correctional Facility v. Rockefeller, 477 F.2d 375, 379 (2 Cir. 1973); U.S. v. Kysar, 459 F.2d 422, 424 (10 Cir. 1972); Spillman v. U.S., 413 F.2d 527, 530 (9 Cir. 1969); Newman v. U.S., 382 F.2d 479 (D.C. Cir. 1967); U.S. v. Cox, 342 F.2d 167 (5 Cir. 1965), cert. denied, Cox v. Hauberg, 381 U.S. 935 (1965); Goldberg v. Hoffman, 225 F.2d 463 (7 Cir. 1955); District of Columbia v. Buckley, 128 F.2d 17, 20-21 (D.C. Cir. 1942); Pugach v. Klein, 193 F. Supp. 630, 635 (S.D.N.Y. 1961); U.S. v. Woody, 2 F.2d 263 (D. Mont. 1924).

A final source for the Attorney General's authority to exercise prosecutorial discretion can be found in the various statutes creating his office and conferring upon him the power to supervise and conduct the litigation and other legal affairs of the United States. 28 U.S.C. §§515-519, 547; Judiciary Act of 1789, Ch. 20, §35, 1 Stat. 92; Act of June 22, 1870, Ch. 150, 16 Stat. 162.

Most of the aforementioned federal cases dealing with prosecutorial discretion state that the power of the executive authorities is plenary and may not be reviewed by the judiciary. Nevertheless, dicta in several court decisions has indicated that selective prosecution based upon certain suspect classifications may violate the Constitution. 5/ Courts have also indicated that they will not tolerate an arbitrary exercise of prosecutorial discretion by an ad-

4/ See also Oyler v. Boles, 368 U.S. 448 (1962) (selective prosecution by state authorities not a violation of constitutional rights where not based upon unjustifiable standard); Linda R.S. v. Richard D., 410 U.S. 614 (1973) (private party has no standing to compel prosecution by state authorities).

5/ Oyler v. Boles, supra at note 4 (selection not based on unjustifiable standard such as race, religion, or other arbitrary classification); Nader v. Saxhe, 497 F.2d 676, 679 n. 19 (D.C. Cir. 1974) (exercise of prosecutorial discretion, like any other exercise of executive discretion, subject to statutory and constitutional limits enforceable through judicial review); U.S. v. Sacco, 428 F.2d 264, 271 (9 Cir. 1970), cert. denied, 400 U.S. 903 (1970) (selective prosecution not a constitutional violation where no allegation that it was based on constitutionally suspect classification).

-4-

ministrative agency. 6/

Prosecutorial Discretion in Immigration Cases

It has been pointed out that prosecutorial discretion may be exercised in administrative, as well as criminal contexts. 7/ One of the earliest manifestations of prosecutorial discretion in an immigration-related field is Department of Justice Circular Letter Number 107, dated September 20, 1909, dealing with the institution of proceedings to cancel naturalization. That letter states:

In the opinion of the department, as a general rule, good cause is not shown for the institution of proceedings to cancel certificates of naturalization alleged to have been fraudulently or illegally procured unless some substantial results are to be achieved thereby in the way of betterment of the citizenship of the country.

This policy still governs denaturalization cases. See Interp. 340.1(f).

The Attorney General has exercised prosecutorial discretion in the immigration area in the cases of aliens deportable under §241(a)(4) of the Immigration and Nationality Act who are eligible to receive state court expungements at a future date. In a letter to the Commissioner of Immigration, dated January 17, 1961, Attorney General Rogers stated that the Service should "withhold or terminate proceedings under section 241(a)(4) of the Immigration and Nationality Act in the cases of youthful offenders who are eligible for an honorable discharge from the control of the California Youth Authority."

6/ Moog Industries, Inc. v. F.T.C., 355 U.S. 411 (1958) and F.T.C. v. Universal Rundle Corp., 387 U.S. 244, 251 (1967) (FTC does not have unbridled power to institute proceedings that will arbitrarily destroy one of many law violators in an industry); Lennon v. INS, 527 F.2d 187, 195 (2 Cir. 1975) (dictum) (courts will not condone selective prosecution based upon secret political grounds); Lennon v. United States, 387 F. Supp. 651, 564 (S.D.N.Y. 1975) (Government cannot institute deportation proceedings solely as penalty for exercise of constitutional rights). See also U.S. v. Berrios, 501 F.2d 1207, 1209 (2 Cir. 1974). See generally K. Davis, Administrative Law Treatise §28.16, at 982 (1958); Note, Reviewability of Prosecutorial Discretion: Failure to Prosecute, 75 Colum. L. Rev. 130 (1975).

7/ See e.g., Vaca v. Sipes, supra note 1. See also Bachowski v. Brennan, 502 F.2d 79, 87 (3 Cir. 1974), reversed on other grounds, Dunlop v. Bachowski, 421 U.S. 560 (1975), where the court stated that prosecutorial discretion could be exercised in administrative contexts, "which, like criminal prosecutions, involve the vindication of societal or governmental interest, rather than the protection of individual rights."

-5-

Numerous administrative decisions have affirmed the power of Service officers to exercise prosecutorial discretion. For instance, in Matter of Vizcarra-Delgadillo, 13 I&N Dec. 51, 53 (BIA 1968), the Board of Immigration Appeals upheld the authority of the District Director to move that proceedings be terminated as improvidently begun. The Board commented on the nature of the District Director's authority:

Those charged with responsibility for enforcing the criminal laws have prosecutive discretion in determining whether to initiate criminal prosecution in a given case. A similar discretion not to proceed in a given case must be accorded to those responsible for immigration law enforcement. And where, following the formal start of deportation proceedings, additional facts or policy considerations arise which lead those responsible to conclude that this is not the sort of case in which such proceedings should have been started in the first place, 8 CFR 242.7 wisely provides the mechanics for termination on the ground that the proceeding was "improvidently begun." (Footnotes omitted)

Another case, Matter of Andrade, I.D. 2276 (BIA 1964), dealt with a minor who had been convicted of a marijuana violation which was expunged under a state law comparable to the Federal Youth Corrections Act. An order of deportation was initially entered. Thereafter, however, in connection with a petition for certiorari filed in the United States Supreme Court, the Solicitor General urged the Service to reconsider its policy with respect to such expungements and to administratively set aside the order of deportation. In response to this suggestion, the Service moved for termination of the deportation proceedings. The Board granted the Service's motion stating that, "the Service's determination not to initiate or press deportation proceedings in a given case or class of cases is a matter of prosecutorial judgment which we do not review."

Many other administrative decisions recognize and affirm the Service's power to exercise prosecutorial discretion. See e.g., Matter of Geronimo, 13 I&N Dec. 680 (BIA 1971); Matter of Wong, 13 I&N Dec. 701 (BIA 1971); Matter of Gallares, I.D. 2177 (BIA 1972); Matter of Marced, I.D. 2273 (BIA 1974), *aff'd per curiam* Merced v. INS, 514 F.2d 1070 (5 Cir. 1975); Matter of Lennon, I.D. 2304 (BIA 1974), *rev'd on other grounds*, Lennon v. INS, 527 F.2d 187 (2 Cir. 1975). See also Matter of Anaya, I.D. 2243 (BIA 1973), *aff'd per curiam*, Anaya v. INS, 500 F.2d 574 (5 Cir. 1974); Matter of Felix, I.D. 2149 (BIA 1972). See also Roberts, The Exercise of Administrative Discretion Under the Immigration Laws, 13 San Diego L. Rev. 144, 149-52 (1975).

The Service's power to exercise prosecutorial discretion is inherent in the nature of its enforcement function and does not depend upon any specific provision of the Immigration and Nationality Act. The Service has nevertheless promulgated regulations and operations instructions dealing with the exercise of prosecutorial discretion.

-6-

8 CFR 242.7(a) sets forth the authority of the District Director to cancel or move for cancellation of deportation proceedings if "he is satisfied that the respondent is actually a national of the United States, or is not deportable under the immigration laws, or is deceased, or is not in the United States, or that the proceeding was improvidently begun." (underscoring supplied).

It is obvious that the "improvidently begun" ground is in addition to the "not deportable" ground and includes individuals who are deportable, but whose departure the Service, for policy or humanitarian reasons, does not choose to enforce. Operations Instruction 103.1(c)(1)(ii) lists various factors to be considered in determining whether to place an alien in the "deferred action" (formerly "nonpriority") category, meaning that deportation proceedings will not be instituted or continued against the alien. 8/

In addition to the discretion not to institute deportation proceedings, prosecutorial discretion may be exercised in connection with various other discretionary remedies, such as voluntary departure, 9/ and stays of deportation. 10/

Courts have acknowledged that a determination whether or not to enforce a deportable alien's departure in a particular case is normally within the sound discretion of the Service officer having responsibility over the case. See e.g., Balanos v. Kiley, 509 F.2d 1023 (2 Cir. 1975); Vassiliou v. INS, 461 F.2d 1193 (10 Cir. 1972); Spata v. INS, 442 F.2d 1013 (2 Cir. 1971), cert. denied, 404 U.S. 857 (1971); Armstrong v. INS, 445 F.2d 1395 (9 Cir. 1971); Bowes v. District Director, 443 F.2d 30 (9 Cir. 1971); Manantan v. INS, 425 F.2d 693 (7 Cir. 1970); Discaya v. INS, 339 F. Supp. 1034 (N.D. Ill. 1972). See also Pignatello v. Attorney General, 350 F.2d 719, 725 (2 Cir. 1965). However, in Lennon v. U.S., 387 F. Supp. 561 (S.D.N.Y. 1975), the court indicated that a claim of selective deportation presents a proper issue for judicial review, and in Lennon v. INS, 527 F.2d 187, 195 (2 Cir. 1975), the court indicated in dictum that selective deportation based on political motives will not be tolerated. See also Lennon v. Richardson, 378 F. Supp. 39 (S.D.N.Y. 1974).

In Vergel v. INS, ___ F.2d ___, Civ. No. 75-1526 (8 Cir. June 2, 1976), the court sustained an order of deportation, but noted that there was a substantial

8/ See also Wildes, The Nonpriority Program of the Immigration and Naturalization Service - A Measure of the Attorney General's Concern for Aliens, (two parts) 53 Interpreter Releases 25, 33 (1976).

9/ 8 CFR 244.1, 244.2. See Matter of Anaya, I.D. 2243 (BIA 1973), aff'd per curiam, 500 F.2d 574 (5 Cir. 1974); Matter of Felix, I.D. 2149 (BIA 1972)

10/ 8 CFR 243.4.

-7-

basis for allowing the alien to remain in the United States in the "deferred action category" under O.I. 103.1(a)(1)(ii). The court stated that it would be "appropriate for the District Director to make further inquiry to that end," and stayed its mandate for 90 days in order to allow the District Director to consider the alien's claim.

In several other cases, courts have upheld deportation orders while suggesting that the Service might appropriately exercise prosecutorial discretion to stay execution of the orders. See e.g., U.S. v. McAlister, 395 F.2d 852 (3 Cir. 1968); 11/ Liaggi v. INS, Civ. No. 75-1393 (7 Cir. January 27, 1976), reversing 389 F. Supp. 12 (N.D. Ill. 1975); 12/ Dunn v. INS, Civ. No. 72-2186 (9 Cir. February 20, 1974), cert. denied 419 U.S. 919 (1974). 13/

Proper Time for Exercise

Normally the appropriate time for the exercise of prosecutorial discretion is prior to the institution of proceedings. The primary reason for this is the humanitarian factor; it makes little sense to put an alien through the ordeal and expense of a deportation proceeding when his actual removal will not be sought.

In addition, there are practical considerations. Deportation proceedings tie up Government manpower and resources that could be used in performing other important functions. Given the present illegal alien problem such a use of scarce resources on aliens whom the Service does not ultimately intend to deport is indefensible. Moreover, once a final administrative order of deportation is issued, the Service cannot prevent the alien from seeking judicial review. When a case with extremely appealing factors goes to court, it may place the Service in an unfavorable light, both before the court and in the forum of public opinion.

There are some situations, however, where prosecutorial discretion is properly exercised after the institution or completion of deportation proceedings. The sympathetic or humanitarian factors may not arise or become apparent until after the case has been started. In other cases involving aliens who may have committed serious offenses but are allowed to remain on the representation that

11/ "Therefore, we think it would be appropriate for the Department to make further inquiry to the end that, if justified, appellant's deportation at least be stayed during his good behavior."

12/ "We agree...that this is a hardship case. Therefore the Government should afford petitioner any administrative remedy that may still be available..."

13/ "While this is a case in which the administrative discretion of the INS might have been exercised with greater compassion the scope of our review in this area is extremely narrow."

-8-

they are the sole support of United States citizen families, it may be desirable to have a final order of deportation outstanding for immediate execution in the event of any further misconduct.

Conclusion

The power of various officers of the Executive Branch to exercise prosecutorial discretion is inherent and does not depend on express statutory authorization. Officers of the Service have been recognized as possessing such power, and provision for its exercise has been made in both the regulations and the operations instructions.

Although there is authority for the plenary nature of prosecutorial discretion, the trend, especially in administrative contexts, is towards judicial review of prosecutorial discretion to ascertain that it is not being exercised in a way that would be constitutionally suspect or grossly unfair. Consequently, the Service's attempts to set forth some standards for the exercise of prosecutorial discretion are particularly appropriate.

Finally, prosecutorial discretion may be exercised before, during, or after the completion of deportation proceedings. Normally, however, such discretion is best exercised prior to the institution of proceedings.

CC: W/F - Opinions of the General Counsel, 1976

CC: CG 840-F

FWB:anb

EXHIBIT QQ



Donald J. Trump

@realDonaldTrump

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Congress now has 6 months to legalize DACA (something the Obama Administration was unable to do). If they can't, I will revisit this issue!

5:38 PM - 5 Sep 2017

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91K

EXHIBIT RR

Supporting

Declaration of Karen C.

Tumlin



U.S. Citizenship and Immigration Services

Guidance on Rejected DACA Requests

[Versión en español](#)

U.S. Citizenship and Immigration Services (USCIS) has received reports that the U.S. Postal Service (USPS) has identified USPS mail service delays that affected a number of DACA renewal requests. Because the DACA policy has been rescinded and individuals can no longer request deferred action under DACA, and in light of the mail service delays identified by USPS, Acting Secretary of Homeland Security Elaine Duke has directed USCIS to accept DACA renewal requests from individuals who resubmit their DACA renewal request with individualized proof that the request was originally mailed in a timely manner and that the cause for receipt after the Oct. 5, 2017, deadline was the result of USPS mail service error. Affected DACA requestors who do not have such proof may contact USPS, which will review the cases on an individual basis and provide a letter if appropriate. USCIS will not accept requests that do not include individualized proof that the request was originally mailed in a timely manner to be received by the October 5 deadline, and that the cause for receipt after the Oct. 5, 2017, deadline was the result of USPS mail service error.

In addition, USCIS had discovered certain cases in which the DACA requests were received at the designated filing location (e.g., at the applicable P.O. Box) by the filing deadline, but were rejected. USCIS will proactively reach out to those DACA requestors to inform them that they may resubmit their DACA request. If a DACA requestor does not receive such a notification and believes that his or her DACA request was received at the designated filing location by the filing deadline, he or she may resubmit his or her DACA request with proof that the request was previously received at the designated filing location on or before the filing deadline.

Frequently Asked Questions

Q1: Are any new DACA requests being accepted?

A1: No. The DACA policy for accepting new, initial DACA requests ended on Sept. 5, 2017.

Q2: Can I still submit a DACA renewal request?

A2: No. The due date for DACA renewal requests was Sept. 5, 2017 for recipients whose DACA expired before Sept. 5, 2017, and Oct. 5, 2017 for recipients whose DACA expired between Sept. 5, 2017 and March 5, 2018.

Q3: I believe that my DACA request was delivered by the deadline, but since it wasn't officially "received" by USCIS until the following day, my request was rejected and returned to me. What do I need to do to have my DACA request reconsidered?

A3: USCIS will identify you and will send you a letter inviting you to resubmit your DACA request. You will have 33 days from the date of the letter to resubmit your request. You may wish to keep a copy of all materials included in your resubmission. USCIS expects to be able to identify and send letters to all persons in this situation.

Q4: I believe that my DACA request was delivered by the deadline, but since it wasn't officially "received" by USCIS until the following day, my request was rejected and returned to me. However, I haven't been contacted by USCIS to resubmit my DACA request. What should I do?

A4: If you believe your DACA request was delivered by the filing deadline but have not been contacted by USCIS to resubmit your request, you may contact Lockbox Support and explain your situation prior to resubmitting your package for reconsideration. To contact Lockbox Support please email lockboxsupport@uscis.dhs.gov. Provide any information you feel is relevant to your belief that your DACA request was received by USCIS in a timely manner.

Q5: What will happen if my current DACA expires before my renewal is processed? Will I be at risk of removal while this issue is being resolved?

A5: Consistent with longstanding USCIS policy, you will not have deferred action if there is a gap of time between the end of your current DACA and the agency's adjudication of your renewal request. Therefore it is very important for you to resubmit your renewal request as soon as possible.

Information provided to USCIS for the DACA process will not make you an immigration priority for that reason alone. That information will only be proactively provided to ICE or CBP if the requestor meets the criteria for the issuance of a Notice To Appear or a referral to ICE under the criteria set forth in USCIS' Notice to Appear guidance (www.uscis.gov/NTA). This information-sharing policy has not changed in any way since it was first announced, including as a result of the Sept. 5, 2017 memo starting a wind-down of the DACA policy. This policy, which may be modified, superseded, or rescinded at any time with or without notice (as has always been the case, and is noted in the archived USCIS DACA FAQs), is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable by law by any party in any administrative, civil, or criminal matter.

Q6: If my DACA renewal request is approved after expiration of my current DACA, will the renewed deferred action apply retroactively?

A6: No. In accordance with longstanding policy, an approved DACA request will not apply retroactively. An individual's deferred action under the DACA policy begins the day USCIS approves the renewal request and is generally valid for two years from the date of issuance.

Q7: I submitted my renewal request on time, but it was rejected by USCIS for other reasons. Can I resubmit it again?

A7: If USCIS rejected your timely filed renewal request because it was not properly filed, that is a valid reason for rejection and it will not be reconsidered. However, if you believe your request was improperly rejected, *i.e.*, it did include all required documents and information, and was properly signed and accompanied by the required fee or approved fee exemption, you may contact Lockbox Support for more information. The email address for Lockbox Support is lockboxsupport@uscis.dhs.gov. Please be prepared to identify and provide a detailed description of the error you believe was made. If you identify a clear error by USCIS in the processing of your renewal request, USCIS may exercise its discretion to review your request again.

Q8: I believe that my DACA request was delivered to the USCIS designated filing location after the deadline because of U.S. Postal Service (USPS) mail-service delays. What do I need to do to have my DACA request reconsidered?

A8: The USPS is working with USCIS to identify DACA requests that were received after the deadline due to USPS mail-service delays. As soon as USPS completes its assessment, identifies such requests, and provides this information to USCIS, USCIS will send affected DACA requestors a letter inviting them to resubmit their DACA request. If you receive such a letter, you will have 33 calendar days from the date of the letter to resubmit your request. You may wish to keep a copy of all materials included in your resubmission.

Q9: When will USPS complete its assessment?

A9: USPS anticipates that it will be able to identify DACA requests that were received after the deadline due to USPS mail-service delays and provide this information to USCIS by mid-December 2017.

Q10: When will USCIS send letters informing DACA requestors that they were affected by USPS mail-service delays?

A10: USCIS anticipates that it will be able to send letters to affected individuals approximately one week after USPS provides information to USCIS identifying the impacted requests.

Q11: Will individuals who resubmit their DACA request need to resubmit the required fee?

A11: Yes, unless they previously submitted evidence that USCIS had approved their request for a fee exemption, DACA requestors will need to resubmit the required fee. USCIS did not accept or process the fees for individuals whose DACA requests were rejected. When the agency rejected DACA requests, USCIS returned the entire package, including the fee if one was submitted.

Q12: What should I include in my resubmission package?

A12: Your resubmission package should include:

- Your original DACA request, including your completed and properly signed Form I-821D, Form I-765, Form I-765 Worksheet, if your originally submitted forms are still available to you, or you may submit newly completed forms; the correct filing fee or approved fee exemption request; and any required supporting evidence as described in the Instructions to the forms; and,
- The letter from USCIS inviting you to resubmit your DACA request.

Q13: What is the deadline for resubmitting DACA requests?

A13: Affected individuals will receive a letter from USCIS, and the resubmitted request must be properly filed and received by USCIS at the designated filing location within 33 calendar days of the date of USCIS' letter in order to be considered. You may wish to send your request with tracking information and/or take other steps to ensure your request is received by USCIS within the required timeframe.

As soon as USPS completes its assessment and USCIS sends DACA requestors affected by USPS mail service delays a letter inviting them to resubmit their DACA request, further guidance will be provided about how you may contact USPS and/or USCIS if you believe you were affected but you did not receive a letter from USCIS inviting you to resubmit your request.

The above FAQs, which may be modified, superseded, or rescinded at any time with or without notice, are not intended to, do not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable by law by any party in any administrative, civil, or criminal matter.

Last Reviewed/Updated: 12/14/2017

EXHIBIT SS

Supporting

Declaration of Karen C.

Tumlin



December 4, 2017

VIA EMAIL

Stephen Pezzi
Trial Attorney
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Ave., N.W.
Washington, DC 20530
stephen.pezzi@usdoj.gov

RE: Follow Up on Rejected DACA Renewal Applications

Dear Mr. Pezzi,

We write about two pressing matters: (1) to request the expedited adjudication of DACA renewal applications for four Make the Road New York clients whose DACA expires this month, and (2) to urge USCIS to reconsider its decision to not accept timely filed applications that were rejected due to real or perceived minor clerical errors.

Expedited Adjudication of DACA Renewal Applications

Four Make the Road New York clients have DACA that expires this month. USCIS has yet to set up and implement a procedure for accepting rejected DACA renewal applications. If USCIS does not accept and adjudicate these four clients' renewal applications shortly, they stand to lose their protection from deportation and employment authorization. We therefore request both that USCIS accept and adjudicate these four applications in an expedited manner, and that USCIS develop and implement a procedure for accepting rejected DACA renewal applications immediately.

- **Fernando** [REDACTED]'s DACA expires on December 21, 2017. His application arrived at the Chicago Lockbox on October 5th. However, USCIS picked it up from the facility the next day and rejected it as allegedly untimely. Mr. [REDACTED] is thirty three years old and has five United States children who depend on him financially.
- **Cristhian** [REDACTED]'s DACA expires on December 28, 2017. His application arrived at the Chicago Lockbox on October 5th. However, USCIS picked it up from the facility the next day and rejected it as allegedly untimely. Mr. [REDACTED] is twenty one years old and has been in the United States since he was nine years old.

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STATEN ISLAND
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FAX 718 981 8077

LONG ISLAND
1040 SUITE 101 K AVENUE
BRENTWOOD, NY 11717
TEL 631 231 2200
FAX 631 231 2229

- **Jonathan** ██████████'s DACA expires on December 28, 2017. Due to USPS mail delays, his renewal application arrived on October 10th even though he mailed it on September 28th. Mr. ██████████ has been in the United States since he was six years old. He is gainfully employed and in college.
- **Valeria** ██████████'s DACA expires on December 29, 2017. Her application arrived at the Chicago Lockbox on October 5th. However, USCIS picked it up from the facility the next day and rejected it as allegedly untimely. Ms. ██████████ a nineteen-year-old college student who has been in the United States since she was three years old.

DACA Renewal Applications Rejected Due to Real or Perceived Minor Clerical Errors

The *Batalla Vidal* Plaintiffs are deeply concerned by USCIS's position, elaborated in their "Frequently Asked Questions: Rejected DACA Requests" page, that it will not consider DACA renewal applications that were submitted before the October 5th deadline but rejected due to real or perceived minor clerical errors. USCIS's refusal to accept these applications as timely violates the due process rights of these DACA recipients. Additionally, the deadline itself and its implementation were arbitrary and capricious.

As discussed at the pre-motion conference on November 16, 2017, Plaintiffs are prepared to seek the intervention of the court to rectify this due process violation. However, we write first to determine whether the parties can reach agreement on these issues without court intervention.

We urge USCIS to reconsider their position and issue guidance so that DACA recipients whose timely filed applications were rejected due to minor alleged clerical errors can resubmit their applications for full consideration.

On November 16, 2017, Judge Garaufis expressed both concern about DACA recipients whose renewal applications were rejected due to minor alleged clerical errors, and hope that these issues could be resolved without further litigation. You represented to the court that you believed "it would be appropriate to continue further conversations . . . before plaintiffs proceeded with additional litigation." Judge Garaufis agreed with you that "the best initial course is . . . to get together, try to work it through . . . without litigation," and if that was not possible, to amend the complaint.

Besides Maria Rivas, the Make the Road New York client discussed at the pre-motion conference, counsel has identified eighteen DACA recipients whose renewal applications were filed timely and received by or shortly after the October 5th deadline but rejected due to minor alleged clerical errors. Their summarized information is below, and individual situations here (with additional documentation attached):

- **Ana** ██████████ submitted her DACA renewal on September 5, 2017 via FedEx. Two women from a local church assisted Ana in preparing her application, and paid the renewal fee for her. Unfortunately, the women submitted \$465 instead of \$495, so the application was rejected and mailed back to Ana on September 20, 2017 and directed her to resubmit her application with a corrected fee. Ana was not aware there was any deadline, as the rejection letter did not mention a deadline and although she heard news about the DACA rescission, she was not sure the renewal deadline applied to

her. On October 5th, Ana contacted the church women about the return of her application, and the women contacted an attorney, Linda [REDACTED], on October 6th to assist Ana to resubmit her application with a corrected fee. After gathering the necessary information and documents, Ms. [REDACTED] mailed Ana's DACA renewal packet the following week. On October 27th, USCIS sent Ana a rejection notice, stating that her renewal request was submitted on an outdated form and received untimely, although the form was the correct version. Ana is a 25-year-old resident of Oakland, California, and mother to a seven-month-old U.S. citizen baby. Ana is afraid that she will lose her retail job as a result of losing DACA and will be unable to support her baby. **Her DACA expired on December 1, 2017.**

- **Johana** [REDACTED] filed her DACA renewal application on her own. Due to the short one-month deadline for filing, she was rushed, and had her sister help her fill out the forms. As she was going to sign the form, she realized her sister had forgotten to fill in one field regarding a prior visa number. Johana fixed that field and re-printed her finalized application, but this time, as she was nervous and in a rush, she forgot to sign it. She mailed her application to the Phoenix Lockbox and it was received timely on October 3, 2017. However, USCIS rejected the entire application because of the missing signature. USCIS returned the application to Johana on October 5. She sent the packet a second time on October 12, 2017 with the missing signature, but it was again rejected by USCIS as untimely. She then retained an attorney, who re-submitted the packet again with a cover letter on November 22, 2017, explaining what happened and advocating that the application should be considered since it was first received on October 3. Johana and her attorney have not yet received any response from USCIS since resubmitting a third time. **Johana's current DACA grant and work permit expire on December 6, 2017.** Johana needs her DACA and work permit because she is currently going to school and needs a job to pay for her books and supplies, not to mention to provide for her two young children as a single mother.
- After learning of the DACA Termination, **Crystal** [REDACTED] sought to renew her DACA but was slowed down by Hurricane Irma and the need to find a new lawyer. She found legal assistance and was able to submit her renewal application before October 5, but the lawyer neglected to check a box in the criminal history attestations. USCIS rejected her application, with instructions to resubmit (attached), but when Ms. [REDACTED] resubmitted the application, USCIS rejected it as untimely. Ms. [REDACTED] is currently on unpaid maternity leave after giving birth to a baby girl. **She had hoped to return to work on December 13, but that plan is jeopardized because her EAD and DACA expire on December 4.**
- **Brittany** [REDACTED] filed her DACA renewal on September 21, 2017 via USPS priority express mail, and it was received on September 22. On October 5, Brittany received the application back in the mail. It was sent back to her because she forgot to sign her name in one place. She fixed this issue and sent it back on October 6, 2017, again via express mail. It arrived on October 7, but because that was a Saturday, it was not signed for until October 10, a Tuesday. (Monday was the Columbus Day holiday.) On November 10, Brittany received a rejection. Her application was rejected as untimely because it was

received after October 5, even though she originally sent it on September 21. It would be devastating to Brittany to be forced to return to Trinidad, a country she left behind when she was 3 years old and where she has no close family members or friends. In addition, it would also be disastrous for the family of Brittany's employer if she does not regain her DACA permit and work authorization. Brittany is the full-time caretaker for the family's two 14-month old twins, one of whom has special needs and requires physical therapy. Her employer's family is devastated at the thought that she may not be able to continue to work in this country and know they won't find another caregiver who is as reliable, nurturing, and unshakable as Brittany. **Brittany's current grant of DACA and work authorization expires on December 7, 2017.**

- **Mayron** [REDACTED] submitted his DACA renewal application before the deadline, and it arrived on October 2, 2017. He accidentally submitted the processing fee for \$465 instead of \$495, because the last time he renewed the fee was \$465, and his entire case was sent back for that reason. With his rejection, he received a green document (attached) stating, "You are invited to resubmit your application package after you have corrected the reasons for rejection. . . . Place this letter on top of your application package." Mayron fixed the processing fee and re-submitted his application with the green document on top of his application package. On October 31st, he received his entire package in the mail with a rejection notice dated October 24th that stated that USCIS is no longer accepting DACA applications. Mayron, originally from Honduras, has lived in the U.S. since he was 11 years old and knows no other country as home. He has overcome lots of obstacles to be who he is today: He is a successful entrepreneur and owns three businesses. Mayron has been a DACA applicant for the last three years and is devastated by the Department of Homeland Security's actions in rejecting the renewal of his DACA. **Mayron's current grant of DACA expires on December 22, 2017.**
- **Carlos** [REDACTED]'s lawyer mailed his DACA renewal application on September 18, 2017 via first-class mail. His lawyer received a rejection notice from USCIS that was dated October 29, 2017, stating that his application was received on October 11, 2017 but rejected because his current DACA expiration date was not listed in the form. While this field was missing on the application itself, the relevant date was included on the cover letter to the packet (attached). Carlos's lawyer was waiting to re-submit Carlos's application when USCIS released its guidance, but the guidance released on November 30, 2017 appears to foreclose Carlos's case because it involves not only unreasonable USPS mail delay, but also a small clerical error in a form.
- **Ana** [REDACTED] filed her DACA renewal application on September 28, 2017 via U.S. Certified mail with return receipt and it arrived to USCIS on September 29, 2017. USCIS rejected her application because of a minor clerical error that anyone could have missed, a check box was the only thing not checked off. All other information on the application was there and correct, including the correct payment, signatures, and dates. Having DACA has given Ana the opportunity to better herself and gave her a sense of hope because with it she was able to work. It has helped her support her family. Losing DACA would take away her opportunity to work and with it the opportunity for her to

continue to support her family. She has a spouse and step-kids that count on her to help better their lives. **Her current grant of DACA expires on January 14, 2018.**

- **Yatziri** [REDACTED] mailed her DACA renewal application on October 4 via Fedex, and it was received on October 5. Her application was returned due to missing signatures. When she submitted the packet, she accidentally submitted the copy that was given to her to keep and that was not signed. The original document her processor gave her to send to USCIS *was* signed. Because of the deadline and the confusion and misinformation that surrounded DACA being terminated, she was in a panic to submit her application on time. Due to this she was too focused on sending it in and did not realize that she sent out her unsigned copy, instead of the signed original packet. After receiving the returned application, she realized her mistake and went back to the processor and signed the returned application and sent it back to USCIS. She sent the packet with the correction on November 14, 2017, before USCIS's announcement. It was rejected again as untimely and sent back to her on November 22. DACA has given Yatziri the opportunity to work and save money to continue her education. Her goal is to work in the medical field and working has allowed her to continue to pursue this goal. Losing DACA would detour her future goals and career aspirations. This would bring a hardship to her family because they count on her to not only support them but also to support herself. **Yatziri's current grant of DACA expires on January 26, 2018.**
- **Luigi** [REDACTED] mailed his DACA renewal application on September 23, 2017 via UPS-2 Day delivery. The application arrived to USCIS's offices on Tuesday, September 26th. On Wednesday, October 4th, USCIS sent back the entire package due to one box being unchecked in Part 4 of the application. Luigi did not receive the package until Saturday, October 7, 2017, by which time the October 5 deadline had passed. However, the package contained a green paper instructing him to make the correction on that part of the application and proceed to send it back. He did so, but his application was rejected as untimely. DACA truly has changed Luigi's life. It has given him so many possibilities that he did not have before—not just material but the ability to have peace of mind anywhere he goes. He was able to obtain his license, get a job, pay his taxes, and most importantly, do everything the way it is supposed to be. If Luigi loses his DACA, he will lose his driver's license and maybe even his job. He recently had a son and he needs to be able to provide for him the way he is doing now. **Luigi's current grant of DACA expires on January 19, 2018.**
- USCIS received **David** [REDACTED]'s DACA renewal application on October 4, 2017. However, it was rejected because form I-765 was not signed. Mr. [REDACTED]'s application was returned to him with a green sheet inviting him to resubmit his application. Mr. [REDACTED] resubmitted his application, but USCIS rejected it as untimely. Mr. [REDACTED] is gainfully employed.
- On September 29, 2017, **Maria** [REDACTED] applied to renew her DACA status and sent a check dated September 28, 2017. Ms. [REDACTED] qualified for financial support from United We Dream and her attorney at Westchester Hispanic Coalition wrote out her check for \$495.00 on September 28, 2017. USCIS sent a Rejection Notice dated October 4, 2017. The stated reason for the rejection was "The date on the check/money order is not

current. The check date either occurred more than a year ago or it is in the future.” The receipt date of Ms. ██████’s renewal application was listed as October 2, 2017. Ms. ██████’s attorney received the Rejection Notice on October 10, 2017 and despite the September 28, 2017 date on the original check, her attorney sent back the application and provided a new check as requested with the date of October 10, 2017. Despite Ms. ██████’s and her attorney’s request to process the application with a receipt date of October 2, 2017, USCIS rejected the application and stated “USCIS no longer accepts requests for Consideration of Deferred Action for Childhood Arrivals.” Ms. ██████’s attorney emailed Lockbox Support about this issue and on November 22nd, a representative responded refusing to allow Ms. ██████ to resubmit her application.

- **Deisy ██████**’s DACA renewal was received by USCIS on October 3, 2017, ahead of the October 5th deadline. An attorney at her university assisted her to prepare her renewal forms remotely, since she is studying in DC for the fall semester. In addition, a nonprofit organization agreed to help her with the renewal fee. Unfortunately, the organization provided a check made out to Deisy herself rather than USCIS, and in the amount of \$500 rather than \$495. Deisy attached the check to her application and submitted them by the October 5th deadline. USCIS rejected her renewal on October 10, 2017, stating, “The payment amount is incorrect, or has not been provided,” and both on the rejection notice and on a separate green document, instructed her to resubmit with the appropriate fees. As instructed, Deisy resubmitted her renewal with the correct fees, but USCIS rejected her application, stating that it no longer accepts DACA renewals. Deisy is a 20-year-old student at the University of Colorado at Boulder.

As Judge Garaufis said at the pre-motion conference, “there should be a rule of reason utilized here.” In rushing to meet the arbitrary and capricious October 5th deadline, DACA recipients and overburdened attorneys were prone to make minor mistakes. DACA recipients who were not able to find representation in the short time period between the announcement and the deadline were particularly prone to making small mistakes as they saw their protection from deportation, their livelihood, and for many, their way of supporting their family, be put in imminent jeopardy. It would be unconscionable for USCIS to deny these DACA recipients, who met the arbitrary and capricious deadline, the chance to have their DACA renewals adjudicated because of an alleged minor mistake.

We await your response.

Sincerely,

Natalia Renta

Type of alleged reason for rejection	Case-specific details
“The payment amount is incorrect, or has not been provided.”	<ul style="list-style-type: none"> • Paid \$465 (previous DACA renewal fee that has increased since the last time these DACA recipients had to renew) instead of \$495 (this applies to two

	<p>individuals)</p> <ul style="list-style-type: none"> Submitted payment for \$500 instead of \$495 Check was written out to wrong entity
Lack of signature	<ul style="list-style-type: none"> One of the forms (I-821D or I-765) was not signed (this applies to two applicants) Forms were not signed because she accidentally mailed the copies instead of the original
Unanswered fields (various)	<ul style="list-style-type: none"> DACA expiration date field was blank on the I-821D form One or more of the yes/no questions was not answered (this applies to five applicants) In some cases, this information <i>was</i> answered in the attorney or representative's cover letter, but the entire packet was still rejected.
Other	<ul style="list-style-type: none"> Initially filed form I-821D, but not I-765; upon resubmission (received by USCIS on 10/5), submitted \$45 more than the required fee

Sincerely,

/s/ Amy Taylor

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EXHIBIT TT

No.

In the Supreme Court of the United States

UNITED STATES OF AMERICA, ET AL., PETITIONERS

v.

STATE OF TEXAS, ET AL.

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT*

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

The Department of Homeland Security has long engaged in “a regular practice * * * known as ‘deferred action,’” in which the Secretary “exercis[es] [his] discretion” to forbear, “for humanitarian reasons or simply for [his] own convenience,” from removing particular aliens from the United States. *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483-484 (1999). On November 20, 2014, the Secretary issued a memorandum (Guidance) directing his subordinates to establish a process for considering deferred action for certain aliens who have lived in the United States for five years and either came here as children or already have children who are U.S. citizens or permanent residents.

The questions presented are:

1. Whether a State that voluntarily provides a subsidy to all aliens with deferred action has Article III standing and a justiciable cause of action under the Administrative Procedure Act (APA), 5 U.S.C. 500 *et seq.*, to challenge the Guidance because it will lead to more aliens having deferred action.
2. Whether the Guidance is arbitrary and capricious or otherwise not in accordance with law.
3. Whether the Guidance was subject to the APA’s notice-and-comment procedures.

PARTIES TO THE PROCEEDING

Petitioners were appellants in the court of appeals. They are: the United States of America; Jeh Charles Johnson, in his official capacity as Secretary of Homeland Security; R. Gil Kerlikowske, in his official capacity as Commissioner of U.S. Customs and Border Protection; Ronald D. Vitiello, in his official capacity as Deputy Chief of U.S. Border Patrol, U.S. Customs and Border Protection; Sarah R. Saldaña, in her official capacity as Director of U.S. Immigration and Customs Enforcement; and León Rodríguez, in his official capacity as Director of U.S. Citizenship and Immigration Services.

Respondents were appellees in the court of appeals. They are: The State of Texas; State of Alabama; State of Georgia; State of Idaho; State of Indiana; State of Kansas; State of Louisiana; State of Montana; State of Nebraska; State of South Carolina; State of South Dakota; State of Utah; State of West Virginia; State of Wisconsin; Paul R. LePage, Governor, State of Maine; Patrick L. McCrory, Governor, State of North Carolina; C.L. “Butch” Otter, Governor, State of Idaho; Phil Bryant, Governor, State of Mississippi; State of North Dakota; State of Ohio; State of Oklahoma; State of Florida; State of Arizona; State of Arkansas; Bill Schuette, Attorney General, State of Michigan; State of Nevada; and the State of Tennessee.*

* Several putative beneficiaries of the Guidance moved to intervene as defendants in the district court. The court denied the motion, but the court of appeals reversed that order. See 2015 WL 6876054.

TABLE OF CONTENTS

	Page
Opinions below	1
Jurisdiction	1
Statutory and regulatory provisions involved	2
Statement:	
A. Legal framework.....	2
B. Factual and procedural background	8
Reasons for granting the petition	11
I. Respondents do not have Article III standing or a cognizable claim under the APA.....	14
A. A State’s voluntary decision to extend a subsidy to aliens accorded deferred action does not give it standing to challenge federal deferred-action policies	14
B. Respondents lack a cognizable APA claim.....	18
II. The Secretary had ample statutory authority to issue the Guidance	24
III. The Guidance is exempt from notice-and-comment requirements.....	29
IV. This case warrants immediate review.....	32
Conclusion	35
Appendix A.....	1a
Appendix B.....	156a
Appendix C.....	244a
Appendix D.....	407a
Appendix E.....	411a
Appendix F.....	420a
Appendix G.....	430a

TABLE OF AUTHORITIES

Cases:	Page
<i>Arizona v. United States</i> , 132 S. Ct. 2492 (2012) <i>passim</i>	
<i>Arizona Christian Sch. Tuition Org. v. Winn</i> , 131 S. Ct. 1436 (2011)	15

IV

Cases—Continued:	Page
<i>Arpaio v. Obama</i> , 797 F.3d 11 (D.C. Cir. 2015), petition for cert. pending, No. 15-643 (filed Nov. 12, 2015)	34, 35
<i>Block v. Community Nutrition Inst.</i> , 467 U.S. 340 (1984).....	23
<i>Clapper v. Amnesty Int’l USA</i> , 133 S. Ct. 1138 (2013).....	17
<i>Clarke v. Securities Indus. Ass’n</i> , 479 U.S. 388 (1987).....	18, 19
<i>DaimlerChrysler Corp. v. Cuno</i> , 547 U.S. 332 (2006).....	15
<i>Heckler v. Chaney</i> , 470 U.S. 821 (1985).....	3, 12, 20
<i>Johns v. Department of Justice</i> , 653 F.2d 884 (5th Cir. 1981).....	20
<i>Lincoln v. Vigil</i> , 508 U.S. 182 (1993)	4, 20, 29, 30
<i>Linda R.S. v. Richard D.</i> , 410 U.S. 614 (1973)	14
<i>Lujan v. Defenders of Wildlife</i> , 504 U.S. 555 (1992).....	14
<i>Massachusetts v. EPA</i> , 549 U.S. 497 (2007)	15, 16
<i>Mathews v. Diaz</i> , 426 U.S. 67 (1976)	19
<i>Pennsylvania v. New Jersey</i> , 426 U.S. 660 (1976).....	16, 17
<i>Reno v. American-Arab Anti-Discrimination Comm.</i> , 525 U.S. 471 (1999)	<i>passim</i>
<i>Sure-Tan, Inc. v. NLRB</i> , 467 U.S. 883 (1984)	14
<i>Truax v. Raich</i> , 239 U.S. 33 (1915).....	2, 23
<i>Vermont Yankee Nuclear Power Corp. v. Natural Res. Def. Council, Inc.</i> , 435 U.S. 519 (1978).....	32
<i>Wayte v. United States</i> , 470 U.S. 598 (1985)	30
<i>Whitman v. American Trucking Ass’ns, Inc.</i> , 531 U.S. 457 (2001).....	24
<i>Wyoming v. Oklahoma</i> , 502 U.S. 437 (1992)	17

V

Constitution, statutes and regulations:	Page
U.S. Const.:	
Art. II, § 3, Cl. 5.....	10
Art. III.....	11, 12, 14
Administrative Procedure Act, 5 U.S.C. 500	
<i>et seq.</i>	10
5 U.S.C. 553.....	10, 430a
5 U.S.C. 553(a)(2).....	31, 430a
5 U.S.C. 553(b)(A)	29, 431a
5 U.S.C. 701(a)(1).....	23, 432a
5 U.S.C. 701(a)(2).....	20, 432a
5 U.S.C. 702.....	18, 432a
5 U.S.C. 706.....	10, 433a
Consolidated Appropriations Act, 2014, Pub. L.	
No. 113-76, Div. F, Tit. II, 128 Stat. 250.....	4
Department of Homeland Security Appropriations	
Act, 2015, Pub. L. No. 114-4, 129 Stat. 39:	
Tit. II:	
129 Stat. 42	4, 450a
129 Stat. 42-43.....	25, 450a
129 Stat. 43	4, 451a
Immigration and Nationality Act, 8 U.S.C. 1101	
<i>et seq.</i>	2
8 U.S.C. 1103(a)	26, 436a
8 U.S.C. 1103(a)(1).....	2, 20, 436a
8 U.S.C. 1103(a)(1)-(3).....	25, 30, 436a
8 U.S.C. 1103(a)(2).....	3, 436a
8 U.S.C. 1103(a)(3).....	3, 20, 436a
8 U.S.C. 1154(a)(1)(D)(i)(II)	8
8 U.S.C. 1154(a)(1)(D)(i)(IV)	8

VI

Statutes and regulations—Continued:	Page
8 U.S.C. 1182.....	22, 437a
8 U.S.C. 1182(a)	2, 437a
8 U.S.C. 1182(a)(9)(B)	6, 437a
8 U.S.C. 1182(a)(9)(B)(i)	6, 437a
8 U.S.C. 1182(a)(9)(B)(ii)	6, 22, 32, 438a
8 U.S.C. 1226(a)(3).....	22
8 U.S.C. 1226(c)	25
8 U.S.C. 1227(a)	2, 5
8 U.S.C. 1229b.....	28
8 U.S.C. 1231(a)(7).....	22
8 U.S.C. 1252.....	23
8 U.S.C. 1252(a)(2)(B)	27
8 U.S.C. 1252(a)(2)(B)(ii)	22
8 U.S.C. 1252(g).....	8, 23, 26, 27
8 U.S.C. 1324a.....	22, 439a
8 U.S.C. 1324a(a)	27, 439a
8 U.S.C. 1324a(a)(1).....	5, 439a
8 U.S.C. 1324a(h)(3)	5, 13, 22, 23, 27, 440a
Immigration Reform and Control Act of 1986, Pub. L. No. 99-603, 100 Stat. 3359	5
National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, § 1703(c)-(d), 117 Stat. 1694-1695	8
Omnibus Consolidated Appropriations Act, 1997, Pub. L. No. 104-208, 110 Stat. 3009-3010	27
Personal Responsibility and Work Opportunity Rec- onciliation Act of 1996, Pub. L. No. 104-193, § 411, 110 Stat. 2268 (8 U.S.C. 1601 <i>et seq.</i>)	19
8 U.S.C. 1611.....	20, 441a
8 U.S.C. 1611(a)	6, 441a
8 U.S.C. 1611(b).....	20, 441a

VII

Statutes and regulations—Continued:	Page
8 U.S.C. 1611(b)(2)	22, 443a
8 U.S.C. 1611(b)(2)-(b)(4).....	6, 443a
8 U.S.C. 1611(b)(3)	22, 443a
8 U.S.C. 1611(c)	20, 444a
8 U.S.C. 1621.....	19, 445a
8 U.S.C. 1621(a)	7, 19, 445a
8 U.S.C. 1621(b).....	7, 19, 446a
8 U.S.C. 1621(c)	19, 447a
8 U.S.C. 1621(c)(1)(B)	20, 447a
8 U.S.C. 1621(d).....	7, 19, 20, 448a
8 U.S.C. 1641(b).....	6, 449a
REAL ID Act of 2005, Pub. L. No. 109-13, Div. B, 119 Stat. 302	8
49 U.S.C. 30301 note	8
USA PATRIOT Act, Pub. L. No. 107-56, § 423(b), 115 Stat. 361	8
Violence Against Women Act of 1994, Pub. L. No. 103-322, Tit. V, 108 Stat. 1092.	8
6 U.S.C. 202(3)	2, 435a
6 U.S.C. 202(5)	2, 20, 25, 30, 435a
6 U.S.C. 271(b)	2
6 U.S.C. 557.....	2
Ariz. Rev. Stat. Ann. § 43-1001(2) (2013)	18
Tex. Transp. Code Ann. § 521.421(a-3) (West 2013)	15
8 C.F.R.:	
Section 1.3(a).....	20, 473a
Section 1.3(a)(4)(vi)	7, 32, 474a
Section 274a.12(a).....	5, 452a
Section 274a.12(b).....	5, 456a
Section 274a.12(c).....	5, 465a
Section 274a.12(c)(14)	5, 32, 469a

VIII

Miscellaneous:	Page
Adam B. Cox & Cristina M. Rodríguez, <i>The President and Immigration Law</i> , 119 Yale L.J. 458 (2009)	25
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Dep't of Homeland Sec., <i>Yearbook of Immigration Statistics: 2013 Enforcement Actions, Tbl. 39, Aliens Removed or Returned: Fiscal Years 1892 to 2013</i> (2014), http://www.dhs.gov/publication/ yearbook-immigration-statistics-2013-enforcement- actions	4
44 Fed. Reg. 43,480 (July 25, 1979).....	23, 27
46 Fed. Reg. 25,080 (May 5, 1981)	6, 27, 32
61 Fed. Reg. 47,041 (Sept. 6, 1996)	7, 32
6 Charles Gordon et al., <i>Immigration Law and Procedure</i> (1998).....	5
Memorandum from Gene McNary, Comm'r, to Reg'l Comm'rs, <i>Family Fairness, reprinted as 67 No. 6 Interpreter Releases 153, App. I</i> (Feb. 2, 1990).....	30
Memorandum from Doris Meissner, Immigration & Naturalization Serv. Comm'r, to Reg'l Dirs. et al., <i>Exercising Prosecutorial Discretion, re- printed as 77 No. 46 Interpreter Releases 1661, App. I</i> (Nov. 17, 2000).....	3
Memorandum from Donald Neufeld, Acting Assoc. Dir., to Field Leadership, <i>Consolidation of Guid- ance Concerning Unlawful Presence for Purposes of Sections 212(a)(9)(B)(i) and 212(a)(9)(C)(i)(I) of the Act</i> 42 (May 6, 2009), http://www.uscis.gov/sites/ default/files/USCIS/Laws/Memoranda/Static_ Files_Memoranda/2009/revision_redesign_ AFM.PDF	6

IX

Miscellaneous—Continued:	Page
Manuel Pastor et al., <i>The Kids Aren't Alright – But They Could Be: The Impact of Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) on Children</i> (Mar. 2015), https://dornsife.usc.edu/assets/sites/731/docs/DAPA_Impact_on_Children_CSII_Brief_Final_01.pdf	33
Tex. Dep't of Pub. Safety, <i>Verifying Lawful Presence</i> (July 2013), http://www.txdps.state.tx.us/DriverLiense/documents/verifyingLawfulPresence.pdf	17
<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. __ (Nov. 19, 2014).....	7, 8, 33

In the Supreme Court of the United States

No.

UNITED STATES OF AMERICA, ET AL., PETITIONERS

v.

STATE OF TEXAS, ET AL.

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT*

PETITION FOR A WRIT OF CERTIORARI

The Solicitor General, on behalf of the federal parties, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit in this case.

OPINIONS BELOW

The opinion of the court of appeals (Pet. App. (App.) 1a-155a) is not yet published but is available at 2015 WL 6873190. The opinion of the court of appeals denying a stay pending appeal (App. 156a-243a) is reported at 787 F.3d 733. The opinion of the district court (App. 244a-406a) is reported at 86 F. Supp. 3d 591.

JURISDICTION

The judgment of the court of appeals was entered on November 9, 2015. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

**STATUTORY AND REGULATORY
PROVISIONS INVOLVED**

Pertinent statutory and regulatory provisions are reproduced in the appendix to this petition. App. 430a-475a.

STATEMENT

A. Legal Framework

1. The “authority to control immigration * * * is vested solely in the Federal Government.” *Truax v. Raich*, 239 U.S. 33, 42 (1915). Pursuant to that authority, Congress enacted the Immigration and Nationality Act (INA), 8 U.S.C. 1101 *et seq.* The INA charges the Secretary of Homeland Security “with the administration and enforcement of [the INA] and all other laws relating to the immigration and naturalization of aliens.” 8 U.S.C. 1103(a)(1).¹

Congress has expressly assigned the Secretary the responsibility for “[e]stablishing national immigration enforcement policies and priorities.” 6 U.S.C. 202(5). One of the enforcement matters over which the Secretary has authority is the removal of aliens if, *inter alia*, “they were inadmissible at the time of entry, have been convicted of certain crimes, or meet other criteria set by federal law.” *Arizona v. United States*, 132 S. Ct. 2492, 2499 (2012); see 8 U.S.C. 1182(a), 1227(a). In this and other matters, the Secretary is vested with the authority to “establish such regulations; * * * issue such instructions; and perform

¹ Congress has transferred to the Department of Homeland Security (DHS) most of the functions of the former Immigration and Naturalization Service (INS). *E.g.*, 6 U.S.C. 202(3), 271(b), 557. Unless otherwise indicated, references to the actions of DHS and the Secretary include actions by their predecessors.

such other acts as he deems necessary,” and to have “control, direction, and supervision” of all DHS employees. 8 U.S.C. 1103(a)(2) and (3).

2. “A principal feature of the removal system is the broad discretion exercised by immigration officials.” *Arizona*, 132 S. Ct. at 2499. When they encounter a removable alien, immigration officials, “as an initial matter, must decide whether it makes sense to pursue removal at all.” *Ibid.* They decide whether to “[f]ocus[] investigative resources on particular offenses or conduct”; “to issue, serve, or file a Notice to Appear”; to oppose a request for relief; to settle or dismiss a proceeding; to appeal an adverse ruling; and to execute a removal order. Memorandum from Doris Meissner, INS Comm’r, *Exercising Prosecutorial Discretion 2*, reprinted as 77 No. 46 Interpreter Releases 1661, App. I (Nov. 17, 2000). “At each stage the Executive has discretion to abandon the endeavor.” *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999) (*AADC*).

Like other agencies exercising enforcement discretion, DHS balances “a number of factors which are peculiarly within its expertise.” *Heckler v. Chaney*, 470 U.S. 821, 831 (1985). Those factors include “whether agency resources are best spent on this violation or another” and “whether the agency has enough resources to undertake the action at all,” *ibid.*, as well as “immediate human concerns,” such as “whether the alien has children born in the United States [or] long ties to the community,” *Arizona*, 132 S. Ct. at 2499.

The Secretary faces resource constraints that require the exercise of enforcement discretion. More than 11 million removable aliens are estimated to live

in the United States. App. 5a. But Congress has appropriated the funds to remove only a fraction of that population in any given year. The number of removals has varied depending on circumstances, but DHS has not been able to remove more than four percent of the estimated removable population in any year. See DHS, *Yearbook of Immigration Statistics: 2013 Enforcement Actions, Tbl. 39, Aliens Removed or Returned: Fiscal Years 1892 to 2013* (2014). And more aliens enter unlawfully or otherwise become removable each year.

Recognizing that DHS cannot actually remove the vast majority of removable aliens, Congress has directed U.S. Immigration and Customs Enforcement (ICE), the relevant DHS component, to use at least \$1.6 billion to identify and remove aliens convicted of crimes, and to prioritize removals of criminal aliens “by the severity of th[e] crime.” DHS Appropriations Act, 2015 (Appropriations Act), Pub. L. No. 114-4, Tit. II, 129 Stat. 43. But as relevant here, Congress has otherwise committed to DHS’s discretion the choice of how to allocate its lump-sum appropriation for “necessary expenses for enforcement of immigration and customs laws, detention and removals, and investigations.” *Id.* at 42; see Consolidated Appropriations Act, 2014, Pub. L. No. 113-76, Div. F, Tit. II, 128 Stat. 250 (same); *Lincoln v. Vigil*, 508 U.S. 182, 191-194 (1993).

3. For decades, DHS has engaged in “a regular practice * * * known as ‘deferred action,’” in which the Secretary “exercis[es] [his] discretion” to forbear, “for humanitarian reasons or simply for [his] own convenience,” from removing particular aliens from the United States for a designated period of time. *AADC*, 525 U.S. at 483-484. Deferred action thus

memorializes a decision “[t]o ameliorate a harsh and unjust outcome” through forbearance. *Id.* at 484 (quoting 6 Charles Gordon et al. *Immigration Law and Procedure* § 72.03[2][h] (1998)). Through “[t]his commendable exercise in administrative discretion, developed without express statutory authorization,” *ibid.* (citation omitted), a removable alien is able to remain in the country for the duration of the agency’s forbearance. That person’s continued presence does not violate any criminal law, because “[r]emoval is a civil, not criminal, matter,” and “[a]s a general rule, it is not a crime for a removable alien to remain present in the United States.” *Arizona*, 132 S. Ct. at 2499, 2505; see 8 U.S.C. 1227(a). But deferred action provides no defense to the civil consequence of continued presence: The alien remains removable, and DHS has discretion to revoke deferred action at any time. See *AADC*, 525 U.S. at 484-485.

Under other longstanding federal law, according aliens deferred action has several consequences. First, aliens with deferred action—like many other aliens whose presence is temporarily countenanced—become eligible for work authorization. 8 C.F.R. 274a.12(a), (b), (c), and (14). As amended by the Immigration Reform and Control Act of 1986 (IRCA), Pub. L. No. 99-603, 100 Stat. 3359, the INA makes it unlawful to knowingly hire an “unauthorized alien.” 8 U.S.C. 1324a(a)(1). Aliens are “unauthorized” to be hired if they are not permanent residents or not “authorized to be so employed by [the INA] or by the [Secretary].” 8 U.S.C. 1324a(h)(3). Pursuant to a regulation in place when Congress enacted IRCA, aliens with deferred action and economic need may apply for work authorization. 8 C.F.R. 274a.12(c)(14);

see 46 Fed. Reg. 25,080 (May 5, 1981). Otherwise, during the period the government has countenanced an alien's presence, that person would have no lawful way to make ends meet and would be vulnerable to exploitation by unscrupulous employers.

Second, like many other aliens, aliens accorded deferred action cease accruing time for purposes of the admissibility bars in 8 U.S.C. 1182(a)(9)(B). That provision makes an alien inadmissible for three or ten years if she departs the United States after being "unlawfully present" for six months or a year. 8 U.S.C. 1182(a)(9)(B)(i). "For purposes of this paragraph," an alien is "unlawfully present" if she is present "after the expiration of the period of stay authorized by the [Secretary]." 8 U.S.C. 1182(a)(9)(B)(ii). The Secretary has long considered deferred action to toll accrual of time for purposes of that calculation. See Memorandum from Donald Neufeld, Acting Assoc. Dir., *Consolidation of Guidance Concerning Unlawful Presence for Purposes of Sections 212(a)(9)(B)(i) and 212(a)(9)(C)(i)(I) of the Act* 42 (May 6, 2009).

Third, aliens with deferred action become potentially eligible for certain federal public benefits. For most such benefits, only "qualified alien[s]" are eligible, and aliens with deferred action are not "qualified." 8 U.S.C. 1611(a); see 8 U.S.C. 1641(b) (defining "qualified alien"). But that limitation does not apply to some Social Security, Medicare, and railroad-retirement benefits when a non-qualified alien is "lawfully present in the United States as determined by the [Secretary]." 8 U.S.C. 1611(b)(2)-(4). Under longstanding regulations, deferred action makes an alien eligible for some Social Security benefits under this

provision. 8 C.F.R. 1.3(a)(4)(vi); 61 Fed. Reg. 47,041 (Sept. 6, 1996).

As a matter of federal law, deferred action has no impact on whether an alien is eligible for any state public benefit. States may provide certain minimal benefits to all aliens. See 8 U.S.C. 1621(b). But non-“qualified” aliens (who are also not parolees or nonimmigrants) are prohibited from receiving any additional state public benefits, unless the State has affirmatively chosen after August 22, 1996 to provide them. 8 U.S.C. 1621(a) and (d). Deferred action does not make an alien “qualified” (or a parolee or nonimmigrant). See 8 U.S.C. 1641(b). Deferred action thus does not trigger eligibility for any state public benefit, unless a State voluntarily chooses to provide such a benefit on that basis.

4. DHS has repeatedly accorded deferred action and exercised similar forms of discretion on the basis of the Secretary’s general authority to administer the immigration laws. *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. ___, *14-*20 (Nov. 19, 2014) (OLC Op.) (collecting examples). For example, in 1990, INS expanded a “Family Fairness” policy to provide extended voluntary departure to spouses or children of aliens with legalized status, and some estimates were that 1.5 million people—about 40% of the total removable population at the time—could be eligible. *Id.* at *31. In 2005, DHS implemented a policy of according deferred action to foreign students affected by Hurricane Katrina. *Id.* at *16-*17. And in 2012, DHS implemented the Deferred Action for Childhood Arrivals (DACA) policy

for certain aliens who were brought or came to this country as children and have lived here for years. *Id.* at *17-*18. More than 600,000 people have been accorded deferred action via that policy. App. 4a.

Congress has repeatedly recognized in legislation that DHS has inherent authority to defer action. For example, without defining or codifying the term, Congress has made aliens who petition for relief under the Violence Against Women Act of 1994, Pub. L. No. 103-322, Tit. V, 108 Stat. 1092, eligible to request “deferred action.” 8 U.S.C. 1154(a)(1)(D)(i)(II) and (IV). Similarly, certain family members of lawful permanent residents killed on September 11, 2001, or of citizens killed in combat, are “eligible for deferred action.” USA PATRIOT Act, Pub. L. No. 107-56, § 423(b), 115 Stat. 361; National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, § 1703(c)-(d), 117 Stat. 1694-1695. Congress has also provided that, if a State participates in the REAL ID Act of 2005, Pub. L. No. 109-13, Div. B, 119 Stat. 302, it may issue compliant driver’s licenses to aliens with “approved deferred action status.” 49 U.S.C. 30301 note. And 8 U.S.C. 1252(g) bars judicial review of “no deferred action” decisions. *AADC*, 525 U.S. at 485.

B. Factual And Procedural Background

1. On November 20, 2014, the Secretary issued two memoranda relevant here. The first directs DHS to focus “to the greatest degree possible” on removing serious criminals, terrorists, aliens who recently crossed the border, and aliens who have abused the immigration system. App. 426a; see App. 420a-429a.

The second announces “new policies for the use of deferred action.” App. 412a (Guidance); see App. 411a-419a. The Guidance directs U.S. Citizenship and

Immigration Services (USCIS) to expand eligibility under the 2012 DACA policy to aliens with a wider range of ages and arrival dates, and extends the period of deferred action from two years to three. App. 415a-416a. The Guidance also directs USCIS “to establish a process, similar to DACA, for exercising prosecutorial discretion through the use of deferred action, on a case-by-case basis,” to certain aliens who have “a son or daughter who is a U.S. citizen or lawful permanent resident.” App. 416a-417a. This process is known as Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA). App. 2a. To request consideration for deferred action via DAPA, an applicant must: (1) as of November 20, 2014, be the parent of a son or daughter who is a U.S. citizen or permanent resident; (2) have continuously resided here since before January 1, 2010; (3) have been physically present here on November 20, 2014, and when applying for relief; (4) have no lawful immigration status on that date; (5) not fall within the Secretary’s enforcement priorities; and (6) “present no other factors that, in the exercise of discretion, make[] the grant of deferred action inappropriate.” App. 417a.

The Secretary explained that the new policy would reach “hard-working people who have become integrated members of American society,” have not committed serious crimes, and “are extremely unlikely to be deported given * * * limited enforcement resources.” App. 415a. Deferring action for these individuals, the Secretary continued, supports “this Nation’s security and economic interests and make[s] common sense, because [it] encourage[s] these people to come out of the shadows, submit to background

checks, pay fees, apply for work authorization (which by separate authority I may grant), and be counted.” *Ibid.* The Guidance emphasizes that it does not establish any right to deferred action, that deferred action “does not confer any form of legal status in this country,” and that deferred action “may be terminated at any time at the agency’s discretion.” App. 413a.

Under the Guidance, DHS was to begin accepting requests under the expanded DACA criteria no later than February 18, 2015, and for DAPA no later than May 19, 2015. App. 416a, 418a.

2. On December 3, 2014, respondent States sued in district court, seeking declaratory and injunctive relief against implementing the Guidance. Respondents alleged that the Guidance violates the Take Care Clause, U.S. Const. Art. II, § 3, Cl. 5; is arbitrary and capricious, 5 U.S.C. 706; and could only be adopted through notice-and-comment procedures, 5 U.S.C. 553. App. 9a.

On February 16, 2015, the district court entered a nationwide preliminary injunction against implementing the Guidance. App. 407a-410a. The court held that respondents were likely to succeed in establishing that they had standing and a cause of action under the Administrative Procedure Act (APA), 5 U.S.C. 500 *et seq.*, and that the Secretary was required to conduct notice-and-comment rulemaking before issuing the Guidance. App. 405a. The court did not reach respondents’ substantive APA and constitutional claims. App. 403a-405a.

The government appealed, moved to expedite, and moved for a stay pending appeal. App. 2a. The court of appeals expedited the appeal. On May 26, 2015, a divided panel declined to stay the injunction pending

appeal. App. 156a-210a. Judge Higginson dissented. App. 211a-243a.

On November 9, 2015, a divided panel affirmed the preliminary injunction. App. 1a-90a. The majority, consisting of the same two judges who were in the stay-panel majority, held that “[a]t least one state”—Texas—had Article III standing and a justiciable cause of action under the APA, and that respondents were substantially likely to establish that notice-and-comment rulemaking was required. App. 20a; see App. 11a-69a. Although the district court had not addressed the issue, the majority further held that the Guidance is “manifestly contrary” to the INA. App. 76a; see App. 69a-86a.

The new panel member, Judge King, dissented. App. 91a-155a. Like Judge Higginson, she concluded that the Guidance involves non-reviewable matters that are committed to agency discretion by law, and that, if the Guidance “is implemented in the truly discretionary, case-by-case manner it contemplates, it is not subject to the APA’s notice-and-comment requirements.” App. 92a-93a. She also found it inappropriate to rule on the substantive validity of the Guidance but stated that, if she were to reach the question, she would not have found the Guidance unlawful. App. 146a-155a.

REASONS FOR GRANTING THE PETITION

A divided court of appeals has upheld an unprecedented nationwide injunction against implementing a federal immigration enforcement policy of great national importance, and has done so in violation of established limits on the judicial power. If left undisturbed, that ruling will allow States to frustrate the federal government’s enforcement of the Nation’s

immigration laws. It will force millions of people—who are not removal priorities under criteria the court conceded are valid, and who are parents of U.S. citizens and permanent residents—to continue to work off the books, without the option of lawful employment to provide for their families. And it will place a cloud over the lives of hundreds of thousands of people who came to the United States as children, have lived here for years, and been accorded deferred action under the 2012 DACA policy, which respondents have never challenged. The decision warrants immediate review.

The court of appeals' justiciability rulings threaten a vast expansion of the judicial power that would entangle federal courts in policy disputes that are properly resolved through the political process. The court erroneously permitted any State to create Article III standing to challenge a federal policy, based on the State's voluntary decision to provide a state subsidy to the aliens that policy would benefit. But the Guidance does not bar a State from eliminating that subsidy if it believes that federal policy choices no longer align with its interests. The court compounded that error by rewriting the established limits on APA review in disregard of this Court's admonition that an "agency is far better equipped than the courts to deal with the many variables involved" in setting enforcement policies. *Heckler v. Chaney*, 470 U.S. 821, 831-832 (1985).

The court of appeals' merits rulings warrant review because they strip DHS of authority it has long exercised to provide deferred action to categories of aliens. The majority acknowledged that DHS could lawfully exercise enforcement discretion to forbear from removing the parents and children covered by the Guid-

ance, who have lived here for years. App. 44a. It nevertheless believed that the INA forbade the government from according those same parents and children deferred action. But “deferred action” itself is simply the name in immigration parlance for when DHS memorializes a decision to forbear from removing an alien, as a matter of enforcement discretion, for a designated time.

To be sure, deferred action has several other consequences for the alien under longstanding federal law, including eligibility to apply for work authorization. But the Secretary has discretion under the INA to grant that work authorization, which is closely bound up with his exercise of discretion over removals. Indeed, the INA for decades has made clear that the determination of which aliens are authorized to be hired lawfully may be made “by the [Secretary].” 8 U.S.C. 1324a(h)(3). The INA thus authorizes the Secretary to accord deferred action to the parents here—and to have them come forward, submit to a background check, and support their U.S.-citizen and permanent-resident children by working lawfully.

The court of appeals also fundamentally erred in holding that the Guidance was subject to the APA’s notice-and-comment requirements. The Guidance is a classic example of a “general statement of policy” that is expressly exempt from those requirements. The court’s contrary ruling threatens to deprive agencies throughout the government of the flexibility that is essential in fashioning and revising policies for enforcement and other discretionary practices.

The court of appeals thus committed manifold and significant errors in affirming the unprecedented nationwide injunction barring implementation of an

important federal policy affecting the parents and children here. This Court should grant certiorari and reverse.

I. RESPONDENTS DO NOT HAVE ARTICLE III STANDING OR A COGNIZABLE CLAIM UNDER THE APA

A. A State’s Voluntary Decision To Extend A Subsidy To Aliens Accorded Deferred Action Does Not Give It Standing To Challenge Federal Deferred-Action Policies

1. Like a member of the public, a State generally lacks standing to challenge the Executive’s policy choices about how to enforce federal laws, including the immigration laws. In the context of criminal proceedings, “a citizen lacks standing to contest the policies of [a] prosecuting authority when he himself is neither prosecuted nor threatened with prosecution.” *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973). Private parties similarly “have no judicially cognizable interest in procuring enforcement of the immigration laws” against someone else. *Sure-Tan, Inc. v. NLRB*, 467 U.S. 883, 897 (1984). And because “the removal process is entrusted to the discretion of the Federal Government” to the exclusion of the States, *Arizona v. United States*, 132 S. Ct. 2492, 2506 (2012), it is not a process in which a State inherently has a sovereign or quasi-sovereign interest.

Nor does a State obtain standing to challenge a federal immigration policy by virtue of the collateral consequences for aliens who are the policy’s beneficiaries. See p. 7, *supra*. “[M]uch more is needed” to establish standing than a mere assertion of “the government’s allegedly unlawful regulation (or lack of regulation) of *someone else*.” *Lujan v. Defenders*

of Wildlife, 504 U.S. 555, 562 (1992); see, e.g., *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 346 (2006). Indeed, the Constitution’s assignment of immigration responsibilities exclusively to the national government renders States particularly unlikely candidates for invoking the jurisdiction of federal courts to interfere with the relationship between the national government and aliens.

2. If a State could ever have standing to challenge a federal deferred-action policy despite these structural bars, at a minimum it would have to show a cognizable injury that affects it in an “*individual way*” that is “fairly . . . traceable” to the policy. *Arizona Christian Sch. Tuition Org. v. Winn*, 131 S. Ct. 1436, 1442 (2011) (emphasis added; brackets and citations omitted). Respondents cannot make that showing because the Guidance does not regulate States or require States to do (or not do) anything.

The court of appeals nonetheless held that Texas had standing by extending *Massachusetts v. EPA*, 549 U.S. 497 (2007). App. 12a. According Texas “special solicitude,” *ibid.*, the majority found standing based on an injury that results from Texas’s own decisions (1) to subsidize the costs of its alien “temporary visitor” driver’s licenses; and (2) to allow aliens with deferred action to apply for those subsidized licenses. See App. 11a-36a; App. 105a (King, J., dissenting) (dissent); see also Tex. Transp. Code Ann. § 521.421(a-3) (West 2013). By increasing the number of aliens in Texas with deferred action, the majority reasoned, the Guidance will increase the subsidy’s overall cost. See App. 20a-21a. The majority recognized that “Texas could avoid financial loss by requiring applicants to pay the full costs of [those] licenses.”

App. 24a. But in the majority’s view, Texas still suffered an actionable harm because the Guidance imposed “substantial pressure” on Texas to change its state laws. App. 16a, 20a. Ultimately, therefore, it was not the prospect of increased costs that provided standing; it was the prospect that Texas might want to change its laws to avoid those costs. *Ibid.*

Unlike in *Massachusetts*, however, the INA does not grant Texas any special “procedural right” to challenge federal immigration policy. 549 U.S. at 517. And the interest Texas asserts is nothing like the sovereign interest in *Massachusetts*. There, the State was threatened with a loss of sovereign territory—a literal loss of sovereignty—it could not unilaterally avoid. See *id.* at 519-520. Here, the Guidance causes no loss of sovereignty. Texas has chosen to link the availability of state-subsidized licenses to a federal immigration category that the State believed suited its sovereign interests. Nothing in the Guidance affects Texas’s freedom to alter or eliminate its subsidy at any time. Any “pressure” here is thus self-created and fundamentally unlike preemption, where a federal law overrides a duly-enacted state law.

The decision below is therefore at odds with *Pennsylvania v. New Jersey*, 426 U.S. 660 (1976). That decision holds that a State’s choice to extend a subsidy on the basis of another sovereign’s actions is not a proper basis for standing when the other sovereign’s policies change and thus increase the cost of the subsidy. In *Pennsylvania*, the Court concluded that Pennsylvania lacked standing to challenge a New Jersey tax that triggered a tax credit under Pennsylvania law and thereby reduced Pennsylvania’s tax revenue. *Id.* at 662-664. The Court explained that

“[n]o State can be heard to complain about damage inflicted by its own hand” and that “nothing prevents Pennsylvania from withdrawing [the] credit.” *Id.* at 664; cf. *Clapper v. Amnesty Int’l USA*, 133 S. Ct. 1138, 1152-1153 (2013). So too here.

The panel majority instead relied on *Wyoming v. Oklahoma*, 502 U.S. 437 (1992), but that case is inapposite. It held that Wyoming had standing to challenge a discriminatory Oklahoma law targeted at reducing sales of Wyoming coal in Oklahoma, when the effect was to reduce Wyoming’s revenues from its neutral tax on coal extraction. *Id.* at 442-446, 454. Wyoming, however, did not “tie[] its law to that of another sovereign.” App. 106a n.16 (dissent). Wyoming’s tax depended solely on activity in Wyoming. It was the defendant (Oklahoma) that reached out to connect the two sovereigns’ policies by targeting Wyoming coal for particular burdens. Here, as in *Pennsylvania* but unlike in *Wyoming*, the link has been created by the plaintiff State. But to the extent *Pennsylvania* and *Wyoming* can be read to point in different directions, that only underscores the need for this Court’s review.

3. As the dissent recognized, “[t]he majority’s breathtaking expansion of state standing would inject the courts into far more federal-state disputes and review of the political branches than is now the case.” App. 103a. For example, Texas provides the same subsidy to myriad other aliens, including those with parole, asylum, temporary protected status, deferred enforced departure, and extended voluntary departure. See Tex. Dep’t of Pub. Safety, *Verifying Lawful Presence* 1-5 (July 2013). Under the majority’s reasoning, Texas could claim standing to sue the govern-

ment for making an individual decision to grant asylum—and would clearly have standing to sue the government any time it adopted immigration policies providing relief to a substantial number of aliens in Texas in any of these categories.

The harms of the majority’s theory also could extend well beyond immigration. For example, a State that voluntarily incorporates the federal definition of “adjusted gross income” in computing state income taxes—as many States do, see, *e.g.*, Ariz. Rev. Stat. Ann. § 43-1001(2) (2013)—could have standing to challenge an IRS revenue ruling that lowered adjusted gross income under federal law, and thereby incidentally decreased state revenues. But the consequences of the majority’s theory are particularly acute in a case, like this one, where a State seeks to leverage its own policy choices to insert itself—and the federal courts—into discretionary immigration policy decisions that Congress and the Constitution have committed exclusively to the national government.

B. Respondents Lack A Cognizable APA Claim

The court of appeals’ decision also warrants review because it vastly expands what qualifies as a cognizable cause of action under the APA and impermissibly subjects the federal government’s exercise of enforcement discretion to judicial oversight.

1. The APA does not “allow suit by every person suffering injury in fact.” *Clarke v. Securities Indus. Ass’n*, 479 U.S. 388, 395 (1987). It limits the right of judicial review to a plaintiff “adversely affected or aggrieved by agency action within the meaning of a relevant statute.” 5 U.S.C. 702. That provision requires that “the interest sought to be protected by the complainant be arguably within the zone of interests

to be protected or regulated by the statute * * * in question.” *Clarke*, 479 U.S. at 396 (brackets and citation omitted). Here, Texas’s asserted interest in avoiding costs flowing from a voluntary state-law subsidy falls far outside the zone of interests of the INA’s removal provisions. The INA “regulat[es] the relationship between the United States and our alien visitors,” *Mathews v. Diaz*, 426 U.S. 67, 81 (1976), not between aliens and third-party States.

Relying on 8 U.S.C. 1621, the court of appeals concluded that the INA protected Texas’s interest in “participat[ing] in notice and comment before the Secretary changes the immigration classification of millions of illegal aliens in a way that forces the state to the Hobson’s choice of spending millions of dollars to subsidize driver’s licenses or changing its statutes.” App. 37a-38a. Section 1621 is part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Pub. L. No. 104-193, § 411, 110 Stat. 2268, not the INA, and it does not cover Texas’s driver’s-license subsidy, which is not a state “public benefit.” See 8 U.S.C. 1621(c). Under PRWORA, deferred action does not trigger eligibility for any state public benefit, unless a State voluntarily chooses after PRWORA’s effective date to confer such benefits on that basis. See 8 U.S.C. 1621(a), (b), and (d); 8 U.S.C. 1641(b). It thus is up to each State—and each State alone—to *protect itself* from the costs of providing such benefits to aliens with deferred action.²

² The majority also erred in assuming (App. 8a-9a, 44a-45a) that deferred action makes aliens eligible for Texas unemployment compensation. That is a state public benefit, so aliens with deferred action cannot receive it unless Texas affirmatively opted to extend that benefit after PRWORA became effective. See 8 U.S.C.

The INA also contains no notice-and-comment provision or other procedure granting States a special right to “participate” before the Secretary changes immigration policies that may have incidental consequences for a State, including on any voluntary state-law subsidies. App. 37a-38a. Rather, the INA gives the Secretary authority to set immigration enforcement policies himself. *Arizona*, 132 S. Ct. at 2506; see 8 U.S.C. 1103(a)(1) and (3); see also 6 U.S.C. 202(5).

2. The APA also bars respondents’ suit because, as both dissents concluded, App. 93a; App. 213a-214a, it challenges actions that are “committed to agency discretion by law.” 5 U.S.C. 701(a)(2). That exception “preclude[s] judicial review of certain categories of administrative decisions that courts traditionally have regarded as ‘committed to agency discretion,’” and decisions under statutes that furnish “no meaningful standard against which to judge the agency’s exercise of discretion.” *Lincoln v. Vigil*, 508 U.S. 182, 191 (1993) (citations omitted). In *Heckler*, this Court held that “an agency’s decision not to take enforcement action should be presumed immune from judicial review under § 701(a)(2).” 470 U.S. at 832; accord *Vigil*, 508 U.S. at 191. That principle applies to deferred-action policies because they involve nonbinding and revocable determinations to forbear from removing particular aliens for a period of time. See *AADC*, 525 U.S. at 484-485; cf. *Johns v. Department of Justice*,

1621(a), (c)(1)(B), and (d). Texas has not done so. Texas’s alleged injury is also neither fairly traceable to nor within the zone of interests of Section 1611, under which deferred-action recipients may become eligible for some *federal* benefits. 8 U.S.C. 1611(b) and (c); 8 C.F.R. 1.3(a).

653 F.2d 884, 893 (5th Cir. 1981) (“Th[e] discretion [to commence deportation proceedings] is, like prosecutorial discretion, immune from review.”).

The majority nonetheless concluded that deferred-action policies are reviewable under the APA because “[d]eferred action” is “much more than nonenforcement: It would affirmatively confer ‘lawful presence’ and associated benefits on a class of unlawfully present aliens.” App. 44a. But insofar as deferred action itself is concerned, “lawful presence” is simply the label for the consequence of memorializing a decision to forbear from enforcement action for a designated time: A decision to forbear from removing a person results in “lawful presence” in the sense that DHS has decided to countenance that person’s continued presence in the United States so long as DHS continues to forbear. See App. 113a-114a (dissent). Under *Heckler*, a deferred-action policy is presumptively unreviewable, whether a litigant chooses to focus on the choice itself (to forbear from enforcement) or its effect (to countenance the activity that could be the subject of enforcement). Either way, the discretion is the same.

Deferred action also has several consequences under different provisions of federal law, but they do not make a deferred-action policy reviewable. Those consequences “are not new”; they “are a function of statutes and regulations that were enacted by Congresses and administrations long past.” App. 109a-110a (dissent). “That a prior statute or regulation ties a benefit to the exercise of prosecutorial discretion does not make that ordinarily unreviewable exercise of prosecutorial discretion reviewable.” App. 115a. Indeed, many exercises of discretion have collateral

benefits, such as drug treatment following pretrial diversion. App. 117a.

In any event, Congress also has committed to the Secretary's discretion each of the consequences that result from deferred action under federal law. In PRWORA, Congress gave the Secretary discretion to decide which non-qualified aliens are eligible for Social Security and certain other federal benefits. 8 U.S.C. 1611(b)(2) and (3) ("as determined by the [Secretary]"). In the INA, Congress similarly specified that the Secretary has discretion to decide whether aliens with deferred action accrue time for purposes of the three- and ten-year bars, see 8 U.S.C. 1182(a)(9)(B)(ii) (after "period of stay authorized by the [Secretary]"), and whether to authorize aliens to be lawfully hired, 8 U.S.C. 1324a(h)(3) ("authorized to be so employed * * * by the [Secretary]"). No statute contains a relevant justiciable limit on the Secretary's ability to do so for the parents and children covered by the Guidance.³ Moreover, the INA expressly prohibits review of any "decision or action of the [Secretary]" "the authority for which is specified under [INA subchapter II] to be in the discretion of the [Secretary]." 8 U.S.C. 1252(a)(2)(B)(ii). Sections 1182 and 1324a are both in that Subchapter. This statutory shield from judicial interference underscores that the Secretary's exercise of discretion re-

³ Congress has prohibited the Secretary from giving work authorization on the basis that an alien has been released on bond during removal proceedings, 8 U.S.C. 1226(a)(3), and has limited work authorization for aliens released on orders of supervision following entry of a final order of removal, 8 U.S.C. 1231(a)(7). The Guidance implicates neither limitation.

lating to these benefits—including work authorization—is not reviewable in a suit by third-party States.

Authorizing aliens to be hired is also closely bound up with the Secretary’s discretion over removals. When DHS accords deferred action to an alien, that alien will continue living here, and “in ordinary cases [aliens] cannot live where they cannot work.” *Truax v. Raich*, 239 U.S. 33, 42 (1915). Accordingly, authorizing aliens to be hired has long been considered a “necessary incident of [the Secretary’s] authority to administer the [INA].” 44 Fed. Reg. 43,480 (July 25, 1979). And IRCA reinforces that point by confirming that “the [Secretary]” may decide whether an alien may be lawfully hired. 8 U.S.C. 1324a(h)(3).

The INA’s text provides additional confirmation that the Guidance is not subject to review. The INA provides a cause of action solely to aliens to challenge individual orders of removal, 8 U.S.C. 1252—but no cause of action at all to third-parties, including States. If Congress had intended to allow suits based on the consequences of deferred action, one would expect that the most impacted parties—aliens denied deferred action—could sue. Instead, 8 U.S.C. 1252(g) squarely prohibits such suits. As this Court explained in *AADC*, Section 1252(g) is “directed against a particular evil: attempts to impose judicial constraints upon prosecutorial discretion.” 525 U.S. at 486 n.9. That is just what respondents seek in this suit.⁴

⁴ The INA’s provisions not only confirm that the Guidance involves actions that are committed to agency discretion by law, but also they are part of a broader statutory framework establishing that a challenge by third-party States to a deferred-action policy is precluded by the INA under 5 U.S.C. 701(a)(1). See *Block v. Community Nutrition Inst.*, 467 U.S. 340, 349 (1984) (“[T]he

II. THE SECRETARY HAD AMPLE STATUTORY AUTHORITY TO ISSUE THE GUIDANCE

The court of appeals' ruling that the Secretary lacked substantive authority to adopt the Guidance is wrong, unduly restricts DHS's enforcement discretion, precludes implementation of a national policy of great importance, and places a cloud over a longstanding DHS practice that affects hundreds of thousands of people.

"[D]eferred action—whether *ad hoc* or through DAPA—is not an effort by DHS to 'hide elephants in mouseholes.'" App. 153a (dissent) (quoting *Whitman v. American Trucking Ass'ns, Inc.*, 531 U.S. 457, 468 (2001)). To the contrary, it manifests the discretion that is "[a] principal feature of the removal system." *Ibid.* (quoting *Arizona*, 132 S. Ct. at 2499). As this Court recognized in *Arizona*, "[f]ederal officials, as an initial matter, must decide whether it makes sense to pursue removal at all." 132 S. Ct. at 2499. These officials exercise discretion knowing that "[i]mmigration policy can affect trade, investment, tourism, and diplomatic relations for the entire Nation, as well as the perceptions and expectations of aliens in this country who seek the full protection of its laws." *Id.* at 2498.

Deferred action—which the Court described in *AADC* as a "regular practice" of forbearing, as a matter of discretion, from removing an alien, 525 U.S. at 483-484—is a decades-old species of this removal discretion. Like other forms of immigration discretion, it is grounded in expansive statutory authority,

presumption favoring judicial review of administrative action may be overcome by inferences of intent drawn from the statutory scheme as a whole.").

see 6 U.S.C. 202(5); 8 U.S.C. 1103(a)(1)-(3), and historical practice by both the Executive and Congress, see pp. 7-8, *supra*. It also reflects the reality that Congress has enacted laws under which a huge population of aliens is removable, but has appropriated the funds to remove only a small fraction of that population. See p. 3, *supra*. Congress has thus necessarily delegated to the Secretary “tremendous authority” to decide that large classes of aliens do not warrant immediate removal efforts. Adam B. Cox & Cristina M. Rodríguez, *The President and Immigration Law*, 119 Yale L.J. 458, 463 (2009); see *id.* at 510–511. In particular instances, Congress has channeled the exercise of that discretion by directing the Secretary to prioritize the removal of serious criminals, see Appropriations Act, 129 Stat. 42-43, and by requiring DHS to apprehend and detain certain criminal and terrorist aliens pending their removal, 8 U.S.C. 1226(c). But Congress has not disturbed the broad discretion the Secretary otherwise exercises in this area—and in particular his ability to establish policies for deferring action for the parents and children here.

The court of appeals majority acknowledged that the Secretary has discretion to decide to forbear from removing every alien who could benefit under the Guidance. App. 44a. But the majority nonetheless concluded that the Guidance is unlawful, based on two inferences: (1) that the Secretary cannot defer action or confer work authorization, except to classes of aliens the INA itself identifies; and (2) that the INA implicitly precludes the Secretary from deferring action for parents under more forgiving standards than would apply if those parents were seeking to become permanent residents or to obtain cancellation

of removal. App. 85a-86a; see App. 71a-76a. The result is that the Secretary can forbear from removing each alien covered by the Guidance and thus enable them to remain present for a period of time—but is barred from enabling them to work lawfully to support themselves and their families while they are here. Congress did not constrain the Secretary’s broad discretion to such half measures.

First, the Secretary may decide whether a class of aliens warrants deferred action. Congress has long been aware of DHS’s “regular practice” of granting deferred action, *AADC*, 525 U.S. at 483-484, including for classes of aliens. But Congress has done nothing that would prevent the Secretary from deferring action for the class of parents and children here. App. 149a-150a (dissent). To the contrary, Congress has protected deferred-action decisions from judicial intervention, see 8 U.S.C. 1252(g); *AADC*, 525 U.S. at 485 & n.9, and repeatedly recognized that the Secretary has authority to defer action for classes of aliens by directing him to use that authority for additional classes of aliens, see p. 8, *supra*. Contrary to the majority’s stilted inference, statutes encouraging the Secretary to use this preexisting authority in *more* circumstances do not prevent him from using it elsewhere.

The Secretary has similarly longstanding authority to decide whether a class of aliens should be eligible to be lawfully employed. See pp. 22-23, *supra*. In 1952, Congress authorized the Secretary to issue regulations for the administration of the INA. 8 U.S.C. 1103(a). And since 1981, regulations governing work authorization—including for deferred-action recipients—have been in place as a “necessary incident”

of that authority. 44 Fed. Reg. at 43,480; see 46 Fed. Reg. at 25,080. Otherwise, aliens whose presence DHS has officially countenanced would be unable to support themselves through lawful work.

In IRCA, Congress imposed penalties on employers who knowingly employ an “unauthorized” alien. 8 U.S.C. 1324a(a). And in that same statute, Congress provided that this proscription does not apply to hiring aliens who are “authorized to be so employed by [the INA] *or* by the [Secretary].” 8 U.S.C. 1324a(h)(3) (emphasis added). The “or” confirms that work authorization is not conferred solely by the INA itself: “the [Secretary]” may also authorize categories of aliens to be lawfully hired. *Ibid.* This language thus signals that Congress “implicit[ly] approv[ed]” the “longstanding” work-authorization regulation. App. 152a (dissent). Since Congress enacted IRCA, DHS has repeatedly provided deferred action and other similar relief—as well as work authorization—to categories of aliens as a matter of discretion, including to substantial populations. See pp. 7-8, *supra* (collecting examples). And although Congress has amended Section 1324a six times, *e.g.*, Pub. L. No. 104-208, 110 Stat. 3009-3010, it has not limited the Secretary’s authority in any way relevant here. Instead, it has further shielded the Secretary’s discretion from judicial interference. See 8 U.S.C. 1252(a)(2)(B) and (g).

Second, according deferred action and work authorization for the parents here is consistent with the INA. The majority noted that parents who could obtain deferred action are not currently entitled to become lawful permanent residents or seek cancellation of removal under the INA. App. 71a-74a. But by definition, deferred action is relevant *only* when aliens

lack lawful status or are otherwise removable, and thus when the Secretary could exercise discretion to pursue removal. His choice instead to defer action is consistent with the INA both because that discretion is a “principal feature” of immigration enforcement, *Arizona*, 132 S. Ct. at 2499, and because deferred action provides lesser relief. *Permanent* residents and aliens who receive *cancellation* of removal under 8 U.S.C. 1229b are no longer removable and have legal rights to remain in the United States. Aliens with deferred action, by contrast, are removable and may remain present only so long as DHS continues to forbear. See App. 413a (Deferred action “does not confer any form of legal status.”).

Granting deferred action and work authorization to the parents of children who are U.S. citizens or permanent residents is also consistent with the INA’s longstanding aims of protecting family unity and self-reliance. Indeed, these parents must work to support themselves and their children—who are U.S. citizens and permanent residents. See *Arizona*, 132 S. Ct. at 2499 (enforcement discretion may “embrace[] immediate human concerns,” including “whether the alien has children born in the United States”). And because the Guidance only covers parents and children who have “long ties to the community,” *ibid.*, deferred action and work authorization will make these individuals more likely to be self-reliant and pay taxes, and less likely to harm American workers by working for below-market wages. See App. 96a (dissent); Wash. State et al. C.A. Amicus Br. 4-8 (anticipating that the Guidance will benefit States).

III. THE GUIDANCE IS EXEMPT FROM NOTICE-AND-COMMENT REQUIREMENTS

The court of appeals' notice-and-comment ruling warrants this Court's review because it threatens far-reaching consequences by constraining needed flexibility to adapt enforcement policies to changing circumstances and priorities. The APA exempts from notice-and-comment all "general statements of policy." 5 U.S.C. 553(b)(A). Those are "statements issued by an agency to advise the public prospectively of the manner in which the agency proposes to exercise a discretionary power." *Vigil*, 508 U.S. at 197 (quoting Dep't of Justice, *Attorney General's Manual on the Administrative Procedure Act* 30 n.3 (1947)). Enforcement policies lie at the heart of this exception, as they inform the public how an agency will exercise its discretion to enforce (or forbear from enforcing) the law. *E.g.*, App. 231a-232a (Higginson, J., dissenting). And the Guidance fits the bill: It embodies "the Secretary's tentative decision, based on an assessment of the best uses of DHS's limited resources and under his congressionally delegated authority to '[e]stablish[] national immigration enforcement policies and priorities,' not to remove qualifying applicants for a certain period of time." App. 108a (dissent) (citation omitted; brackets in original).

The majority nonetheless concluded that respondents were likely to establish that the Secretary could not issue the Guidance without notice-and-comment rulemaking, because the Guidance "would not genuinely leave the agency and its employees free to exercise discretion." App. 64a; see App. 54a-64a. But the majority's speculation about how individual DHS agents might act in the future overlooks that the dis-

cretion being exercised belongs in the first instance *to the Secretary*. See 6 U.S.C. 202(5); 8 U.S.C. 1103(a)(1)-(3). The Guidance reflects the Secretary's discretionary judgment that the stated threshold criteria describe individuals who, in his view, are likely to warrant deferred action as a matter of discretion. App. 414a-415a.

The APA does not require senior officials to use notice-and-comment procedures whenever their discretionary policies preclude subordinates from exercising their discretion in a different way. For example, the memorandum in *Vigil* announced a decision about resource allocation from which agency employees could not deviate. See 508 U.S. at 188. The “passive enforcement” policy in *Wayte v. United States*, 470 U.S. 598, 601 (1985), categorically exempted all but 286 of a possible 674,000 violators—99.96% of the total—from prosecution for the continuing offense of failing to register for the draft. *Id.* at 604 & n.3. And the expanded Family Fairness policy in 1990 directed that officials “will” grant relief when an applicant satisfied stated criteria, without mentioning case-by-case deviation. Memorandum from Gene McNary, Comm’r, *Family Fairness 1-2*, reprinted as 67 No. 6 Interpreter Releases 153, App. I (Feb. 2, 1990).

In any event, the Guidance expressly requires agents to make discretionary case-by-case decisions. “[A]pplying the[] threshold criteria itself involves an exercise of discretion.” App. 124a (dissent). For example, USCIS must determine whether the applicant is an enforcement priority, App. 417a, which depends on whether the alien is “a threat to national security, border security, or public safety” or has “significantly abused” a visa program. App. 425a. Agents also must

exercise discretion whether to deny an application for deferred action even when those criteria are satisfied. App. 122a (dissent). Indeed, DAPA’s stated criteria require agents to determine that a request “present[s] no other factors that, in the exercise of discretion, make[] the grant of deferred action inappropriate.” App. 417a. The majority viewed all this discretion as “merely pretext.” App. 56a. But as both dissenting judges concluded, it is plainly wrong to conclude that the discretion apparent on the Guidance’s face is “pre-textual” when, among other things, this is a facial challenge to a policy that “has yet to be implemented.” App. 131a; see App. 234a-242a.

It is also immaterial that, under preexisting law, deferred action triggers “eligibility for [certain] federal benefits—for example, under title II and XVIII of the Social Security Act.” App. 44a. The APA does not impose procedural roadblocks before an agency can adopt policies that have this consequence. Indeed, it *exempts* from notice-and-comment requirements agency action on any “matter relating to * * * benefits.” 5 U.S.C. 553(a)(2). Many agencies have waived the APA’s benefits exception, but DHS has not. App. 68a & n.155. Accordingly, if the Guidance were reviewable because deferred action renders aliens eligible for benefits, see App. 44a-45a, it would be exempt from notice-and-comment because it would “relat[e] to” those same benefits.

Moreover, the consequences of deferred action result from pre-existing regulations that are independent of the Guidance and were adopted through notice-and-comment rulemaking. App. 111a-113a (dissent). DHS’s predecessor followed notice-and-comment procedures when adopting the regulations providing

that aliens with deferred action may obtain work authorization, 8 C.F.R. 274a.12(c)(14); 46 Fed. Reg. at 25,080, and that they may become eligible for Social Security, 8 C.F.R. 1.3(4)(vi); 61 Fed. Reg. at 47,041.⁵ Under the APA, once is enough. See *Vermont Yankee Nuclear Power Corp. v. Natural Res. Def. Council, Inc.*, 435 U.S. 519, 549 (1978).

IV. THIS CASE WARRANTS IMMEDIATE REVIEW

The court of appeals' judgment enjoins nationwide a federal policy of great importance to federal law enforcement, to many States, and to millions of families with longstanding and close connections with this country. A twice-divided court of appeals should not have the last word on whether that policy can be implemented.

A. As set forth above, the majority has permitted some States (over the objection of others) and a federal court to interfere with the Secretary's exercise of discretion in establishing policies regarding enforcement of the federal immigration laws. That is unprecedented and momentous. Moreover, the majority's decision is "very damaging to DHS's immigration enforcement policy, which has operated, from time to time, on a class-wide basis." App. 111a (dissent).

⁵ DHS's policy that aliens with deferred action cease accruing time for the three- and ten-year bars, see p. 6, *supra*, was not adopted through notice-and-comment rulemaking. But that policy has no bearing on respondents' asserted injury. It is relevant only "[f]or purposes of" DHS's computation of a barrier to admissibility if aliens depart the country. 8 U.S.C. 1182(a)(9)(B)(ii). Tolling also will not help "[m]ost adult beneficiaries" of the Guidance because they already face the maximum barrier if they depart. App. 44a n.99.

The nationwide injunction also has far-reaching and irreparable humanitarian impact. It bars approximately 4 million parents—who have lived in this country for years, would pass a background check, are not priorities for removal, and have “a son or daughter who is a U.S. citizen or lawful permanent resident,” App. 417a—from requesting deferred action under the Guidance and receiving authorization to work lawfully. See OLC Op. *30. In so doing, it has a profound effect not only on those parents but also on their children. One study estimated that “there are 6.3 million children who live in a household with a DAPA eligible mom or dad, and of that, 5.5 million are U.S. citizens.” Manuel Pastor et al., *The Kids Aren’t Alright – But They Could Be: The Impact of [DAPA] on Children* 1 (Mar. 2015). And although respondents have not challenged the Secretary’s 2012 DACA memorandum for providing deferred action, the majority’s expansive reasoning places a cloud over the deferred action accorded to more than 600,000 people under that policy, all of whom came here as children and many of whom have never known another home. App. 4a.

Most of the parents and children the Guidance would affect “are hard-working people who have become integrated members of American society,” lived here for years, have not committed serious crimes, and “are extremely unlikely to be deported given * * * limited enforcement resources.” App. 415a. Deferred action would give these parents and children the dignity of coming forward and “be[ing] counted.” *Ibid.* Without work authorization, they are more likely to work for employers who will hire them illegally, often at below-market wages, thereby hurting

American workers and giving unscrupulous employers an unfair advantage.

The injunction also undermines the Secretary's efforts to "focus [DHS's] resources on removing those undocumented aliens most disruptive to the public safety and national security of the United States." *Arpaio v. Obama*, 797 F.3d 11, 24 (D.C. Cir. 2015), petition for cert. pending, No. 15-643 (filed Nov. 12, 2015). The Guidance would complement those priorities by having millions of low-priority aliens pay for and pass a background check. App. 417a. If law-enforcement officials later encountered such an individual, ICE could "quickly confirm the alien's identity through a biometric match" and confirm that he or she does not warrant the effort of removal. D. Ct. Doc. 150-1 ¶ 15 (Feb. 23, 2015); see *id.* ¶¶ 14-17. But without the Guidance, ICE would have to do the underlying legwork every time—and it would be ICE footing the bill, thus depleting its already-limited resources. See *id.* ¶¶ 14-17; D. Ct. Doc. 150-2 ¶¶ 7-13 (Feb. 23, 2015).

B. This Court's review is warranted now. Although the court of appeals ruled in the context of a preliminary injunction, this Court decided *Arizona* in the same posture. 132 S. Ct. at 2498. The court of appeals held that Texas's "standing is plain"; that Texas "satisfies the zone-of-interests test"; that the Guidance "is not an unreviewable agency action . . . committed to agency discretion by law"; that Texas is likely to establish that it must go through notice-and-comment; and that it is "manifestly contrary to the INA." App. 11a, 37a, 50a, 68a, 76a.

It is unlikely any other court of appeals will address the questions presented here. The injunction

has prevented DHS from putting the Guidance into operation anywhere in the country, including in States that have actively supported the Guidance in this litigation. The only other pre-enforcement challenge to the Guidance was brought by a county sheriff and was dismissed for his lack of standing, without reaching any question under the APA. See *Arpaio*, 797 F.3d at 15.

The great and immediate significance of the Secretary's Guidance, the irreparable injury to the many families affected by delay in its implementation, and the broad importance of the questions presented, counsel strongly in favor of certiorari now.

CONCLUSION

This Court should grant the petition for a writ of certiorari.

Respectfully submitted.

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16 **UNITED STATES DISTRICT COURT**
17 **NORTHERN DISTRICT OF CALIFORNIA**
18 **SAN FRANCISCO DIVISION**
19

20 THE REGENTS OF THE UNIVERSITY OF
21 CALIFORNIA and JANET NAPOLITANO, in
22 her official capacity as President of the
23 University of California,

24 Plaintiffs,

25 v.

26 UNITED STATES DEPARTMENT OF
27 HOMELAND SECURITY and ELAINE
28 DUKE, in her official capacity as Acting
Secretary of the Department of Homeland
Security,

Defendants.

Case No. 17-CV-05211-WHA

**AMICUS BRIEF OF 108 COMPANIES IN
SUPPORT OF PLAINTIFFS' MOTION
FOR PROVISIONAL RELIEF**

1 STATE OF CALIFORNIA, STATE OF
2 MAINE, STATE OF MARYLAND, and
STATE OF MINNESOTA,

3 Plaintiffs,

4 v.

5 U.S. DEPARTMENT OF HOMELAND
6 SECURITY, ELAINE DUKE, in her official
7 capacity as Acting Secretary of the Department
of Homeland Security, and the UNITED
STATES OF AMERICA

8 Defendants.

Case No. 17-CV-05235-WHA

9
10 CITY OF SAN JOSE, a municipal corporation,

11 Plaintiff,

12 v.

13 DONALD J. TRUMP, President of the United
14 States, in his official capacity, ELAINE C.
DUKE, in her official capacity, and the
UNITED STATES OF AMERICA,

15 Defendants.

Case No. 17-CV-05329-WHA

16
17 DULCE GARCIA, MIRIAM GONZALEZ
18 AVILA, SAUL JIMENEZ SUAREZ,
19 VIRIDIANA CHABOLLA MENDOZA,
NORMAL RAMIREZ, and JIRAYUT
LATTHIVONGSKORN,

20 Plaintiffs,

21 v.

22 UNITED STATES OR AMERICA, DONALD
23 J. TRUMP, in his official capacity as President
of the United States, U.S. DEPARTMENT OF
24 HOMELAND SECURITY, and ELAINE
DUKE, in her official capacity as Acting
Secretary of Homeland Security,

25 Defendants.

Case No. 17-CV-05380-WHA

1 COUNTY OF SANTA CLARA and SERVICE
2 EMPLOYEES INTERNATIONAL UNION
LOCAL 521,

Case No. 17-CV-05813-WHA

3 Plaintiffs,

4 v.

5 DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
6 BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
7 States; ELAINE C. DUKE, in her official
capacity as Acting Secretary of the Department
8 of Homeland Security; and the U.S.
DEPARTMENT OF HOMELAND
9 SECURITY,

10 Defendants.

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27
28

TABLE OF CONTENTS

	Page
INTEREST OF <i>AMICI CURIAE</i>	1
INTRODUCTION	1
ARGUMENT	2
I. DACA’S RESCISSION WILL INFLICT SIGNIFICANT HARM ON U.S. COMPANIES AND THE ENTIRE ECONOMY.....	2
A. Dreamers Contribute Directly to Our Nation’s Economic Growth	3
B. Dreamers Help Grow The Economy by Filling Jobs for Which There Otherwise Would Not Be a Sufficient Supply of Workers.....	4
1. Permitting Dreamers to participate in the workforce expands, rather than reduces, the number of jobs	4
2. Dreamers fill critical labor shortages	6
C. Rescinding DACA Will Inflict Enormous Harm on Individuals, Companies, and the Economy.....	8
II. THE DECISION TO RESCIND DACA IS INVALID, BECAUSE IT IS ARBITRARY AND CAPRICIOUS AND CONTRARY TO LAW	10
A. Rescission of DACA Is a “Final Agency Action” Subject to Review Under the APA.....	11
B. Rescission of DACA Is Arbitrary and Capricious	13
CONCLUSION.....	15

TABLE OF AUTHORITIES

1				Page(s)
2				
3	Cases			
4				
5	<i>Arizona v. United States,</i>			
	567 U.S. 387 (2012).....			13
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	236 F.3d 1115 (9th Cir. 2001)			12
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	840 F.3d 575 (9th Cir. 2016)			12
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	996 F.2d 326 (D.C. Cir. 1993).....			13
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	533 U.S. 289			12
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	558 U.S. 233 (2010).....			12
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10 The UndocuScholars Project, *In the Shadows of the Ivory Tower: Undocumented*
11 *Undergraduates and the Liminal State of Immigration Reform* (2015),
12 <https://goo.gl/sEpx1K>7

13 World Health Org. & Int’l Labour Org., *Mental Health And Work: Impact, Issues*
14 *and Good Practices* 1 (2000), <https://goo.gl/ecH1Ut> 8-9

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1 **INTEREST OF AMICI CURIAE**

2 *Amici* are 108 U.S.-based companies from every sector of the economy that collectively
3 contribute hundreds of billions of dollars in annual revenue to the American economy. Many
4 *amici* employ Dreamers—the young people who, under the Deferred Action for Childhood
5 Arrivals (DACA) program, are able to live and work in the country that has been their home for
6 most of their young lives. In addition, *amici*'s customers and end users are Dreamers; and
7 *amici*'s businesses benefit from Dreamers' contributions to the overall economy through their tax
8 payments, spending, and investments. Accordingly, *amici* have a strong interest in Dreamers'
9 continued ability to work and participate in our country's economy and in society generally. A
10 list of the *amici* is set forth in the Appendix.

11 **INTRODUCTION**

12 The intangible benefits of the DACA program are undeniable and substantial: nearly
13 800,000 young people (Dreamers) who “were brought to this country as children and know only
14 this country as home” may for the first time live in America and participate fully in all aspects of
15 our society without the constant and crippling fear of deportation. Memorandum from Janet
16 Napolitano to David V. Aguilar Regarding Exercising Prosecutorial Discretion with Respect to
17 Individuals Who Came to the United States as Children (June 15, 2012). DACA is a concrete and
18 essential example of America fulfilling its centuries-old promise to welcome people from around
19 the world seeking a better and a freer life. And no group is more deserving of that welcome than
20 the Dreamers.

21 In addition to these invaluable intangible benefits, DACA has produced—and is
22 continuing to produce—important benefits for America's companies and for our economy as a
23 whole. Most notably, DACA permits Dreamers to obtain work authorizations, thereby enabling
24 them to obtain jobs. Employment is not a zero-sum game. Dreamers are filling vacancies at
25 companies that cannot find enough workers to fill their needs. And Dreamers' wages lead to
26 higher tax revenues and expansion of our national GDP—producing new jobs for all Americans.

1 *Second*, Dreamers pay taxes to federal, state, and local governments.⁶ The Cato Institute
2 estimated that over 10 years, DACA recipients will increase tax revenues by \$60 billion.⁷

3 *Third*, Dreamers have used their earnings—and the increased stability and security
4 resulting from their DACA status—to make purchases and investments that grow our nation’s
5 economy. Nearly two-thirds of Dreamers reported purchasing their first car in 2017, and 16%
6 reported purchasing a first home.⁸ These and other types of personal consumption expenditures
7 are important drivers of the economy: they “account[] for the largest share of GDP [and] are the
8 main generator of employment in the economy.”⁹

9 **B. Dreamers Help Grow The Economy by Filling Jobs for Which There**
10 **Otherwise Would Not Be a Sufficient Supply Of Workers.**

11 Studies have consistently found that immigrants do not displace U.S.-born workers. They
12 instead help grow the economy and create more opportunities for U.S.-born workers by filling
13 positions that otherwise would remain vacant because of a shortage of qualified workers.¹⁰

14 **1. Permitting Dreamers to participate in the workforce expands, rather**
15 **than reduces, the number of jobs.**

16 “[O]ne of the best-known fallacies in economics” is the “lump of labour fallacy.”¹¹
17 Economists from across the policy and political spectrum have discredited the notion that “there

18 ⁶ See Silva Mathema, *Assessing the Economic Impacts of Granting Deferred Action*
19 *Through DACA and DAPA*, Ctr. for Am. Progress, Apr. 2, 2015, <https://goo.gl/wxxek1>.

20 ⁷ Ike Brannon & Logan Albright, *The Economic and Fiscal Impact of Repealing DACA*,
21 Cato Institute, Jan. 18, 2017, <https://goo.gl/jFXw4g>.

22 ⁸ Wong 2017 Results, *supra* n.2, at 3.

23 ⁹ Mitra Toossi, *Consumer Spending: An Engine for U.S. Job Growth*, Monthly Labor
24 Review 12 (Nov. 2002), <https://goo.gl/iyTkDR>.

25 ¹⁰ See Michael Greenstone & Adam Looney, *What Immigration Means for U.S.*
26 *Employment and Wages* 1-2, The Hamilton Project (2012), <https://goo.gl/bvC7AE>; Kenneth
27 Megan, *Immigration and the Labor Force*, Bipartisan Policy Ctr., Aug. 25, 2015,
28 <https://goo.gl/8p3SP8>; Michael A. Clemens & Lant Pritchett, *Temporary Work Visas: A Four-*
Way Win for the Middle Class, Low-Skill Workers, Border Security, and Migrants 4, Ctr. for
Global Dev. Brief, Apr. 2013, <https://goo.gl/p9NLuc>.

¹¹ Economics A-Z Terms Beginning With L, The Economist, <https://goo.gl/BvRwKU>.

1 is a fixed amount of work to be done—a lump of labour”—such that an increase in the number of
2 workers reduces the number of available jobs.¹² Rather, the clear reality is that jobs beget more
3 jobs. “[W]hen people work for a living they earn money. They spend that money on goods and
4 services that are produced by other people, young and old, male and female.”¹³ The greater
5 demand for goods and services creates new jobs.

6 The facts are indisputable. “From 1970 to 2017, the U.S. labor force doubled. Rather
7 than ending up with a 50 percent unemployment rate, U.S. employment doubled.”¹⁴ Another
8 study showed that countries with high employment levels of older workers also had high
9 employment levels of young workers; in other words, high employment levels in one group
10 benefited the other group, rather than depriving the other of employment opportunities.¹⁵ And yet
11 other studies have shown that increased immigration levels in the U.S. in the past have had
12 largely *positive* impacts on the employment levels and income of U.S.-born workers.¹⁶

13 These findings hold true today. The unemployment rate has been cut almost in half since
14 2012, when DACA was created.¹⁷ The number of total job openings has increased.¹⁸ And
15 Dreamers are spending money and starting businesses—which help grow the economy and
16 create more jobs.

17 ¹² *Id.*; see also Paul Krugman, Opinion, *Lumps of Labor*, N.Y. Times, Oct. 7, 2003,
18 <https://goo.gl/GyYTG5>.

19 ¹³ Buttonwood, *Keep on Trucking*, The Economist, Feb. 11, 2012, <https://goo.gl/x8vqaL>;
20 see also Megan, *supra* n.10 (“[A] breadth of research indicates that immigration can be
21 complementary to native born employment, as it spurs demand for goods and services”);
Giovanni Peri, *The Effect of Immigrants on U.S. Employment and Productivity*, Fed. Reserve
Bank of San Francisco Economic Letter, Aug. 30, 2010, <https://goo.gl/jK17fc>.

22 ¹⁴ David Bier, *Five Myths About DACA*, Cato Inst., Sept. 7, 2017, <https://goo.gl/y1e8gb>.

23 ¹⁵ Buttonwood, *supra* n.13.

24 ¹⁶ See Jacqueline Varas, *How Immigration Helps U.S. Workers and the Economy*, American
Action Forum, Mar. 20, 2017, <https://goo.gl/ovHQEh>.

25 ¹⁷ See Nat’l Conference of State Legislatures, National Employment Monthly Update,
<https://goo.gl/wZBJh8> (last accessed Oct. 31, 2017).

26 ¹⁸ U.S. Dep’t of Labor, Bureau of Labor Statistics, Job Openings and Labor Turnover
27 Survey, <https://goo.gl/g4n9Ag> (last accessed Oct. 31, 2017).

1 **2. Dreamers fill critical labor shortages.**

2 The jobs being filled by Dreamers post-DACA are largely jobs for which there is a
3 shortage of qualified workers—not the jobs that are or could be filled by U.S.-born workers. In a
4 recent survey of U.S. employers, 46 percent of respondents reported difficulty filling jobs—
5 particularly in skilled labor positions, such as teachers, accounting and finance staff, nurses, and
6 engineers.¹⁹ Almost a quarter of employers reported a lack of available applicants; another 34
7 percent cited a shortage of applicants with necessary skills.²⁰ In 2012, the President’s Council of
8 Advisors on Science and Technology warned that within ten years, the U.S. could face a shortfall
9 of nearly one million professionals in the science, technology, engineering, and mathematics
10 (STEM) fields.²¹ Even putting aside the skills mismatch, it is unlikely that there are enough
11 available workers to fill the openings: The U.S. unemployment rate is currently quite low, and
12 the number of job openings is high.²²

13 Dreamers help fill this gap. They all have a high school degree or equivalent—and a large
14 percentage of Dreamers are pursuing or have received college or post-college degrees and
15 therefore qualify for highly-skilled jobs.²³ In 2016, almost a quarter of Dreamers were employed
16 in the educational or health services industry.²⁴ Many others work in technology, science, and

17 ¹⁹ See ManpowerGroup, *2016/2017 Talent Shortage Survey: The United States Results*
18 (“ManpowerGroup 2016/2017”), <https://goo.gl/rJTKs6>; see also Rachel Unruh & Amanda
19 Bergson-Shilcock, Nat’l Skills Coalition, *Missing in Action* 3-4 (2015), <https://goo.gl/gokfJW>
20 (“In 2012, middle-skill jobs accounted for 54 percent of the U.S. labor market, but only 44
percent of the country’s workers were trained to the middle-skill level.”).

21 ²⁰ ManpowerGroup 2016/2017, *supra* n.19.

22 ²¹ President’s Council of Advisors on Science and Technology, *Report to the President:
Engage to Excel: Producing One Million Additional College Graduates with Degrees in Science,
Technology, Engineering, and Mathematics* 1 (Feb. 2012), <https://goo.gl/v2YRVD>.

23 ²² See U.S. Dep’t of Labor, Bureau of Labor Statistics, Economic News Release Table A-14
24 (Oct. 6, 2017), <https://goo.gl/o8t39g>; U.S. Dep’t of Labor, Bureau of Labor Statistics, Job
25 Openings and Labor Turnover Survey Highlights August 2017 charts 1 & 2 (Oct. 11, 2017),
<https://goo.gl/H28XkL>.

26 ²³ Wong 2017 Results, *supra* n.2, at 7-8.

27 ²⁴ Ctr. for Am. Progress, *Results of Tom K. Wong, United We Dream, National Immigration
Law Center, and Center for American Progress National Survey* 4 (2016), <https://goo.gl/pe2i17>.

1 finance,²⁵ and more still are majoring in STEM fields.²⁶ *Amici*'s experiences confirm this: For
2 example, Microsoft employs 27 Dreamers as “software engineers with top technical skills;
3 finance professionals driving [its] business ambitions forward; and retail and sales associates
4 connecting customers to [its] technologies.”²⁷ IBM has identified at least 31 Dreamers within the
5 company who work in areas such as software development and client support.²⁸ One IBM
6 Dreamer provided critical remote technical support to ensure continuity of IBM’s Cloud services
7 when Hurricane Harvey flooded Houston. Lyft employs at least one Dreamer as a software
8 engineer, who serves as one of the tech leads of the team driving critical data projects.

9 Even Dreamers with lesser-skilled jobs are filling positions for which there is an
10 insufficient labor supply. “Among less-educated workers, those born in the United States tend to
11 have jobs in manufacturing or mining, while immigrants tend to have jobs in personal services
12 and agriculture.”²⁹ The latter industries in particular “face[] a critical shortage of workers every
13 year, as citizens are largely unwilling to engage in these physically demanding activities”³⁰—
14 even when companies increase wages the maximum amount financially feasible.³¹

15 ²⁵ *Id.*

16 ²⁶ The UndocuScholars Project, *In the Shadows of the Ivory Tower: Undocumented*
17 *Undergraduates and the Liminal State of Immigration Reform* 8 (2015), <https://goo.gl/sEpx1K>.

18 ²⁷ Brad Smith, President and Chief Legal Officer, Microsoft, *DREAMers Make our Country*
and Communities Stronger, Aug. 31, 2017, <https://goo.gl/kJYDT3>.

19 ²⁸ See Tony Romm, *IBM CEO Ginni Rometty Is in D.C. Urging Congress to Save DACA*,
20 *Recode.net*, Sept. 19, 2017, <https://goo.gl/NQeJUc>; *My American Dream, Minus the Paperwork*,
21 *THINKPolicy Blog*, Oct. 3, 2017, <https://goo.gl/876JDm>; *I Felt Like a Normal American Kid . . .*
Then Everything Changed, *THINKPolicy Blog*, Oct. 9, 2017, <https://goo.gl/oV9P7h>.

22 ²⁹ Peri, *supra* n.13.

23 ³⁰ Am. Farm Bureau Federation, *Agricultural Labor – Immigration Reform* (Oct. 2016),
<https://goo.gl/WUAz3e>; see also Clemens & Pritchett, *supra* n.10, at 3, (predicting that increase
24 in low-skill jobs in the care industry will be more than the total increase in the 25-54 labor
force).

25 ³¹ See, e.g., Natalie Kitroeff & Geoffrey Mohan, *Wages Rise on California Farms.*
Americans Still Don't Want the Job, *Los Angeles Times*, Mar. 17, 2017, <https://goo.gl/r1cH9Z>;
26 Octavio Blanco, *The Worker Shortage Facing America's Farmers*, *CNN Money*, Sept. 29, 2016,
<https://goo.gl/ZF2Tdx>.

1 In sum, Dreamers are filling jobs that otherwise would remain vacant and are increasing
2 demand for goods and services, which helps to grow the entire economy.

3 **C. Rescinding DACA Will Inflict Enormous Harm on Individuals, Companies,
4 and the Economy.**

5 All of the above benefits—and more—will be lost if DACA’s rescission is permitted to
6 stand. Over the next decade, our country’s GDP will lose \$460.3 billion; and Social Security and
7 Medicare tax receipts will drop \$24.6 billion.³²

8 This economic contraction results directly from Dreamers’ loss of work authorization.
9 The approximately 700,000 employed Dreamers would all lose their jobs over the next two
10 years—an average of 1,400 people losing jobs every single business day.³³ In addition to the
11 obvious harm to Dreamers themselves, the loss of so many workers will have severe
12 repercussions for U.S. companies and workers.

13 The impending March 2018 deadline—and threat of job loss and being forced into a life
14 in the shadows, unable to participate in society, and facing forced removal from the only country
15 they have ever known—is already impacting Dreamers and, by extension, the companies for
16 which they work. The fear for the future that is now a daily part of life for Dreamers and their
17 families affects both physical and mental health.³⁴ That, in turn, negatively affects employee
18 productivity and performance, illness and absenteeism, accidents, and turnover.³⁵

19 ³² See Nicole Prchal Svajlenka et al., *A New Threat to DACA Could Cost States Billions of*
20 *Dollars*, Ctr. for Am. Progress, July 21, 2017, <https://goo.gl/7udtFu>; Jose Magana-Salgado,
21 *Immigrant Legal Resources Center, Money on the Table: The Economic Cost of Ending DACA* 4,
22 6-7 (2016), <https://goo.gl/3ZwGVJ>; see also Brannon & Albright, *supra* n.7 (estimating cost of
“immediately eliminating the DACA program and deporting its participants” to be \$283 billion
reduction in economic growth and over \$60 billion reduction to tax revenues over 10 years).

23 ³³ Ctr. for Am. Progress & FWD.us, *Study: The Impact of Deferred Action for Childhood*
24 *Arrivals (DACA) Program* 3 (2017), <https://goo.gl/P3DgPz>.

25 ³⁴ See Tiziana Rinaldi & Angilee Shah, *Immigration Limbo Is a ‘Tug of Emotions.’ It’s Also*
26 *a Mental Health Issue*, PRI’s The World, Aug. 22, 2017, <https://goo.gl/WLXMZ4>; Sarah
Elizabeth Richards, *How Fear of Deportation Puts Stress on Families*, The Atlantic, Mar. 22,
2017, <https://goo.gl/qDgeRf>.

27 ³⁵ See World Health Org. & Int’l Labour Org., *Mental Health And Work: Impact, Issues and*
28

1 Once Dreamers’ work authorizations begin expiring in March 2018, companies will face
2 an estimated \$6.3 billion in costs to replace Dreamers—if they can find new employees to fill the
3 empty positions.³⁶ Companies will forfeit the money they invested in training those employees,
4 and will incur costs recruiting and training new employees, who will be less experienced and
5 therefore less productive.³⁷ These costs are particularly burdensome for small businesses.

6 The numbers are relevant, but numbers alone do not come close to capturing Dreamers’
7 contributions and the tremendous harm that will result from their loss. People are the heart of
8 every business; and every company’s goal is to create teams that work seamlessly together—
9 teams in which colleagues support each other both within and outside the workplace. Ripping
10 Dreamers out of their jobs hurts not only Dreamers, but other employees who lose friends and
11 colleagues, and companies that lose trusted members of their teams.

12 History shows that forcing Dreamers out of the workforce and into the shadows will also
13 reduce job growth and harm the U.S. economy. After Arizona passed the Legal Arizona Workers
14 Act in 2007, which targeted the use of unauthorized workers, its population of undocumented
15 workers dropped by 40%. Economic growth fell, reducing job opportunities: The state’s total
16 employment was 2.5% less than what it would have been without the laws, and its GDP was
17 reduced by an average of 2% a year between 2008 and 2015.³⁸

18 Similarly, in 1964, the U.S. expelled Mexican *braceros*, who were previously permitted
19 to work temporarily in the U.S., mostly on farms. A recent study revealed that excluding the

20 *Good Practices* 1 (2000), <https://goo.gl/ecH1Ut>.

21 ³⁶ See David Bier, *Ending DACA Will Impose Billions in Employer Compliance Costs*, Cato
22 Institute, Sept. 1, 2017, <https://goo.gl/1FMidk>; see also Magana-Salgado, *supra* n.32, at 4,
(estimating turnover costs due to DACA termination to be \$3.4 billion).

23 ³⁷ Heather Boushey & Sarah Jane Glynn, *There Are Significant Business Costs to Replacing*
24 *Employees*, Ctr. for Am. Progress, Nov. 16, 2012, <https://goo.gl/ZSmRLq>.

25 ³⁸ See Bob Davis, *The Thorny Economics of Illegal Immigration*, Wall St. J., Feb. 9, 2010,
26 <https://goo.gl/j4dd7J>; see also Sarah Bohn et al., *Do E-Verify Mandates Improve Labor Market*
27 *Outcomes of Low-Skilled Native and Legal Immigrant Workers?* 17-18, 21, 24-25 (2014),
<https://goo.gl/7UihSE> (finding that employment rates of U.S.-born men—both Hispanic and non-
Hispanic white men—dropped post-LAWA).

1 Mexican *braceros* “did not affect the wages or employment of U.S. farmworkers.”³⁹ Instead,
2 farms responded by *eliminating* the jobs—often by moving production abroad or going out of
3 business.⁴⁰

4 Removing Dreamers from the workforce is likely to have the very same negative effect
5 on U.S. employment levels as companies are unable to fill critical jobs. That effect will be
6 exacerbated as Dreamers are forced to shutter businesses that employ other workers and other
7 companies lose the income that has helped drive demand and production of goods and services
8 provided by U.S.-born workers.⁴¹ And the harm will be much more far-reaching: Just as DACA
9 sent a powerful message of inclusion, its rescission tells the immigrants who have been integral
10 to the growth and development of our society and economy for decades that they are no longer
11 welcome here. As a result, DACA’s rescission will reduce the future ability of U.S. companies to
12 attract individuals from around the world to support America’s continued economic growth and
13 prosperity.

14 **II. THE DECISION TO RESCIND DACA IS INVALID, BECAUSE IT IS**
15 **ARBITRARY AND CAPRICIOUS AND CONTRARY TO LAW.**

16 DHS’s decision to rescind DACA rested solely on its conclusion that the DACA program
17 is unlawful. That legal conclusion is wrong, and DHS’s rescission of DACA based on it is
18 therefore arbitrary and capricious in violation of the APA.

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22 ³⁹ Michael A. Clemens, *Does Kicking Out Mexicans Create Jobs?*, Politico Magazine, Feb.
23 15, 2017, <https://goo.gl/XwLj1x>.

24 ⁴⁰ *Id.*

25 ⁴¹ *Cf.* Ben Gitis & Jacqueline Varas, *The Labor and Output Declines From Removing All*
26 *Undocumented Immigrants*, Am. Action Forum, May 5, 2016, <https://goo.gl/UAt3dJ> (concluding
27 that removing undocumented immigrants from the workforce would cause private sector
28 employment to decline by 4 to 6.8 million workers, would reduce real private sector output by
\$381.5 to \$623.2 billion, and would have further negative economic impacts through the loss of
consumption, investments, and entrepreneurship).

1 Second, the rescission of DACA does not fall within the “very narrow” exception for
2 actions committed to agency discretion by law. *Chaney*, 470 U.S. at 830 (internal quotation
3 marks omitted). The rescission decision did not rest on fact-specific exercise of enforcement
4 discretion, as in *Heckler v. Chaney*, 470 U.S. 821 (1985). Rather, revocation is predicated on the
5 legal conclusion that DACA “was effectuated . . . without proper statutory authority” and
6 therefore “was an unconstitutional exercise of authority by the Executive Branch.” Memorandum
7 from Elaine C. Duke, Acting Secretary, Dep’t of Homeland Security, on Rescission of the June
8 15, 2012 Memorandum Entitled “Exercising Prosecutorial Discretion With Respect to
9 Individuals Who Came to the United States as Children” (Sept. 5, 2017).

10 Several courts, including the Ninth Circuit, have held that agency action resting solely on
11 such a legal determination is reviewable. Such actions do not implicate the “complicated
12 balancing of a number of factors which are peculiarly within [the agency’s] expertise,” nor do
13 they present a situation where there is “no law to apply.” *Chaney*, 470 U.S. at 831. There
14 accordingly is no basis for disregarding the “strong” and “well-settled presumption” favoring
15 review of executive determinations like the rescission of DACA. *Mach Mining, LLC v. EEOC*,
16 135 S.Ct. 1645, 1651 (2015); *Kucana v. Holder*, 558 U.S. 233, 251 (2010).⁴⁵

17 to agency interpretations of statutes as these decisions do not fall into any of the three categories
18 enumerated in § 1252(g).”).

19 ⁴⁵ See, e.g., *Bonilla v. Lynch*, 840 F.3d 575, 587 (9th Cir. 2016) (holding reviewable BIA’s
20 decision not to exercise its *sua sponte* authority to open the petitioner’s motion to reopen his
21 order of removal where the BIA did not deny the motion “as an exercise of discretion,” but rather
22 based on the “conclu[sion] that it lacked the *authority* to reopen”); *Montana Air Chapter No. 29*
23 *v. Fed. Labor Relations Auth.*, 898 F.2d 753 (9th Cir. 1990) (holding *Chaney* does not apply to
24 decisions “based on a belief that the agency lacks jurisdiction” and “agency statutory
25 interpretations made in the course of nonenforcement decisions”); *Edison Elec. Inst. v. EPA*, 996
26 F.2d 326, 333 (D.C. Cir. 1993) (“[I]nterpretation [of] the substantive requirements of the law . . .
27 is not the type of discretionary judgment concerning the allocation of enforcement resources that
28 [*Chaney*] shields from review.”); *Nat’l Wildlife Fed’n v. EPA*, 980 F.2d 765, 773 (D.C. Cir.
1992) (holding reviewable EPA’s nonenforcement decision where plaintiff challenged agency’s
“statutory interpretation embodied in [the regulation], and does not contest a particular
enforcement decision”); see also *Chaney*, 470 U.S. at 833 n.4 (suggesting exception would not
apply if case involved “a refusal by the agency to institute proceedings based solely on the belief
that it lacks jurisdiction”); *Kenney v. Glickman*, 96 F.3d 1118, 1123 (8th Cir. 1996) (interpreting

1 **B. Rescission of DACA Is Arbitrary and Capricious.**

2 Because DACA’s rescission rests solely on a legal question—the interpretation of the
3 relevant statutes—DHS’s decision stands or falls on the correctness of that legal determination.
4 If DHS got the law wrong, its action is not supported by a valid justification and therefore is
5 arbitrary and capricious in violation of the APA. *See* 5 U.S.C. § 706(2)(A); *Safe Air For*
6 *Everyone v. EPA*, 488 F.3d 1088, 1101 (9th Cir. 2007) (“Because [EPA’s flawed legal
7 interpretation] is fundamental to EPA’s determination that [the State] did not contravene [the
8 Clean Air Act], EPA’s outcome on those statutory interpretation questions is ‘arbitrary,
9 capricious, or otherwise not in accordance with law’ for the purposes of our review.”). DHS’s
10 legal interpretation was plainly erroneous.

11 DACA confers two related benefits: deferral of government action to remove the
12 individual from the United States (known as “deferred action”) and eligibility for work
13 authorization. Both elements have long been recognized in U.S. immigration law.

14 *First*, granting “deferred action” is a long-established practice engaged in by
15 Administrations of both parties and expressly recognized by the Supreme Court. *See AAADC*,
16 525 U.S. at 483-85 (describing “regular practice” of “deferred action”).⁴⁶ The decision to defer
17 removal proceedings is an exercise of prosecutorial discretion that falls squarely within the
18 Executive Branch’s constitutional authority to “take Care that the Laws be faithfully executed.”
19 U.S. Const. art. II, § 3.

20 In the immigration context, moreover, Congress has codified that discretion. Until 1940,
21 “the deportation statute unyieldingly demanded that an alien illegally in the United States be
22 deported.” *Johns v. DOJ*, 653 F.2d 884, 890 n.12 (5th Cir. 1981). Now, however, the
23 *Chaney* as applying “to individual, case-by-case determinations of when to enforce existing
regulations rather than permanent policies or standards”).

24 ⁴⁶ *See also Arizona v. United States*, 567 U.S. 387, 396 (2012) (“A principal feature of the
25 removal system is the broad discretion exercised by immigration officials.”); CHARLES GORDON
26 ET AL., 6-72 IMMIGRATION LAW AND PROC. § 72.03 (Matthew Bender, rev. ed.); Mem. Op. for
27 the Sec’y of Homeland Security and the Counsel to the President, 38 Op. Off. Legal Counsel 1,
13-18 (Nov. 19, 2014), <https://www.justice.gov/file/179206/download>.

1 immigration laws specifically charge the secretary of Homeland Security with “establishing
2 national immigration enforcement policies and priorities.” 6 U.S.C. § 202(5), and to carry out the
3 “administration and enforcement of th[e] INA] and all other laws relating to the immigration and
4 naturalization of aliens,” 8 U.S.C. § 1103(a); *see also* H.R. Rep. No. 11-157, at 8 (2009)
5 (“[R]ather than simply rounding up as many illegal immigrants as possible, which is sometimes
6 achieved by targeting the easiest and least threatening among the undocumented population,
7 DHS must ensure that the government’s huge investments in immigration enforcement are
8 producing the maximum return in actually making our country safer.”).

9 Congress has on several occasions *expanded* deferred action to certain categories of
10 individuals.⁴⁷ And it enacted 8 U.S.C. § 1252(g), which the Supreme Court explained was
11 intended to preserve the INS’s exercise of discretion in granting deferred action while “giv[ing]
12 some measure of protection to ‘no deferred action’ decisions.” *AAADC*, 525 U.S. at 484-85.

13 *Second*, conferring eligibility for work authorization has a similarly lengthy pedigree. A
14 regulation promulgated in the 1980s provides that individuals who receive deferred action are
15 eligible to apply for work authorization. *See* 8 C.F.R. § 274a.12(c)(14) (providing eligibility to
16 apply for work authorization to “[a]n alien who has been granted deferred action”). Congress has
17 legislated on the basis of this regulation, enacting a law prohibiting employers from hiring
18 unauthorized aliens, but expressly excluded from that category individuals “authorized to be so
19 employed by . . . the Attorney General.” 8 U.S.C. § 1324a(h)(3); *cf.* 49 U.S.C. § 30301 note
20 (providing that certain states may issue driver’s licenses to aliens with “approved deferred action
21 status.”).

23 ⁴⁷ *See, e.g.*, 8 U.S.C. § 1154(a)(1)(D)(i)(II), (IV) (providing that certain aliens who self-
24 petition for relief under the Violence Against Women Act of 1994, Pub. L. No. 103-322, Tit. V,
25 108 Stat. 1092, are eligible to request “deferred action”); USA PATRIOT Act, Pub. L. No. 107-
26 56, § 423(b), 115 Stat. 272, 361 (2001) (providing that certain family members of lawful
27 permanent residents killed on September 11, 2001, or of citizens killed in combat, are “eligible
28 for deferred action”); National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-
136, § 1703(c)-(d), 117 Stat. 1392, 1694-1695 (2003) (same).

1 In concluding that DACA was an unconstitutional exercise of authority, DHS claimed
2 that DACA suffered from the defect identified by the Fifth Circuit in a case challenging a
3 separate deferred action program, DAPA. But the plaintiffs in that earlier case did *not* challenge
4 the authority of the Executive Branch to exercise its discretion to defer removal with respect to
5 certain undocumented immigrants, even on a categorical basis. Instead, the dispute centered on a
6 statement in the memorandum implementing DAPA that “for a specified period of time, an
7 individual [covered by DAPA] is permitted to be lawfully present in the United States.” *See*
8 *Texas v. United States*, 809 F.3d 134, 147-49, 166, 179-84 (5th Cir. 2015). The claim was that
9 DHS lacked the authority to confer “lawful[] presen[ce]” and the Fifth Circuit agreed. The
10 memorandum establishing DACA contains no such language, and the Fifth Circuit’s rationale is
11 therefore inapplicable.

12 In short, ample constitutional and statutory authority exists for DACA. DHS’s rescission
13 of DACA based on a contrary legal conclusion is accordingly unfounded and should be vacated.

14 CONCLUSION

15 For the foregoing reasons, *amici* urge the Court to grant the relief requested in Plaintiffs’
16 motions.

17 Dated: November 1, 2017

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APPENDIX: LIST OF AMICI

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13. Atlassian Corp. Plc
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15. Bigtooth Ventures
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18. Brocade Communications Systems, Inc.
19. CareZone Inc.
20. CartoDB Inc.
21. Casper Sleep Inc.
22. Castlight Health, Inc.
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- 7 32. Color Genomics, Inc.
- 8 33. Credit Karma, Inc.
- 9 34. Disqus, Inc.
- 10 35. DoorDash, Inc.
- 11 36. Dropbox, Inc.
- 12 37. eBay Inc.
- 13 38. Edmodo, Inc.
- 14 39. EquityZen Inc.
- 15 40. Facebook, Inc.
- 16 41. General Assembly Space, Inc.
- 17 42. Glassdoor, Inc.
- 18 43. Google Inc.
- 19 44. Greenhouse Software, Inc.
- 20 45. Hewlett Packard Enterprise
- 21 46. Homer Logistics, Inc.
- 22 47. IBM Corporation
- 23 48. IDEO LP
- 24 49. Imgur Inc.
- 25 50. Indiegogo, Inc.
- 26 51. Kargo

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- 1 52. Knotel
- 2 53. Lam Research Corporation
- 3 54. Levi Strauss & Co.
- 4 55. LinkedIn Corporation
- 5 56. Lithium Technologies, LLC
- 6 57. Lyft, Inc.
- 7 58. Lytro, Inc.
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- 9 60. Marin Software Incorporated
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- 12 63. Molecule Software, Inc.
- 13 64. MongoDB, Inc.
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- 16 67. NewsCred, Inc.
- 17 68. NIO U.S.
- 18 69. Oath Inc.
- 19 70. Patreon, Inc.
- 20 71. PayPal Holdings, Inc.
- 21 72. Pinterest, Inc.
- 22 73. Pixability, Inc.
- 23 74. Postmates Inc.
- 24 75. Quantcast Corp.
- 25 76. RealNetworks, Inc.
- 26 77. Reddit, Inc.

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- 1 78. Redfin Corporation
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- 3 80. Scopely, Inc.
- 4 81. Shutterstock, Inc.
- 5 82. Singularity University
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- 7 84. SpaceX
- 8 85. Spokeo, Inc.
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- 10 87. Square, Inc.
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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

20 THE REGENTS OF THE UNIVERSITY OF
21 CALIFORNIA and JANET NAPOLITANO,
22 in her official capacity as President of the
23 University of California,

23 Plaintiffs,

24 v.

25 U.S. DEPARTMENT OF HOMELAND
26 SECURITY and ELAINE DUKE, in her
27 official capacity as Acting Secretary of the
28 Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

DECLARATION OF LISA M. GONZALES

1 STATE OF CALIFORNIA, STATE OF
2 MAINE, STATE OF MARYLAND, and
3 STATE OF MINNESOTA,
4
5 Plaintiffs,
6
7 v.
8
9 U.S. DEPARTMENT OF HOMELAND
10 SECURITY, ELAINE DUKE, in her official
11 capacity as Acting Secretary of the Department
12 of Homeland Security, and the UNITED
13 STATES OF AMERICA,
14
15 Defendants.

CASE NO. 17-CV-05235-WHA

9 CITY OF SAN JOSE, a municipal corporation,
10
11 Plaintiffs,
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13 v.
14
15 DONALD J. TRUMP, President of the United
16 States, in his official capacity, ELAINE C.
17 DUKE, in her official capacity, and the
18 UNITED STATES OF AMERICA,
19
20 Defendants.

CASE NO. 17-CV-05329-WHA

16 DULCE GARCIA, MIRIAM GONZALEZ
17 AVILA, SAUL JIMENEZ SUAREZ,
18 VIRIDIANA CHABOLLA MENDOZA,
19 NORMA RAMIREZ, and JIRAYUT
20 LATTHIVONGSKORN,
21
22 Plaintiffs,
23
24 v.
25
26 UNITED STATES OF AMERICA, DONALD
27 J. TRUMP, in his official capacity as President
28 of the United States, U.S. DEPARTMENT OF
HOMELAND SECURITY, and ELAINE
DUKE, in her official capacity as Acting
Secretary of Homeland Security,
Defendants.

CASE NO. 17-CV-05380-WHA

1 I, Lisa M. Gonzales, declare:

2 1. I am the Assistant Superintendent of Educational Services at Dublin Unified School
3 District, and my prior experience includes working as a superintendent, principal, and math/science
4 teacher. I am also currently the President of the Association of California School Administrators
5 (ACSA), and in that capacity I have had the opportunity to speak with educators around the State of
6 California regarding the impact of the federal government's decision to terminate the Deferred Action
7 for Childhood Arrivals (DACA) program. I am providing this declaration in my individual capacity
8 based on my personal knowledge and experience, which includes conversations with students, parents
9 and educators around the state.

10 2. One of the responsibilities of my current job is to create the best possible teaching and
11 learning environment for all the students and staff at Dublin USD. Although there are many factors
12 involved in creating an optimal learning environment, without question schools must be considered safe
13 places where students and parents feel welcome. In California, one of the ways we ensure that students
14 feel safe and are ready to learn is that we promise them that the simple act of coming to school will not
15 expose them or their families to federal immigration enforcement action. This is not a matter of taking a
16 position on immigration policy, it is a basic necessity for a school environment where all students can
17 learn and thrive.

18 3. My understanding is that the point of the DACA program is to provide security and
19 stability for the "Dreamers," young people who were brought to this country as children and who have
20 demonstrated they will be productive contributors to our society by succeeding in school and in the
21 workforce. Dreamers include college students and young working adults, but within the K-12 public
22 school system they also include high school students, teachers and other school staff, and the parents of
23 our students. As school officials we do not ask our students or parents about their federal immigration
24 status, and do not always know which students and parents are in the DACA program. But we are
25 keenly aware of the school environment in all of our schools, including those serving largely immigrant
26 populations.

1 4. Since the beginning of this year, I have noticed an increasing amount of uncertainty and
2 fear among students, parents and staff due to statements and actions by federal officials related to
3 immigration policy. From my perspective, there appears to be a cumulative impact of the threat that
4 many members of our community may face deportation, followed by announcements that the federal
5 government would retaliate against state and local entities that declare themselves “sanctuary”
6 jurisdictions, and now the decision to terminate the DACA program.

7 5. I am aware of many examples of harm to students, parents and staff from the general
8 actions of the federal government related to immigration enforcement, threatening statements of federal
9 officials, and more specifically, from the decision to terminate the DACA program. Most of the
10 information I have gathered is from fellow educators from different regions of the state who, like me,
11 are constantly interacting with students, parents and staff in our schools. The common denominator in
12 these stories is that many California students are effectively being denied an education because threats to
13 their security, and the security of their peers and families, have stolen their hope for the future and left
14 them unwilling or unable to continue to engage and thrive in school.

15 6. For example, a colleague and superintendent from Monterey County, has collected some
16 heartbreaking stories about students, former students, parents and teachers who are in the DACA
17 program. One Dreamer comes from a family in severe poverty and has worked to help support the
18 family while attending high school. She was recently accepted to the University of California and wants
19 to study medicine and, given her 4.1 GPA, tenacity and work ethic, she was poised to succeed. The
20 announcement that DACA will be terminated has left her feeling abandoned and she has fallen into
21 depression. Her grades are falling and she is afraid to commit to a future that may no longer be
22 available for her.

23 7. Another student in high school in Salinas, California, dreams of joining the Air Force and
24 studying electronics. A local teacher describes him as a passionate patriot who wants to serve this
25 country, the only country he has ever known. She believes the DACA decision could make or break this
26 young man, and potentially deprive our armed forces of an amazing and intelligent talent.

1 8. I was provided details of an interview with a parent who, for obvious reasons, wished to
2 remain anonymous. She came to the United States 13 years ago and has three children in the public
3 school system; the eldest is a citizen and the other two are in the DACA program. Although her
4 youngest son has been a straight "A" student and hopes to go to college to study the sciences, his future
5 is now uncertain, his grades are falling, and he has withdrawn from his family and friends.

6 9. Finally, a principal of a middle school in Riverside County told me that she reviewed the
7 parent sign-in sheets from parent-teacher conferences that were conducted just a couple weeks ago, and
8 found she had 67% less parent participation compared to last year. She also discussed a major drop in
9 parents attending the school's English-Learner Advisory Council, with monthly meetings that used to
10 average about 130 parents down to only 20 to 30 parents during the last two months. She noted that
11 many of the families that do still attend school events are no longer willing to sign-in, and have spoken
12 to her about concerns regarding their safety going to and from school events. I heard a similar account
13 from an elementary school principal in Yolo County.

14 10. These stories are just a few illustrations of the broad and harmful impact of the
15 termination of DACA on students and parents. Students are showing increased anxiety and fear,
16 decreased engagement and attendance, increased behavioral issues, and a general disillusionment and
17 lack of motivation to complete school and/or continue to progress toward their former goals of attending
18 college or joining the workforce. Parents are no longer participating in classroom and school activities,
19 sometimes not even enrolling their children in free and reduced lunch programs. Many of the students
20 and parents are afraid that their families will be separated in the process of deportation.

21 11. Many California students attend schools serving largely immigrant populations. But it is
22 important to note that the deteriorating school environment impacts all of our students, not just those
23 threatened by the elimination of DACA. An optimal teaching and learning environment requires a
24 vibrant and diverse community of students, parents and staff. Targeting some members of the
25 community for exclusion harms the entire community. As an educator, I know that we must restore a
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healthy school environment for all our kids if we hope to ensure our social, economic and political future.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on October 26, 2017, at Alameda County, California.



Lisa M. Gonzales

EXHIBIT WW

Supporting

Declaration of Karen C.

Tumlin



Exclusive: the Postal Service kept him from renewing his DACA. Now he's in immigration detention.

Pennsylvania father Osman Enriquez was waiting for a letter telling him to reapply.

By Dara Lind | dara@vox.com | Dec 13, 2017, 4:00pm EST



A former DACA recipient who was waiting to reapply for deportation protections, after his initial application was rejected due to postal service delays, is currently in the custody of Immigration and Customs Enforcement in Pennsylvania, Vox has exclusively learned.

Osman Enriquez, who was picked up by ICE Monday morning after a routine traffic stop, is one of the estimated 12,000 immigrants who have lost their DACA protections since the Trump administration started winding down the program in September.

In theory, these immigrants were given a chance to apply for one last two-year extension of their protections and work permits. But many missed the tight deadline imposed by the administration — just one month from the day they announced the sunset of the program — and **others saw their applications rejected by the government for being late, after languishing for weeks at a United States Postal Service processing center in Chicago.**

Enriquez is among those immigrants. According to the Trump administration, he's supposed to wait to be invited to reapply by US Citizenship and Immigration Services. Instead, he's being put on the road to deportation. (DHS did not respond to a request for comment.)

Enriquez might be the first known case of an immigrant getting detained by ICE after his DACA expired under the administration's new rules. He's almost certainly the first known case of an immigrant getting detained while waiting to reapply for DACA renewal.

His presence there is perhaps the most vivid reminder yet that as Congress drags out what to do about DACA recipients, it will probably be too late for some.

RELATED

The Trump administration rejected 4,000 "late" DACA renewals. Some were sitting in its mailbox at the deadline.

Hundreds of immigrants will get to resubmit DACA renewals originally rejected as "late"

Thousands of immigrants are losing their DACA protections already

Senate Republicans' DACA counterproposal doesn't look like much of a compromise

A typical DACA recipient becomes a detainee

Osman Enriquez is a pretty typical DACA recipient. He's a 27-year-old from Guatemala who graduated from a Lancaster, Pennsylvania, high school and now works in stonemasonry. He was convicted of a "summary offense" (a minor crime) as a juvenile, but it wasn't enough to stop him from qualifying for, and getting, protection under DACA. His fiancée has a green card, and their son, who's not quite a year old, was born in the United States.



CONTINUE FOR MORE CONTENT



When the Trump administration announced on September 5 that it would end DACA, Enriquez's work permit was set to expire in a little over a month — on October 15.

According to the administration, that made him (and 154,000 other DACA recipients whose work permits were set to expire before March 5, 2018) eligible to apply for a two-year renewal of protections — but **only if they got their applications in by October 5**.

Enriquez went to the Lancaster office of immigrant advocacy and legal services organization Church World Service for help with his renewal application. According to Carrie Carranza of CWS, his application was mailed September 18. “His application was mailed out at same time as many other DACA applications that have now been approved,” she told Vox on Wednesday.

But Enriquez wasn’t so lucky. His application arrived at the USCIS service center in Chicago on October 10 — three weeks after he mailed it, and five days after the deadline. It was rejected.

At the time, Carranza says, they didn’t really understand what had happened; “We told him, ‘We’re so sorry this happened; you did everything right; it was just a fluke, a debacle, out of your control.’”

It turns out the scope of the “debacle” was beyond anything she could imagine. It is likely that thousands of DACA renewal applications were mailed in advance of the deadline but were slowed down by USPS delays — including many that were received at government dropboxes on October 5 but were rejected because they were not picked up until the next day.

When reports from the **New York Times** and **Vox** highlighted the problem in November, **USCIS reversed itself**, declaring that immigrants whose DACA renewals had been mailed on time would be given the chance to reapply.

In guidance issued at the end of November (and included in the current **FAQs about DACA on the USCIS website**), the government says, “The USPS is working with USCIS to identify DACA requests that were received after the deadline due to USPS mail-service delays” — like Enriquez’s.

“As soon as USPS completes its assessment, identifies such requests, and provides this information to USCIS, USCIS will send affected DACA requestors a letter inviting them to resubmit their DACA request. If you receive such a letter, you will have 33 calendar days from the date of the letter to resubmit your request.”

The FAQ estimates that the Postal Service assessment will be done by “mid-December,” and that USCIS will send invitations to reapply about a week after that.

But in the meantime, Enriquez was in limbo. His work permit had expired, but he still had to work to support his family; his driver’s license had expired, because it was only valid as long as he had DACA, but he still needed to drive to get to work.

On Monday morning — six days before his son’s first birthday — as Enriquez drove down Route 83 to his contracting job, he was pulled over by a Pennsylvania State Police officer. The officer told him his vehicle registration had expired. Enriquez’s fiancée says the family thought they had kept their registration current; since Pennsylvania doesn’t put registration-date stickers on license plates, Carranza speculates that the only way the trooper would have known Enriquez’s registration had lapsed would be if she’d run his license plates when he drove by.

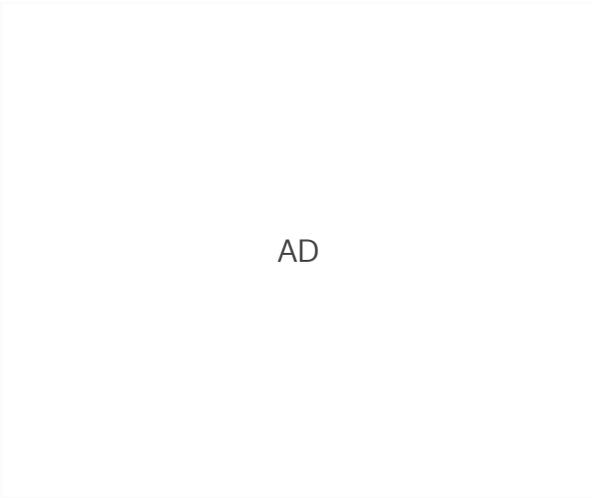
Enriquez was ultimately issued a ticket not for the expired registration, but for his expired driver’s license. But in the meantime, Carranza says, the state police officer had called Immigration and Customs Enforcement to come pick up Enriquez. ICE agents took him to the York detention center and served him with a notice to appear in immigration court — formally starting deportation proceedings against him.

Two days later, Enriquez is still in detention. Unless something changes, he’ll miss his son’s birthday on Saturday.

The Trump administration made this inevitable, and only Congress can stop it from getting worse

Advocates and Democrats, extrapolating from USCIS numbers, have estimated that 122 immigrants will lose their DACA protections every day between October 5 and March 5. (That doesn’t count the immigrants arrested by ICE despite still having DACA, or whose DACA protections have been stripped from them after an arrest.)

But despite fears that ICE would use the information contained in DACA applications to track down and arrest immigrants, there don’t appear to have been any cases (at least, not



AD

any known to the public) in which immigrants who have lost DACA after September have actually been detained. Until now.

But what happened to Enriquez is the inevitable outcome of the way the Trump administration wound down DACA. It gave immigrants an unusually short amount of time to apply for renewal, then enforced stricter-than-usual rules about what counted as a timely application. Their current plan to allow some immigrants affected by mail delays to reapply still puts many immigrants at risk of a gap between one work permit expiring and a new one being issued. And during that time, working, driving, and existing in the US put DACA-eligible immigrants at just as much risk of deportation as any other unauthorized immigrant.

You can't understand the current debate in Congress over how and when to help DACA recipients without understanding this phenomenon. Elected Democrats are extremely aware that people are losing DACA every day, and many moderate Republicans also note that the program is less effective the longer it's allowed to wind down. But Republican leadership isn't thinking about the program's efficacy; it's focused on the March 5 "deadline" set by the White House, and sees no need to take action before then.

At present, Democrats are trying to figure out if the urgency of DACA is enough to withhold votes on a must-pass government funding bill days before Christmas — risking a government shutdown — or whether to allow the issue to fall into 2018. If they pick the latter, they'll have to hope that Republicans see the March 5 deadline as a serious deadline, like a government funding bill, and not a "deadline" like funding the Children's Health Insurance Program (which Congress has allowed to lapse for 73 days and counting).

And in the meantime, Osman Enriquez, and perhaps others like him, will be waiting in a detention cell for Congress to make up its mind.

CORRECTION: This article originally identified the CWS staffer in Lancaster as "Carrie Hussein," a name she no longer goes by. Her name is now Carrie Carranza.

Was this article helpful? 

IN THIS STORYSTREAM

Trump administration ends the Deferred Action for Childhood Arrivals (DACA) program

Exclusive: the Postal Service kept him from renewing his DACA. Now he's in immigration detention.

Immigration activists are pressuring Democrats to pass the DREAM Act, even if it means a government shutdown

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY and ELAINE DUKE, in her
official capacity as Acting Secretary of the
Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

DECLARATION OF EDGARDO GARCIA

Date: December 20, 2017
Time: 8:00 a.m.
Judge: Honorable William Alsup
Dept.: Courtroom 8

Complaint Filed: September 14, 2017
Trial Date: February 05, 2018

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STATE OF CALIFORNIA, STATE OF MAINE, STATE OF MARYLAND, and STATE OF MINNESOTA,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05235-WHA

CITY OF SAN JOSE, a municipal corporation,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, ELAINE C. DUKE, in her official capacity, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05329-WHA

DULCE GARCIA, MIRIAM GONZALEZ AVILA, SAUL JIMENEZ SUAREZ, VIRIDIANA CHABOLLA MENDOZA, NORMA RAMIREZ, and JIRAYUT LATTHIVONGSKORN,

Plaintiffs,

v.

UNITED STATES OF AMERICA, DONALD J. TRUMP, in his official capacity as President of the United States, U.S. DEPARTMENT OF HOMELAND SECURITY, and ELAINE DUKE, in her official capacity as Acting Secretary of Homeland Security,

Defendants.

CASE NO. 17-CV-05380-WHA

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COUNTY OF SANTA CLARA and
SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
States; ELAINE DUKE, in her official
capacity as Acting Secretary of the Department
of Homeland Security; and U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

CASE NO. 17-CV-05813-WHA

I, **EDGARDO GARCIA**, declare and state as follows:

1. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, could and would testify competently thereto.

2. I am the Chief of Police of the San Jose Police Department (“SJPD”) of the City of San Jose, California (“San Jose”). I have served as a police officer since 1992, including as a patrolman, sergeant, lieutenant, captain, deputy chief, assistant chief, and now chief of police. I have a Bachelor’s Degree from Union Institute and University after having moved to San Jose from San Juan, Puerto Rico at a young age.

3. As stated on its website, <http://www.sjpd.org/COP/MissionStatement.html>, the “San Jose Police Department is a dynamic, progressive and professional organization dedicated to maintaining community partnerships which promote a high quality of life for the City’s diverse population. The Department is committed to treating all people with dignity, fairness and respect, protecting their rights and providing equal protection under the law.” The website can be translated into 40 languages, which demonstrates the diversity of our city.

4. SJPD’s mission is: “To promote public safety; To prevent, suppress, and investigate crimes; To provide emergency and non-emergency services; To create and maintain strong community

1 partnerships; To adapt a multidisciplinary approach to solving community problems; To develop and
2 promote a diverse, professional workforce.”

3 5. To fulfill its mission, the SJPD engages in community policing. The community policing
4 model requires active, engaged, and empowered neighborhood residents who freely interact with police
5 without reservations. It is critical that all residents, no matter their immigration status, are able to report
6 crimes and assist in criminal investigations without fear that their immigration status will also be
7 investigated.

8 6. San Jose has consistently been rated one of the “Safest Big Cities” in the nation. I
9 believe that part of the reason for our low crime rate is the trust that the SJPD has with all segments of
10 our community.

11 7. As part of SJPD’s mission to keep San Jose safe, I and the entire SJPD engage in
12 community outreach. Among the activities we undertake as part of that mission are “Coffee with a Cop,”
13 regular informal neighborhood meetings, “day walks” and “night walks” with officers,
14 community/police workshops, neighborhood watch, and others. These events are particularly
15 concentrated in the most diverse neighborhoods, where the immigrant population is dominant. The City
16 also has created the role of community liaison officer with the Mexican Consulate for the specific
17 purpose of reaching out to new immigrant communities.

18 8. Additionally, the SJPD during the course of its investigations routinely deals with
19 immigrants. Our officers are explicit in telling those who participate in these investigations that
20 immigration status does not matter, and we encourage victims and witnesses, even those who may be
21 undocumented, not to be afraid to report crimes and deal with law enforcement.

22 9. My officers and I have already seen in the community fear and uncertainty in the
23 immigrant community since the election of President Donald Trump and the announcement of the
24 DACA’s rescission. This presence of fear and uncertainty makes it harder for the SJPD to fulfill its
25 mission to protect the public and also imposes obstacles in the focus on treating all people equally. It
26 has been my experience that the SJPD that increases in federal immigration enforcement invariably
27 require police officers to work even harder to make clear the distinction between immigration
28

1 enforcement and local law enforcement, which is necessary to maintain trust and cooperation in
2 immigrant communities.

3 I declare under the penalty of perjury under the laws of the United States that the foregoing is
4 true and correct and that this declaration was executed on October 26, 2017 at SAN JOSE,
5 California.

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8 **EDGARDO GARCIA**

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

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

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY and ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

DECLARATION OF SAN FRANCISCO DISTRICT ATTORNEY GEORGE GASCÓN

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STATE OF CALIFORNIA, STATE OF MAINE, STATE OF MARYLAND, and STATE OF MINNESOTA,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05235-WHA

CITY OF SAN JOSE, a municipal corporation,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, ELAINE C. DUKE, in her official capacity, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05329-WHA

DULCE GARCIA, MIRIAM GONZALEZ AVILA, SAUL JIMENEZ SUAREZ, VIRIDIANA CHABOLLA MENDOZA, NORMA RAMIREZ, and JIRAYUT LATTIIVONGSKORN,

Plaintiffs,

v.

UNITED STATES OF AMERICA, DONALD J. TRUMP, in his official capacity as President of the United States, U.S. DEPARTMENT OF HOMELAND SECURITY, and ELAINE DUKE, in her official capacity as Acting Secretary of Homeland Security,

Defendants.

CASE NO. 17-CV-05380-WHA

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COUNTY OF SANTA CLARA and
SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
States; ELAINE DUKE, in her official
capacity as Acting Secretary of the Department
of Homeland Security; and U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

CASE NO. 17-CV-05813-WHA

1 I, George Gascon, declare:

2 1. I am the District Attorney for the City and County of San Francisco. I have been the San
3 Francisco District Attorney since 2011. Prior to becoming the District Attorney, I served as the San
4 Francisco Chief of Police from August, 2009 through January, 2011. Before moving to San Francisco, I
5 served as the Chief of Police in Mesa, Arizona for three years, and served in the Los Angeles Police
6 Department for over twenty years. I have over 30 years' experience in law enforcement.

7 2. The goal and mission of my agency is to make San Francisco the safest large city in
8 America by working to implement a modern justice system that focuses on crime prevention, victims,
9 and violent offenders. I believe we are safer together when we remove barriers for victims of crime,
10 work with the community to address neighborhood concerns, and provide services to our city's most
11 vulnerable populations.

12 3. It is impossible to meet this goal and effectively police and prosecute if the communities
13 you serve do not trust you. The absence of trust leads to reduced reporting of crimes and an
14 unwillingness to work with law enforcement in order to ensure dangerous people are held accountable
15 for their actions. This dynamic results in violent offenders getting away with crimes and recidivating
16 because many members of our community are afraid to come forward. It is naïve to think that
17 unreported crimes and criminals do not pose a threat that extends far beyond immigrant communities.

18 4. Immigrants, and in particular undocumented immigrants, fear interactions with law
19 enforcement and distrust government agencies. Research shows that 70 percent of undocumented
20 immigrants polled in a 2013 study were less likely to contact law enforcement authorities if they were
21 victims of a crime. What's worse, 44 percent of Latinos surveyed, not just undocumented immigrants,
22 reported being less likely to contact police officers if they have been the victim of a crime because they
23 fear that police officers will use this interaction as an opportunity to inquire into their immigration status
24 or that of people they know. University of Illinois at Chicago, Lake Research Partners: Insecure
25 Communities: Latino Perceptions of Police Involvement in Immigration Enforcement, May 2013.

26 5. The current fear and distrust of law enforcement agencies is currently impacting my
27 agency's ability to effectively ensure public safety. For example, my office recently prosecuted a
28 domestic violence case that went to trial. At trial, a witness was cross-examined by a Deputy Public

I

1 Defender about her immigration status, with the line of questioning suggesting that she was testifying in
2 order to secure a U-VISA for her cooperation. A judge ruled that the line of questioning was irrelevant,
3 as the witness learned about the U-VISA program only after having reported the crime. The jury was
4 unable to reach a verdict, and when we sought to retry the case the witness indicated she was unwilling
5 to testify again in part due to the fact that her immigration status had become a focal point during the
6 trial. As a result, we had to dismiss the case and the offender was not held accountable for his violent
7 actions.

8 6. That fear and distrust of law enforcement has a detrimental impact on public safety has
9 been my historical experience as well. When I came to Mesa to serve as Chief of Police, the city was
10 experiencing increased violent and property crime. During my tenure there we were able to reduce both
11 kinds of crime substantially. However, during that same time, in the unincorporated area of Maricopa
12 County policed by Joe Arpaio's Sheriff's Department, crime was increasing. Between 2004 and 2007,
13 Sheriff Arpaio presided over a 69 percent *increase* in violent crime rates, a 166 percent *increase* in
14 homicides, and a *plummeting* arrest rate. Bolick, Clint. "Mission Unaccomplished: The Misplaced
15 Priorities of the Maricopa County Sheriff's Office." *Goldwater Institute*, 2 Dec. 2008. We found that a
16 reason crime was going up just across city lines, while in similar communities within city limits crime
17 was going down, was because we began to develop a relationship with our community members who
18 were willing to report crime and work with us. In the case of the Maricopa County Sheriff's
19 Department, people were afraid to report crimes because they did not know if they, or a neighbor, could
20 be deported as a result.

21 7. It is these experiences that have led me to take steps to ensure my office is accessible to
22 all communities. For example, in 2013 my agency partnered with local community leaders to launch an
23 immigration fraud public education campaign. The multilingual campaign in English, Spanish, and
24 Chinese educated immigrant communities how to ensure an immigration consultant they had chosen was
25 licensed or bonded. The campaign helped warn immigrant communities about scammers who made
26 false claims of influence with government officials. Many were being defrauded by people who said
27 they could move a client to the front of the line for work permits or U.S. visas. I have also moved our
28 victim advocates out into the community in places where members of our immigrant community feel

1 safe coming to report crimes. It is my experience that undocumented immigrants often do not feel safe
2 entering the Hall of Justice due to the significant police presence.

3 8. On a citywide basis, a key strategy is San Francisco's Sanctuary City status. This enables
4 victims and witnesses to report crimes without fear that there will be an inquiry into their immigration
5 status or someone they know.

6 9. Establishing trust will remain difficult as long as undocumented immigrants feel unsafe
7 coming forward. That is why the language we are seeing from our President in the media, which is
8 making entire immigrant communities-our neighbors, friends and family-feel unsafe, is so harmful.
9 These statements are making our immigrant communities less likely to come forward and work with
10 authorities both as victims and witnesses. Our system only functions when the community works with
11 us, and it is incredibly difficult to make people feel like they are part of our community and to bring
12 them out of the shadows and ensure they feel safe reporting crimes to police when they often view local
13 law enforcement authorities as closely associated with the views and aims of the federal government and
14 this President.

15 10. Having served in multiple states and jurisdictions, and working with various communities
16 as both a police officer and prosecutor, I have seen that public safety is highly dependent on cooperation
17 from all members of our community-including immigrants. In fact, a recent study from the University
18 of California, San Diego demonstrates the benefit of policies proven to enhance cooperation. Their
19 study found that there are broad benefits for local jurisdictions that resist complying with federal
20 immigration enforcement, concluding that there are, on average, 35.5 fewer crimes committed per
21 10,000 people in sanctuary jurisdictions compared to non-sanctuary counties. Wong, Tom. "The Effects
22 of Sanctuary Policies on Crime and the Economy." *Center for American Progress*, 26 Jan. 2017. The
23 study also found that working with federal immigration made it harder for local police agencies to
24 investigate crime because witnesses and victims who were in the country illegally were less likely to
25 come forward if they thought they risked being detained or deported.

26 11. Based on my own experiences and studies such as the aforementioned, I can conclude
27 that my agency's ability to fulfill its mission depends on immigrants being able to come out of the
28 shadows and work with law enforcement without fear of immigration consequences.

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

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

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY and ELAINE DUKE, in her
official capacity as Acting Secretary of the
Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

**DECLARATION OF NANCY E.
O'MALLEY**

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STATE OF CALIFORNIA, STATE OF
MAINE, STATE OF MARYLAND, and
STATE OF MINNESOTA,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY, ELAINE DUKE, in her official
capacity as Acting Secretary of the Department
of Homeland Security, and the UNITED
STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05235-WHA

CITY OF SAN JOSE, a municipal corporation,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United
States, in his official capacity, ELAINE C.
DUKE, in her official capacity, and the
UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05329-WHA

DILCE GARCIA, MIRIAM GONZALEZ
AVILA, SAUL JIMENEZ SUAREZ,
VIRIDIANA CHABOLLA MENDOZA,
NORMA RAMIREZ, and JIRAYUT
LATTIVONGSKORN,

Plaintiffs,

v.

UNITED STATES OF AMERICA, DONALD
J. TRUMP, in his official capacity as President
of the United States, U.S. DEPARTMENT OF
HOMELAND SECURITY, and ELAINE
DUKE, in her official capacity as Acting
Secretary of Homeland Security,

Defendants.

CASE NO. 17-CV-05380-WHA

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COUNTY OF SANTA CLARA and
SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

CASE NO. 17-CV-05813-WHA

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
States; ELAINE DUKL, in her official
capacity as Acting Secretary of the Department
of Homeland Security; and U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

1 I, Nancy E. O'Malley, declare and state as follows:

- 2 1. I am Nancy E. O'Malley, the elected District Attorney for the County of Alameda and have
3 served as District Attorney since 2009;
- 4 2. I have worked in the Alameda County District Attorney's Office since 1984, beginning as a
5 Deputy District Attorney. I served as the Chief Assistant District Attorney for the Office from
6 1999 until becoming the District Attorney of Alameda County. There are 410 employees,
7 including 158 attorneys, 75 sworn peace officers, 40 Victim Assistants;
- 8 3. While Chief Assistant, I founded the Alameda County Justice Center (ACFJC), a one-stop
9 center, with more than 30 onsite and over 50 offsite agencies providing comprehensive and
10 collaborative responses to victims of domestic violence and their children, to victims of sexual
11 assault and child sexual abuse, elder abuse and importantly, to victims of all forms of human
12 trafficking. The ACFJC is also a place of empowerment for survivors. Children (0-5 years
13 old) are learning to read and growing their vocabularies; their moms who have been victims of
14 domestic violence are learning job skills and career paths; teens who have lived in homes with
15 domestic violence are going to stay-away wilderness camp and receiving homework help;
16 commercially sexually exploited minors are participating in the Young Woman's Saturday
17 Program (YWSP) to begin their recovery from victimization to pathways for a safe, productive
18 and healthy future. Forty-five percent (45%) of the clients at the ACFJC are mono-lingual
19 Spanish and more than 100 languages are spoken. Many clients have quietly disclosed that
20 they are in this country without documentation ("undocumented"). More than 125 young
21 women have participated in the YWSP and several have disclosed that they are protected
22 under DACA. The ACFJC is one of seven (7) Trauma Recovery Centers (TRC) in California
23 providing psychological, behavioral health and health care services to clients;
- 24 4. I have worked closely with and supervised our Victim-Witness Assistance Division, which
25 provides a variety of services for victims, witnesses, and their families recovering from the
26 devastating impacts of crime. Annually, the staff works with nearly 10,000 victims and their
27 families, providing nearly 90,000 victim services. The ACFJC serves an additional 14,000
28 clients per year, including women, their children and approximately 1,000 men;

- 1 5. Alameda County is extremely diverse. More than 500,000 of the 1,647,700 million residents
2 were born outside the United States. Almost 650,000 Alameda County residents speak a
3 language other than English at home. The Hispanic community is 22.5% in Alameda County,
4 which also hosts one of the largest Asian immigrant population (30.2%) including Indian,
5 Pakistani, Vietnamese, and Chinese populations, as well as smaller clusters of a dozen other
6 nationalities. More than 136 languages are spoken at home by children who attend Fremont
7 schools alone. Particularly for the Latino and Asian immigrants, there is a cultural distrust of
8 government where, in many countries of origin, the government and particularly law
9 enforcement, were corrupt and dangerous.
- 10 6. As a result of the large immigrant population, I have increased the diversity of the Victim-
11 Witness Assistance staff as well the administrative, investigative and attorney staff to reflect
12 the communities we serve. I have created a "Diversity and Shared Community Committee"
13 led by Nahid Aria who is an immigrant from war torn Afghanistan with several Office
14 members who themselves are immigrants. One primary purpose of our Diversity Plan is to
15 work with immigrant communities to build trust and faith that the Office serves them with
16 dignity, respect and honesty. We publish materials for crime victims in several languages,
17 including Spanish, Chinese, and Farsi. Many of our employees are bilingual, and are available
18 to speak with immigrants in their native languages. Through our efforts, I and my staff have
19 also worked closely with young individuals who are immigrants to America and are protected
20 by DACA.
- 21 7. My experience in dealing with immigrants and especially with immigrants in this country
22 without documentation is extensive. I have worked with those accused of crimes, with victims
23 of crime, and with organizations that provide services to or advocate for immigrants and
24 particularly those without documentation. It is undeniable that immigrant communities live in
25 fear of being attacked or targeted by those motivated by hate and prejudice. It is undeniable
26 that many immigrant communities have a fear and distrust of government and law enforcement
27 agencies, including my Office based on their experiences or the culture of countries of origin.
28 With current climates across our country, I and we are seeing more immigrants, especially

1 those without documentation, refusing to seek services or to participate in programs. Those
2 programs include children attending school, seeking medical care as a result of a crime, or
3 going to work. More particularly for undocumented immigrants, we are aware that large
4 numbers of victims of crimes such as human trafficking, domestic violence and sexual assault,
5 robberies and hate crimes are not reporting or are refusing to cooperate with law enforcement
6 or the Office. Many are afraid to come forward and testify in court for fear of being detained
7 by ICE and/or deported. I have been a co-signor of a letter to the United States Attorney
8 General requesting that Courthouses be treated as "safe havens" for victims of crime. The
9 response was not encouraging for those victims who fear ICE and/or deportation, which
10 plainly stated, is keeping them away from my Office or the Courts;

- 11 8. I am aware that for many victims of crime, they fear their own deportation, or deportation of
12 their DACA protected children. Many are reaching out to organizations that serve immigrant
13 populations to seek the establishment of legal structures that will protect and care for their
14 American born children if they are deported.
- 15 9. The District Attorney's Office cannot proceed with a prosecution without a witness or victim
16 to testify in Court. Through our Hate Hotline, we receive calls reporting hate crimes, but more
17 often than not, the victim of the alleged hate crime will not come forward. Under some
18 circumstances, we would say "the victim is not cooperative" but with immigrant populations,
19 particularly those without documentation, their fear is overwhelming and driving them further
20 underground. The current political climate leaves the victims defenseless and leaves the
21 District Attorney's Office powerless to hold offenders accountable;
- 22 10. It is impossible to list every incident where a crime witness or victim was reluctant to
23 cooperate with this Office, but the following serve as examples:
 - 24 a. The Office's Environmental Protection Division was called upon to investigate the
25 death of workers in an electroplating shop in East Oakland. While investigating the
26 homicide, the Office learned that the owner of the shop deliberately hired
27 undocumented immigrants from Latin American Companies. These workers were
28 underpaid, and worked under deplorable conditions without adequate safety equipment.

1 The Office learned that there had been several previous incidents in which
2 undocumented workers became seriously ill as a result of exposure to toxic chemicals.
3 Some of the surviving workers, who cooperated with the homicide investigation,
4 explained that they never reported the low wages, the substandard equipment, the
5 dangerous conditions, or the prior injuries because they feared they would be deported.
6 Had these witnesses come forward, the Office would have prosecuted the crimes under
7 existing environmental and worker protection regulations. Such a prosecution would
8 in all likelihood prevented the deaths of these exploited workers:

- 9 b. Through an investigation of a human trafficking case in cooperation with other law
10 enforcement agencies, the Office uncovered a ring of brothels operating in and around
11 Alameda County. The Office learned that the women working in these brothels were
12 undocumented Asian women, coerced into working by brothel owners. Their passports
13 were confiscated. The women were confined to a building or a residence where they
14 were obliged to engage in the sex trade. Investigative surveillance of these residences
15 revealed that the women would be moved from one brothel to another every ten days.
16 While confined to the brothel, the women did not leave the building for the entirety of
17 their stay. Investigators were able to close the brothels and to arrest the local managers
18 of the brothels. The women who worked in the brothels, were not arrested.
19 Investigators were able to obtain sufficient information to successfully prosecute the
20 local operators; however, the women who had been trafficked were reluctant to make
21 statements. Consequently, the investigation was unable to uncover the higher level
22 operators of this human trafficking operation:
- 23 c. A girl of fourteen or fifteen years old was found murdered behind a dumpster at the
24 back of a restaurant in Castro Valley. Her identity was unknown and investigators
25 were unable even to identify her. As it was discovered, the young woman was in
26 America without documentation. As a result, no missing person report had been filed.
27 Without knowing who the victim was, investigators were left with very few leads.
28 Investigators found no witnesses to the crime itself, but through a series of interviews

1 with witnesses, many of whom were themselves undocumented, they were eventually
2 able to learn her name, and to contact her family in Mexico. With this information,
3 they were able to establish that she had come to live with a family friend in the United
4 States. With this information, the investigators were able to learn additional facts that
5 led this Office to charge the family friend with the young girl's murder. Because of the
6 girl's undocumented status, however, it took so long to identify her that the defendant
7 was able to flee to Mexico before the police even became aware of his identity. Efforts
8 to locate and extradite the defendant for trial have been hampered in part by the fact
9 that some of the undocumented witnesses have moved on or otherwise no longer
10 willing or available to testify. To this day, the defendant has not faced justice for this
11 horrible murder of this innocent girl;

- 12 11. As stated above, the Office has implemented strategic initiatives to reach out to the immigrant
13 community to foster a spirit of trust, engagement and cooperation. Throughout my tenure as
14 District Attorney, I have emphasized the value of diversity and inclusiveness in the conduct of
15 the Office. I have made sure that my Office reaches out to all members of the Alameda
16 County community, including the many immigrants who call Alameda County their home.
17 We have maintained a presence in immigrant communities through speaking engagements or
18 by maintaining information booths during fairs or festivals celebrated by these communities
19 within our county. We have assisted victims in seeking "U" or "T" visas." We provide contact
20 information and identify resources that will enable every victim of crime to seek the protection
21 of the criminal justice system, regardless of country of origin or of immigration status. We
22 seek to stress that it is the voice, and not the language of our residents that matters. However,
23 we are seeing a decline in engagement of victims of crime from immigrant communities;
- 24 12. Despite the Office's best efforts, establishing trust with the immigrant community remains
25 difficult. While the Office can assure our victims that we will not ask them for their legal
26 status, and that we will not take steps to reveal their identities to immigration authorities, we
27 can make no promises as to what federal immigration authorities will do. In the current
28 climate, it is very difficult to convince undocumented victims or witnesses to reveal

1 themselves to the criminal justice system because they believe that in so doing they expose
2 themselves to arrest, detention or deportation.

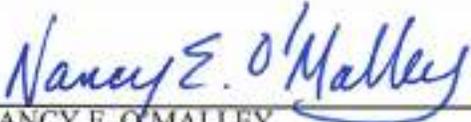
3 13. If the Alameda County District Attorney's Office is to continue our mission to protect all of
4 our residents, we need to assure all victims, especially those without documentation, that they
5 will not be penalized for stepping forward to tell the truth. Our ability to convince them to
6 step forward therefore depends on our ability to truthfully inform and convince them that they
7 have no reason to fear law enforcement or government agencies.

8 14. The Deferred Action for Childhood Arrivals (DACA) program is one important tool available
9 to the Office in protecting residents without documentation. For those who participate, DACA
10 provides the federal government's assurance that they will not be penalized for cooperating
11 with the Office. DACA participants know they are able to call the police when they have been
12 victimized without fear that they will be arrested instead of the criminals who have attacked
13 them. DACA also benefits others in our community because DACA participants feel free not
14 only to speak up in their own defense, but also to testify as witnesses for victims of crime who
15 are here without documentation, who might otherwise be rendered voiceless by their fear of
16 governmental agencies. However, those victims and other individuals in the community, in
17 our colleges and in the workplaces, who are currently protected by DACA, are living in dire
18 fear of losing their residency status in America. Many have shared with me that they have no
19 memory of nor do they know anyone in their country of origin. There is no question that the
20 uncertainty of their future is causing tremendous trauma to them and yet, their fear is also
21 keeping them away from services;

22 15. Based on the foregoing, I conclude that the rescission of DACA will be detrimental to my
23 Office's ability to provide, ensure or uphold public safety and enforcement of the law for all
24 who live, work or travel into Alameda County.

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I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed on the 24th day of October, 2017.



NANCY E. O'MALLEY
District Attorney of Alameda County

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

20 THE REGENTS OF THE UNIVERSITY OF
21 CALIFORNIA and JANET NAPOLITANO,
in her official capacity as President of the
22 University of California,

23 Plaintiffs,

24 v.

25 U.S. DEPARTMENT OF HOMELAND
SECURITY and ELAINE DUKE, in her
26 official capacity as Acting Secretary of the
Department of Homeland Security,

27 Defendants.
28

CASE NO. 17-CV-05211-WHA

**DECLARATION OF JEFFREY F. ROSEN IN
SUPPORT OF PLAINTIFFS' MOTIONS
FOR PRELIMINARY INJUNCTION AND
FOR SUMMARY JUDGMENT**

1 STATE OF CALIFORNIA, STATE OF
2 MAINE, STATE OF MARYLAND, and
3 STATE OF MINNESOTA,

4 Plaintiffs,

5 v.

6 U.S. DEPARTMENT OF HOMELAND
7 SECURITY, ELAINE DUKE, in her official
8 capacity as Acting Secretary of the Department
9 of Homeland Security, and the UNITED
10 STATES OF AMERICA,

11 Defendants.

CASE NO. 17-CV-05235-WHA

12 CITY OF SAN JOSE, a municipal corporation,

13 Plaintiffs,

14 v.

15 DONALD J. TRUMP, President of the United
16 States, in his official capacity, ELAINE C.
17 DUKE, in her official capacity, and the
18 UNITED STATES OF AMERICA,

19 Defendants.

CASE NO. 17-CV-05329-WHA

20 DULCE GARCIA, MIRIAM GONZALEZ
21 AVILA, SAUL JIMENEZ SUAREZ,
22 VIRIDIANA CHABOLLA MENDOZA,
23 NORMA RAMIREZ, and JIRAYUT
24 LATTHIVONGSKORN,

25 Plaintiffs,

26 v.

27 UNITED STATES OF AMERICA, DONALD
28 J. TRUMP, in his official capacity as President
of the United States, U.S. DEPARTMENT OF
HOMELAND SECURITY, and ELAINE
DUKE, in her official capacity as Acting
Secretary of Homeland Security,

Defendants.

CASE NO. 17-CV-05380-WHA

1 COUNTY OF SANTA CLARA and
2 SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

3 Plaintiffs.

4 v.

5 DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
6 BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
7 States; ELAINE DUKE, in her official
capacity as Acting Secretary of the Department
8 of Homeland Security; and U.S.
DEPARTMENT OF HOMELAND
9 SECURITY,

10 Defendants.

CASE NO. 17-CV-05813-WHA

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1 I, JEFFREY F. ROSEN, declare:

2 1. I am the District Attorney of Santa Clara County. Santa Clara County is the sixth largest
3 county in California. The City of San José is the largest city within Santa Clara County.

4 2. I have held this office since January 2011. Prior to being elected District Attorney, I
5 served as a Deputy District Attorney for 15 years and prosecuted a variety of criminal cases including
6 burglary, robbery, domestic violence, sexual assault, and murder.

7 3. Justice and public safety are central to our mission, and we achieve both by working
8 collaboratively with the communities that we serve. We only know about crimes because community
9 members call the police. We only secure evidence because community members tell us what they know.
10 We only prosecute successfully when community members cooperate with us and show up in court. We
11 only determine just resolutions because community members talk to us freely and without fear.
12 Accordingly, cooperation and trust between our office and the community that we serve is of vital
13 importance to our mission. Historically, we have struggled with criminal defendants who try and
14 dissuade witnesses and victims from testifying, but now we struggle when Federal authorities,
15 effectively do the same in service of immigration politics by making immigrant communities fearful of
16 the government, going to court, or cooperating with law enforcement.

17 4. Immigrants make up close to 40 percent of the population of Santa Clara County. They
18 are a vital, dynamic and major part of our community. Most of these immigrants are documented. Of
19 those who are undocumented, most are living with citizens and many are living with their own citizen
20 children. While I understand that immigration is in the purview of the federal government, these federal
21 actions can have devastating impacts on my office's ability to pursue justice and promote public safety
22 for Santa Clara County residents. For example, when immigrants, particularly undocumented
23 immigrants, fear interaction with law enforcement or government officials, then they fail to report
24 crimes, they are victims of violence and exploitation, they are frightened to show up and testify. Of
25 course, a mugger doesn't ask for your papers before mugging you, so our failure to protect our
26 immigrants means all of our community members are less safe. As part of my core mission, both I
27 personally and my deputies cultivate rich connections between my office and the immigrant community.

28

1 I know from this experience firsthand that recent federal actions and rhetoric have triggered
2 unprecedented fear of law enforcement and government in this community.

3 5. When immigrants in our community, and their friends and family members, fear and
4 distrust our police and prosecutors, they can no longer cooperate freely with us. This is devastating to
5 our mission.

6 6. My office does a large amount of work to foster trust with immigrant communities.

- 7
- 8 ▪ We conduct frequent outreach to community and church groups, and through the media
9 to send the message that we will prosecute crimes to protect victims, without regard to
10 whether the victim, or any witness is documented. Moreover, we have conducted
11 outreach to state to the public that our office does not collect or share information on
12 immigration status.
 - 13 ▪ The District Attorney's Office has taken a lead role in Santa Clara County to foster trust
14 and cooperation with our immigrant communities and law enforcement agencies. In
15 2017, I, and my community prosecutors, spoke before thousands of Latino residents at
16 the area's most respected and populous churches: Sacred Heart, Our Lady of Guadalupe
17 and St. Joseph's Cathedral, all located within the City of San José. The message,
18 delivered in Spanish and English, emphasized that the DA's Office does not ask about or
19 need to know the immigration status of crime witnesses and victims. I quoted The Rev.
20 Martin Luther King: "It is not possible to be in favor of justice for some people and not
21 be in favor of justice for all people." Echoing the civil rights leader, I told them:
22 "Nothing is more important than Justice, and one person cannot be above or beneath its
23 protection. As the District Attorney of Santa Clara County, I say to everyone in this
24 community that we will do our duty to fight for you as a victim of a crime regardless of
25 your legal status. Human dignity requires no less." My Office has held more than 30
26 "notario" fraud presentations in Spanish and Vietnamese; participated in an Immigration
27 Forum at Santa Clara Law School; participated in a series of immigration resource fairs;
28 sits on the county's Immigration Task Force, and has vigorously prosecuted and
publicized cases of "notario" and immigration fraud.

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- We evaluate cases that are not serious or violent to determine whether there is a collateral consequence that outweighs the regular criminal punishment. In those instances, where a severe immigration, employment, military or educational consequence to a certain kind of criminal conviction would result, we offer to change the charge and INCREASE the punishment for the new charge so that the defendant can avoid that collateral consequence. All such offers of resolution are also available to someone who does not have a collateral consequence.
- For several years we have evaluated our prosecutions for driving on a suspended license for failure to pay DMV fines and fees, to change some of those where the accused had little or no criminal record, to the infraction of driving on a suspended license (fines and fees but no jail time) rather than a misdemeanor (where jail time is possible) to prevent the incarceration of people who had their licenses suspended largely for failure to pay a fine or fee. Many of those individuals, like so many residents in our County, are immigrants for whom the fear of incarceration was assuaged.
- My office works closely with the San José Police Department, which likewise conducts outreach intended to foster a close and productive relationship with the immigrant community. San José police officers do not collect or share information about the immigration status of members of the public who report crimes.

7. The District Attorney's Office employs at least one DACA recipient who makes vital contributions to the office's efforts to connect with Santa Clara County residents and to promote safety and justice for all county residents.

8. Despite these efforts, establishing and maintaining trust with the immigrant community remains a challenge. This is because I cannot guarantee their safety or the integrity of their families when the threat of indiscriminate deportation remains a constant threat. Casting our DACA youth from the embrace of our community back into the shadows only increases the number of community members who will fear working with us and will inevitably harm the trust we have worked so hard to build.

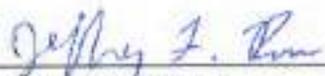
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9. Accordingly, the core mission of my office in pursuing justice and protecting the public is compromised when immigrants live in fear of the government. The rescission of DACA will only heighten this fear and vitiate the mission of my office.

10. Therefore, rescinding DACA is detrimental to the ability of the Office of the District Attorney to provide for public safety and enforce the law in Santa Clara County.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on 10/27, 2017, in San José, California.



JEFFREY F. ROSEN

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

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

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY and ELAINE DUKE, in her
official capacity as Acting Secretary of the
Department of Homeland Security,

Defendants.

CASE NO. 17-CV-05211-WHA

**DECLARATION OF SHERIFF LAURIE
SMITH**

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STATE OF CALIFORNIA, STATE OF MAINE, STATE OF MARYLAND, and STATE OF MINNESOTA,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, ELAINE DUKE, in her official capacity as Acting Secretary of the Department of Homeland Security, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05235-WHA

CITY OF SAN JOSE, a municipal corporation,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United States, in his official capacity, ELAINE C. DUKE, in her official capacity, and the UNITED STATES OF AMERICA,

Defendants.

CASE NO. 17-CV-05329-WHA

DULCE GARCIA, MIRIAM GONZALEZ AVILA, SAUL JIMENEZ SUAREZ, VIRIDIANA CHABOLLA MENDOZA, NORMA RAMIREZ, and JIRAYUT LATTHIVONGSKORN,

Plaintiffs,

v.

UNITED STATES OF AMERICA, DONALD J. TRUMP, in his official capacity as President of the United States, U.S. DEPARTMENT OF HOMELAND SECURITY, and ELAINE DUKE, in her official capacity as Acting Secretary of Homeland Security,

Defendants.

CASE NO. 17-CV-05380-WHA

1 COUNTY OF SANTA CLARA and
2 SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

3 Plaintiffs,

4 v.

5 DONALD J. TRUMP, in his official capacity
6 as President of the United States, JEFFERSON
7 BEAUREGARD SESSIONS, in his official
8 capacity as Attorney General of the United
9 States; ELAINE DUKE, in her official
capacity as Acting Secretary of the Department
of Homeland Security; and U.S.
DEPARTMENT OF HOMELAND
SECURITY,

10 Defendants.

CASE NO. 17-CV-05813-WHA

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1 I, LAURIE SMITH, declare:

2 1. I am a resident of the State of California. I have personal knowledge of the facts set forth
3 this declaration. If called as a witness, I could and would testify competently to the matters set forth
4 herein.

5 2. I am the elected Sheriff of Santa Clara County (the "County"). I have worked in the
6 Sheriff's Office for over 43 years, and have served as Sheriff since 1998.

7 3. The Sheriff's Office serves the entire Santa Clara County area, enforcing criminal laws in
8 the unincorporated area of the County, which spans approximately 600 square miles; serving as the
9 municipal police department in three cities within the County; and offering contractual law enforcement
10 services to Stanford University, the Santa Clara County Superior Court, the Santa Clara Valley
11 Transportation Authority, and other local agencies.

12 4. The Sheriff's Office has more than 1,700 employees, including 1,300 sworn peace
13 officers. It investigates thousands of suspected crimes each year. The core function of the Sheriff's
14 Office is to maintain peace in the County, prevent and respond to unlawful disturbances, make arrests as
15 needed, protect victims, and investigate criminal offenses. Community trust is the foundation of my
16 office's public safety work.

17 5. The County of Santa Clara Board of Supervisors adopted a resolution in 2010 that set out
18 County policy restricting County employees from questioning, investigating, or arresting members of
19 the public solely because of their immigration status or an actual or suspected violation of civil
20 immigration law. Based on my experience and my opinion about the law enforcement needs and
21 priorities of the community I serve, I agreed with this resolution, which aligned with my office's
22 longstanding practices, and which assists my office in investigating suspected criminal offenses.

23 6. My office relies on County residents – without regard to immigration status – on a daily
24 basis to report crimes and disturbances, serve as witnesses, and assist in investigations. Without the
25 assistance of community members, we would be severely hindered in learning about crimes, locating
26 evidence, and carrying out our investigative work. For example, when the Sheriff's Office was
27 investigating a high-profile murder of a teenage girl who disappeared on her way to school in 2012,
28 farmworkers in the neighborhood where she lived actively cooperated with the Sheriff's Office. Had

1 they feared that my office would question their immigration status, or the status of their loved ones, it is
2 very unlikely they would have cooperated. With the Sheriff's Office's focus on investigating state and
3 local crimes, it does not matter to us if a victim or a witness assisting us has lawful immigration status or
4 not – *all* community members deserve to be protected from crime, and all can contribute to the criminal
5 justice process.

6 7. The Sheriff's Office Notario Fraud Unit ("NFU") is another good example of the critical
7 role that trust and relationships with the community play in fulfilling our public safety mandate. The
8 Sheriff's Office formed the NFU to address the problem of "notarios," who represent themselves as
9 legal professionals to vulnerable clients needing immigration legal services, but who have no legal
10 qualifications and often take clients' money without providing any services of value. The Sheriff's
11 Office has worked diligently to build relationships and trust with immigrant communities in the County
12 to help conduct successful notario investigations. In many cases, the NFU has relied on complaints from
13 victims who we believe would not have been as forthcoming if they feared investigation of their
14 immigration status. These victims have provided critical information about alleged abuses, allowing the
15 NFU to obtain search warrants. In one case, a victim contacted the NFU to report a suspected notario
16 for fraudulent services. We obtained a search warrant, seized approximately 1,000 client files, and, due
17 to our public outreach on the case, received over 40 phone calls from immigrant victims willing to serve
18 as witnesses. The District Attorney's Office then filed four felony charges and one misdemeanor charge
19 against the suspect.

20 8. The Sheriff's Office would be less likely to receive this kind of assistance from the
21 community if the DACA program was rescinded. The rescission of DACA would likely cause DACA
22 recipients and their families to feel uncertainty as to their legal status and fear of deportation. When
23 immigrant communities fear or lose trust in the government, they are less likely to cooperate with the
24 Sheriff's Office.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on Oct 27, 2017 in San José, California.

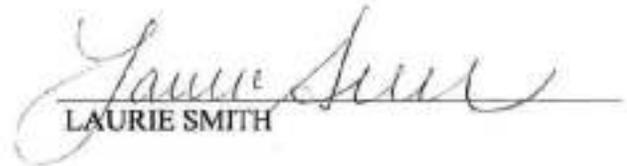

LAURIE SMITH

EXHIBIT CCC

5. I went back to the doctor and asked to do some more tests, and he said my tests were recent and still fine. But a few weeks passed and things got even worse. I was vomiting more and more, and my skin was covered in rashes. I went back to the doctor. He told me he could give me another medicine but it would be bad for me or I could do acupuncture. I decided to do acupuncture and I felt a little better, but by December I was worse. I could not even drink water without vomiting.

6. Around January 23, 2007, it was so bad that I started crying, and I was in really bad shape. My brother told me we should go to another doctor, so we did. As they drew my blood, the nurse ran to the doctor and said something was wrong. My parents were with me, and the doctor told me that he did not know what I had, but I needed to go to the hospital right now, or else I was going to die. He said my blood was not the right color. It was almost orange, not completely red.

7. I went to the hospital with a lot of fear. My parents and I were not sure what was going to happen. We did not want to go to the hospital, because my parents and I were afraid that if I went and got treatment, I would get deported. I thought maybe I should get a different opinion. But we ended up going because the doctor was very adamant. He told my parents that if I did not go to the hospital, I would die within a few days.

8. When we went to the hospital, I did not have health insurance. I was in the ER waiting, they ran some tests, and the doctors said I had severe anemia and did not have enough blood. According to the tests, my kidneys were not working and thus were not producing a hormone my body needed to stay healthy.

9. I told the doctor I did not want to be there anymore, just give me the medicine to go, because I was scared of getting deported. But I was too sick to leave the hospital. Shortly

after admitting me, they told me I was being diagnosed with Stage 5 or “end stage” renal failure – the very last stage before death. I would either need a kidney transplant or dialysis.

10. The doctors explained I could do dialysis to clean the toxins in my body, and take the necessary medications. I was in the hospital for about a month. When I got to the hospital, I weighed 210 pounds, but when I left the hospital I weighed 95 pounds. In less than a month I had lost over half of my body weight. The doctors said since I could not eat for a month, my body was using up the fat I had to stay alive.

11. Most dialysis patients, once they start dialysis, apply for social security to help financially. I could not apply for that help because I did not have a Social Security Number due to my immigration status. I was able to obtain help with dialysis, however, with state-funded health coverage through Medi-Cal. Coming from a low-income background, I would not have been able to pay for that otherwise and my life would have been in jeopardy.

12. In 2007, after being released from the hospital, I went to the transplant center in Loma Linda, California, and disclosed my situation. Because I was a minor and covered at the time by the state health coverage, I was placed on the kidney transplant list in 2007. My undocumented status was not an issue at that point. But once I turned 21 and aged out of the program, that was when the problem began.

13. The transplant center told me I needed to find a job with good health insurance or get a legal immigration status, because not having a legal status would delay a transplant. They did not take me completely off the list for not having legal status, but they put me on a financial hold, which meant that even if a kidney became available, I would not be able to get it.

The Impact of DACA in My Life

14. With Stage 5 renal failure and dialysis, and being undocumented, it was very difficult for me to get ahead in life. I spent so much time tending to my health and I stretched myself thin with everything I had to take care of that I could barely get by. DACA changed everything.

15. In June 2012, my dad woke me up that morning to tell me there was something for me to see in the news. I saw the news and I did not know what to think of it. It was a bittersweet moment, because I saw in front of me the potential to get a job with health insurance and potentially get a kidney transplant, and to be able to finally fulfill my dreams and goals. But I was not sure if it was real. We waited for the instructions to come out to see what was going to happen.

16. The government started taking applications in August, and I was one of the first people to turn in my application. I did the application myself, because I had saved my papers my whole life, so I had everything ready. My application looked like a book. I remember I paid over eighty dollars to mail it express, and I thought, *I hope this is for real.*

17. One month later, in September, I went to my appointment in Loma Linda and got some bad news from the transplant center. They told me that because I did not have legal status, I had to pay the full amount for a transplant up front within a week, or they were going to take me off the transplant list. I started crying after hearing this news.

18. I felt at the edge of depression after that. I was so overwhelmed with everything going on in my life and my inability to live normally. But I told myself I could not give up after everything I had been through. At this point, I was in my first year as a full time student at Chaffey Community College in Rancho Cucamonga. Around that time, one of my professors asked me why I was sad, and I told her that I was having issues with my transplant. She said maybe we

could do something through my school. They asked the school body president of the community college.

19. Meanwhile the transplant center kept asking me whether I had the money or not. The hospital referred me to a nonprofit that could hold the money for me if I raised it. I applied for that program with the nonprofit, started fundraising, and updated the transplant center with my progress. I then began fundraising through Chaffey Community College. I raised \$5,000 through the school bookstores and an email to faculty and staff.

20. One of my uncles also donated some money. My dad's boss did a dinner and a dance in my honor and raised money. And other people donated to the account at the nonprofit. Ultimately, I raised a sum that was close to the amount needed for the transplant, but when I told the center that I had most of the money, the center told me I still needed to reach the full amount. I almost gave up.

21. Then I found out that my deferred action had been approved! When I told the transplant center that I had deferred action and was finally able to work, they put me back on the transplant list. I continued going to school while receiving dialysis treatments three times per week.

22. When I got my work permit through DACA, I thought, *nothing will stop me now*. I needed to get a stable job so I could pay for good health benefits.

23. Shortly after receiving my deferred action, I went to the DMV to get my driver's license. I went with a lot of fear, because it was another place that had excluded me before I had DACA.

24. When I went to the DMV and took my test, I told myself that I knew I would work there someday, as that was my next goal. There was something about working for the government,

even if local or state, that felt not only like true inclusion in this country but also a prestigious career, and I knew employment there would provide health insurance as well.

25. Once I had my deferred action, work permit, and driver's license, the first thing my brother and I did was buy an airplane ticket. We had always dreamed of going somewhere in an airplane. We live right next to the local airport. As kids, we would see and hear airplanes fly over every day since we moved to Ontario from La Puente, California, and always wanted to be able to go somewhere in an airplane. But since the time we were young, we knew that we could not ever travel in one.

26. We booked a flight to go to Sacramento, California for a weekend. It is only about a one hour flight, but for someone wanting to be able to go in an airplane for so long and not being able to do it, it meant so much more than just being on an airplane.

27. In December 2013, Chaffey College (where I was still studying) was recruiting volunteers to help out in the bookstore. I applied and got the job. I worked part time at the bookstore, helping students get their books, cleaning up, and putting books away while doing dialysis as well. I still did dialysis from 7pm-1am at the clinic, three times per week, six hours per treatment, while working and going to school during the day.

28. Then, once the bookstore died down because students were on break, there was a position open at my local city library. I applied and was interviewed. What impressed them was that I worked for the community college bookstore. I got a call the next day and was offered the job. I felt so accomplished, not only for myself but also for my parents. Who would have thought that someone like myself would be able to reach their dream of working for a government agency?

29. I worked there for about two years, while also going to Chaffey College as well. Meanwhile, my brother got a job at a school district, working with special education students.

Having medical issues like I do, you learn to truly appreciate your life, and I thought that working with special education students would be a meaningful experience for me. I applied there and was hired to work with young children with severe disabilities for a year.

30. It is heartbreaking seeing what the kids have to go through, but it was also something special for me. Even just seeing how the little kids look at you is something I will never forget. After that position, I went to a different program within the same district and worked as a resource program specialist. I helped students who had different goals to meet their goals, from kindergarten to sixth grade. I worked this job, while still keeping my job at the library, taking 2 classes at Chaffey, and doing dialysis three times per week.

31. During this time, I always kept my eye out for jobs at the DMV, since that was my goal. One day I saw there was a job opening at the DMV, so I applied for it. The closest DMV to where I live in Ontario was in Rancho Cucamonga. I got an interview. About three and a half weeks after the interview, they told me I was tentatively being offered the job pending an FBI, DOJ, and reference check. After that check, I got the job! In July of 2015, I became a state employee. I was actually there! I made that happen!

32. Working for the DMV, it got to the point where a driver's license was just a piece of plastic to me. But prior to that, when I got my first driver's license, not only for me but for my parents, it was a really big deal. When I had started high school, all my friends were talking about getting their instruction permit or provisional driver's license and going to college. My high school had a driver's education class. I was so excited to take it and I tried to get into that class, but I could not because you needed to disclose your Social Security Number, so I gave up on that.

33. People like me, people who are dreamers, people who come from different countries, we value a lot of things more than people who are born here. I have family members

who were born here—they are in their 30s or 40s—and they do not even have a driver's license. And it is not that they are not eligible, they just do not want it. But it was so difficult for me to get those things and I will never take them for granted.

34. I worked at the DMV part time, not full time yet, and my next goal was to get health benefits, since I did not have health benefits as a part time employee. I realized while working for the DMV that it would take years for me to become full time in the position that I had.

35. I searched for other state jobs and found a job opening at California Employment Development Department (EDD), a clerical position. I applied, took the test, got an interview in mid-October 2015, and was hired. I only worked for the DMV for 6 months, but it was still a huge milestone for me. I told my managers I did not want to leave, but they knew about my health issues and they were supportive of me looking for a job that was more stable so that I could get permanent and comprehensive health insurance.

36. On my first day at EDD, I went in and they had me do paperwork. One of the papers was to choose what health plan I wanted. That was when I realized, *this is it. I have finally accomplished everything I wanted and now, I am finally going to get that kidney. No doubt about it.* Throughout this period starting from when I worked at the DMV, I had to stop going to school because I had to focus on my work. Between my new job and my ongoing dialysis treatments, I did not have time to take classes.

37. Being at that young of an age, with this poor of health, a lot of people get thoughts of suicide because they cannot process it psychologically. My health fluctuated a lot. But I had such a positive attitude about it that I felt like I was doing okay compared to how bad things could have been. I remember when I was younger my social worker would check up on me and ask me

if I ever had thoughts of suicide. But I told my social worker, “You do not have to worry about me, I am going to continue fighting and will not give up.”

38. In early 2016 I saw that the EDD opened up a couple positions for examiners. Instead of being clerical staff, I would actually be the one processing applications for disability. I applied, interviewed, and was not hired for the position, but they gave me feedback. A month and a half later some more positions opened up, and I applied. I incorporated the feedback, and I got the job! I felt excited. I told myself, *I am in a higher position, I have good health insurance, this is working out perfect.* I was confident that I would be able to keep renewing my request for deferred action under DACA and get a transplant.

39. Then the 2016 elections came. The night of the election, I was in the dialysis clinic hooked up to the dialysis machine and watching the little TV they have there. When they announced the winner, I broke down crying for about 30 minutes while receiving my dialysis. A deep uncertainty started again in me about whether I would be okay.

40. I know that if I got deported, and had to go to dialysis in Mexico, I would not be able to receive the treatment I need to survive. The conditions over there are really bad. I had an uncle who had to start dialysis and he died after six months. They do not have enough resources in Mexico, so you can only do it for once a week for a couple hours. Because I have Stage 5 renal failure, I need more care than that. I know that I would not survive in Mexico. So a couple weeks after the elections, I consulted with lawyers to see if there was any immigration status I could apply for. There is not. I even read the immigration code myself, the Immigration and Naturalization Act, just to see if there is any possible thing I could apply for, but there is not.

41. I thought, *what if I got a call for a kidney? Should I even take it?* A kidney transplant is a very dangerous operation, and the aftercare requires a lot of medication. It is sad to say, but

our health system depends on one being able to pay for the service, especially for a kidney transplant. If you do not have money and health insurance, you cannot keep your organ healthy after a transplant. The first thing hospitals check is whether your health insurance is valid. That is why it is so important for me to keep my job, even up to this day. The medication I take is very expensive and I need to keep my job to maintain the insurance I currently have, which covers most of my necessary medical expenses. I could not afford my medical expenses without my job at the EDD, and I could not work at the EDD without deferred action under DACA.

42. Even losing my work permit for a brief period would hurt my chances of continuing my medical treatment. It is not easy to get a government job. When they opened up the position I have right now, they opened up 13 positions, and about 90 people applied, including from within my job. It is a really competitive position, and I worked so hard to get it. If I were to lose DACA, even if only for a temporary period, I do not know that I would be able to return to that position.

My Kidney Transplant

43. On February 28, 2017, after waiting for ten years, I finally got the call for a kidney transplant. At first, when the kidney was offered to me, I feared just exactly what is happening right now—that I might lose my deferred action and be unable to afford ongoing treatment required to maintain my transplant. But I recall the President saying that dreamers were safe, so I accepted the kidney transplant, knowing that my life would dramatically change. I had the surgery on March 1, 2017.

44. The doctors told me that I would need to take medicine for the rest of my life in order for my body to not reject the organ transplant. I am only able to afford the daily immune system suppressing medicine I need because the medications are covered by my health insurance through my employment.

45. With DACA, I have been able to work for the State of California, and have gone from the brink of death at age 19 to now having a kidney transplant and a more regular life. I am also back in college trying to finish up my degree in business. Before DACA, I could not even imagine being able to fulfill my potential in this way, but DACA allowed me to do it, and I know I can achieve my degree with DACA.

The Announcement to Terminate DACA

46. When I heard the September 5th announcement to terminate the DACA program, I was devastated and taken aback because I did not think President Trump was going to do this to us. He was very outspoken in the news that he was going to do something good for people with DACA and he was not going to leave us out in the cold.

47. Because my current deferred action grant under DACA expires on August 17, 2018, I was not eligible to renew under the DACA Termination memo. From the day that the DACA termination was announced, I knew that my time with DACA could end and I started suffering from a horrible and ever-present sense of uncertainty. My worst fears from when I found out I was getting a kidney transplant were coming true.

48. I do not know what I am going to do when my deferred action expires. But I am very hopeful that something will happen for us dreamers like this lawsuit or the Dream Act.

49. When my grant of DACA ends, I will certainly lose my job. The EDD has to go by the laws of the state legislature and the federal government and not employ people who do not have authorization to work. Not only will I lose my income, but I rely on the health insurance I have from my job in order to survive with an organ transplant.

50. If I lose my DACA in August, I will have to focus a lot more on my health, primarily trying to find some way to continue paying for my medication. Even now, I am on the edge of having too much on my plate, so I know losing DACA would throw my life into chaos.

51. With the kidney transplant, I need to take expensive medication for the rest of my life or risk losing my kidney and starting again on dialysis. But even if I go back to dialysis, I would have to be eligible for state insurance or some program to afford it. And I could not have that a job that would help me pay for it or that would offer me health benefits.

52. I have always pursued my dreams and fought to be better. Having deferred action under DACA allowed me to get a transplant when I was 30, and now with DACA I do not have to worry about being tied to a machine. Now I can pursue my dreams. But that is easier said than done, because now even though I am not tied to a machine, I am tied to my job's health insurance.

53. Without this benefit, I risk losing my transplant and going back to dialysis, which is all-consuming because if I missed one treatment I could die within days or hours. The thought of losing my transplant, and seeing it fail before my eyes because of the end of the DACA program, has impacted my life in the past three months more than I can even express. Knowing that I could potentially lose a kidney someone opted to donate is really hard on me.

54. I took two and a half years off school to focus on paying my medical bills. With DACA, my jobs with DACA and their health benefits, and finally my transplant this year which took away my need for dialysis, I was able to start taking classes again and working toward a degree in business. If I lose my DACA in August, I would have to stop school again and focus on staying alive.

55. As I have described, losing deferred action would have devastating effects on me. I am not only afraid, anxious, and sad for myself, but I am upset about what is happening and will happen to my fellow dreamers with such a complex situation.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED December 12, 2017 in Ontario, California



GUSTAVO GALICIA

EXHIBIT DDD

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

MARTÍN JONATHAN BATALLA VIDAL,
ANTONIO ALARCON, ELIANA FERNANDEZ,
CARLOS VARGAS, MARIANO MONDRAGON,
and CAROLINA FUNG FENG, on behalf of
themselves and all other similarly situated
individuals, and MAKE THE ROAD NEW YORK,
on behalf of itself, its members, its clients, and all
similarly situated individuals.

Plaintiffs,

v.

KIRSTJEN M. NIELSEN, Secretary of the
Department of Homeland Security, JEFFERSON
BEAUREGARD SESSIONS III, Attorney General
of the United States, and DONALD J. TRUMP,
President of the United States,

Defendants.

**DECLARATION OF
KAREN C. TUMLIN IN
SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY
INJUNCTION**

Case No. 1:16-cv-04756 (NGG) (JO)

I, Karen C. Tumlin, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am one of the attorneys for Plaintiffs in the above-captioned action. I submit this Declaration in support of Plaintiffs' Motion for Preliminary Injunction.
2. I make this Declaration based on my own personal knowledge and based upon the sources described, true and correct copies of which are attached hereto.
3. Attached as **Exhibit A**: Tom Jawetz & Nicole Prchal Svajlenka, *Thousands of DACA Recipients Are Already Losing Their Protection From Deportation*, Center for American Progress (Nov. 9, 2017), <http://ampr.gs/2ma0uYQ>.
4. Attached as **Exhibit O**: Jill Colvin, *Thousands Eligible For DACA Renewals Failed To Apply In Time*, Assoc. Press, Oct. 19, 2017, available at <http://bit.ly/2kzKgEq>.

5. Attached as **Exhibit P**: Liz Robbins, *Post Office Fails to Deliver on Time, and DACA Applications Get Rejected*, N.Y. Times, Nov. 10, 2017, at A17, available at <http://nyti.ms/2zvOoyd>.
6. Attached as **Exhibit Q**: Liz Robbins, *Number of DACA Applications Stuck in the Mail Tops 900*, N.Y. Times, Nov. 30, 2017, at A23, available at <http://nyti.ms/2AiDXhP>.
7. Attached as **Exhibit R**: Maya Rhodan, *She's Planning for College. But She'll Miss President Trump's Deadline to Avoid Deportation*, Time, Sept. 22, 2017, available at <http://ti.me/2fEx1Ra>.
8. Attached as **Exhibit S**: Jonathan Blitzer, *A DACA Recipient Describes the Feeling of Watching Her Legal Status Expire*, The New Yorker, Dec. 8, 2017, available at <http://bit.ly/2Bo02wO>.
9. Attached as **Exhibit X**: U.S. Citizenship and Immigration Services, *Guidance on Rejected DACA Requests and Frequently Asked Questions* (Nov. 30, 2017).
10. Attached as **Exhibit Z**: Assoc. Press, *Transcript of AP Interview With Trump*, Apr. 23, 2017, <http://bit.ly/2uwsUzg>.
11. Attached as **Exhibit RR**: U.S. Citizenship and Immigration Services, *Guidance on Rejected DACA Requests and Frequently Asked Questions* (Dec. 7, 2017).
12. Attached as **Exhibit SS**: [Redacted] Letter from Plaintiffs' Counsel Amy Taylor to Defendants' Counsel Stephen Pezzi, *Re: Follow Up on Rejected DACA Renewal Applications*, Dec. 4, 2017.

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13. Attached as **Exhibit WW**: Dara Lind, *EXCLUSIVE: The Postal Service Kept Him From Renewing His DACA. Now He's In Immigration Detention*, Vox, Dec. 13, 2017, <http://bit.ly/2o6MGiM>.

I declare under penalty of perjury and under the laws of the United States that the foregoing is true and correct.

Executed in Los Angeles, California on December 15, 2017.

/s/ Karen C. Tumlin

EXHIBIT EEE

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

BATALLA VIDAL et al.,)	
<i>Plaintiffs,</i>)	
)	Case No. 1:16 cv 04756 (NGG) (JO)
v.)	
)	
NIELSEN et al.,)	
<i>Defendants.</i>)	December 13, 2017

DECLARATION OF CARLOS VARGAS

I, Carlos Vargas, declare, pursuant to 28 U.S.C. § 1746, and subject to penalties of perjury, that the following is true and correct:

1. I was born in Puebla, Mexico, but the United States is the only country I know. I came to New York City at age four and have been a New Yorker ever since.

2. I am the youngest of seven siblings. One of us is a U.S. citizen and three are lawful permanent residents. My brother who is closest to me in age, Cesar Vargas, and I are both DACA recipients.

3. I currently work full-time at Make the Road New York (“MRNY”) where I provide pro bono legal services to low-income immigrant New Yorkers. I was first granted deferred action through DACA in December 13, 2012. I have renewed twice, and my current grant expires on September 13, 2018.

Background and Moving to the United States

4. Unlike some other DACA recipients, I always knew that I was undocumented because I remember leaving Mexico for the United States. My father had passed away just two months before I was born, which put my mother in a difficult situation. She had inherited our

home, but my uncle, who was envious, threatened her until she signed away all of our assets. We had no means of surviving in Mexico, so she made the hard decision to give us a better life in the United States.

5. At the time, I thought that we were going to Disneyland. We took no luggage. We left everything behind except for a plastic bag with all of our important documents such as vaccination records.

6. Because of my immigration status, my mother told me to work hard in school and stay out of trouble. I was very timid. When my friends would go out, I would stay at home. We spoke among ourselves about how to get papers and thankfully some of my relatives were eligible, and eventually able, to successfully adjust status.

7. Fortunately, my family has not had to face deportation, but the fear of separation was always present because we lived in an immigrant community, so would hear stories about immigration raids at factories and knew other families who were impacted. I want to become a lawyer and create systemic change so that no one else experiences what we experienced.

Advocacy on Behalf of Dreamers and Impact of DACA

8. My brother Cesar joined the Dream movement before me. In December 2010, I accompanied him to Washington D.C. for the vote on the DREAM Act, which was a path to lawful immigration status for certain immigrant youth. At the time, I did not fully understand what the DREAM Act was, but I vividly remember walking into a room filled with undocumented youth who were crying. The DREAM Act had just failed to survive the Senate by five votes. That is when I realized that if I wanted change, I needed to do my part.

9. I started helping Cesar by joining him on trips to Arizona, Nevada, Texas, and California to organize undocumented youth around the DREAM Act. I would assist with the

logistics and phone bank. Back at home in Staten Island, I volunteered with MRNY and El Centro del Inmigrante, which are both community organizations working with immigrants.

10. I was at a restaurant on June 15, 2012 when President Obama announced DACA. Cesar had given me a head's up that an announcement was coming and so I watched on a small black and white television screen. At the time, I did not know what deferred action was, but I heard loud and clear that I would be eligible for a work permit. I thought wow – a social security card and a driver's license—this will change my life.

11. That same day, I went home, read as much as I could about what the requirements were likely to be, and started collecting my paperwork. Both Cesar and I applied as soon as we could in August 2012.

12. Cesar graduated from law school in 2011, but he was not admitted to the New York bar until over four years later. This is because when he applied for admission, a subcommittee of the Committee on Character and Fitness for the Second Judicial Department found that he “appears to have stellar character,” yet recommended against admission “for the purpose of having the Court make a decision based on immigration status.” The Supreme Court of the State of New York, Second Appellate division ruled in his favor on June 3, 2015. He had been advised to fly under the radar during the admissions process and yet he chose to take the difficult path and create the precedent for others. In so doing, he opened doors not only for other undocumented law graduates, but also other licensed professionals such as teachers and nurses, to pursue their chosen careers.

13. By the time that we applied for DACA, Cesar had graduated from law school, but his admission was still in limbo. One of his peers reviewed our applications and entered an appearance as an attorney on our behalf. I was grateful that she was willing to help, but it

seemed unfair that my brother had to ask a friend for assistance with what he was equally capable of doing.

14. Receiving DACA had an immediate and significant impact on my quality of life. I worked as a contractor at the time and was able to obtain a higher wage because I had a work permit under DACA. I was able to do new things, such as make deliveries now that I had a driver's license. Shortly thereafter I was able to switch jobs and worked in a restaurant within Brookdale Hospital in Brooklyn. I started as a dish washer, but then worked up through bus boy, waiter and eventually was managing some shifts. With DACA, I was finally able to make some money to cover my expenses, and began earning approximately \$25,000 a year.

15. In 2014, I graduated from CUNY College of Staten Island with a Bachelor's of Science degree in Business (economics and finance). It had taken me seven years to earn my degree. Since I was undocumented, I was not eligible for financial aid, so I worked full-time to be able to afford a few units each semester while continuing to meet my financial obligations to my family. I would wake up at 5:30 or 6:00 A.M. to commute from Staten Island to work in Brooklyn.

16. From there, I travelled back to Staten Island for class, which started at 6:30 P.M. Sometimes I would stay late after class to study, but otherwise, I was limited to time spent commuting on buses and trains, as well as weekends, to complete all of my assignments. The pay increase that I received after DACA enabled me to afford to finish my degree, while the work authorization offered me options for employment after graduation.

17. I currently work full-time at MRNY where I provide pro bono legal services to low-income immigrant New Yorkers. The Department of Justice awarded me full accreditation, which means that within the immigration realm, I can do most things that attorneys can do,

including appear in immigration court. To become accredited, I had to complete an eighty-hour immigration law course and was tested on dozens of subjects. Thus far in this year alone, I have assisted more than 200 people, including those who have survived domestic violence and family members of people who have been detained by immigration.

18. In August of this year, I went back to CUNY – this time to earn a law degree. Seeing how Cesar was able to push through the barriers motivated me. My experiences as an undocumented immigrant and an advocate within a low-wage workplace have solidified my commitment to becoming a lawyer and changing the ways that legal systems are unjust. I want to do advocacy work.

19. The termination of DACA has filled my life with uncertainty. My DACA will expire on September 13, 2018. My job, chosen career, financial stability (including the ability to financially support my elderly mother), and physical and emotional well-being all hang in the balance.

Devastating Effects of Losing DACA

20. If I were to lose deferred action under DACA, I would lose my job. My ability to retain my accreditation and be admitted to the New York bar would both also be put into question.

21. Losing my job would be psychologically and financially devastating. Even though I still work hard, coming into the office at 8:00 A.M. and finishing with school at 10 P.M., I have energy because I am using my mind, not my physical strength, while also developing skills related to the career that I am invested in.

22. I am financially responsible for both myself and my mother, who, at age seventy-four, is unable to work and has increasing medical needs. In addition to my everyday expenses, I

am responsible for multiple mortgages, a car payment, insurance, and annual law school costs. My mother, who lives with me, has struggled with depression and anxiety as well as has vision, dental, and high blood pressure issues. She has quarterly check-ups and gets her blood work done every six months.

23. My mother recently had cataract surgery and is going to need a second surgery. She has old dentures that need to be replaced at cost of anywhere from \$600 to \$1,000. Since she does not read or write in English, someone has to accompany her to every visit. While I have some help from siblings, I am the primary person who takes her to her appointments and covers her medical expenses.

24. I fear that losing deferred action under DACA may also prevent me from pursuing my dream of becoming a lawyer. While dicta in Cesar's case reaches other undocumented people, the holding only explicitly protects DACA recipients. Without DACA, my ability to be admitted to the New York bar may come into question.

25. If I am unable to practice law, I will be harmed in many ways. I will lose my investment of time learning the trade while at MRNY, the time and expense of attending law school, and the ability to have the impact that I want to achieve in the world: I want to change unjust immigration laws.

26. My brother and I now own two homes in Staten Island as well as an apartment in Washington D.C. Before I had DACA we always rented and had housing problems. Either the neighborhoods were unsafe or the landlords did not take good care of the buildings, so the living conditions were bad. For example, there were cold winter months when we had no hot water or heat.

27. To be able to purchase property felt like having achieved the American dream, but like so many other things, it was more difficult for us because of our lack of lawful immigration status. Our lack of status meant that we were not eligible for a home loan. We had to set up a Limited Liability Corporation and put one of the homes in my sister's name in order to successfully complete the transactions. After DACA, we made plans to transfer the properties into our own names, but now that our futures are uncertain, it might not make sense. If either of us were deported, we could lose our assets.

28. Before DACA, I did not have a driver's license. If I had to use my passport, which was my only form of government issued photo identification, to enter a hotel or government building, I would hide it because it outed me as different. When I passed by a police officer I was scared. Being able to drive is essential to maintaining my busy work, school, and family responsibility schedule because I regularly travel between Staten Island, Brooklyn, and Queens. It would be devastating to lose my license.

29. When my grandfather passed away in Mexico, my sister who is a U.S. citizen was able to attend his burial, but I could not leave the country. After DACA, I was able to apply for advanced parole, which is permission from United States Citizenship and Immigration Services to return to the United States after having left. Advanced parole enabled me to visit Mexico for the first time since leaving at age four.

30. I first traveled alongside Cesar and other colleagues in the movement for immigrants' rights around the time of Thanksgiving 2015. The customs declaration form I was given on the plane asked if I was a Mexican citizen. I had to ask myself that question because while I was born in Mexico, the United States is my home. When we arrived in Mexico there were two lines: visitors and citizens. We stood in the line for visitors and were turned away

because we had Mexican passports. The most impactful part of the trip for me was visiting where my father is buried because I was never able to meet him. I took a picture of his tombstone. It struck me that he passed away on June 15, 1985 – thirteen years to the day before DACA was announced.

31. I traveled with advanced parole for the second time from December 2016 to January 2017. My aunt's husband was very sick, and his own children were unable to visit him. I sent photos and was able to connect the father to his children with FaceTime.

32. If I were to lose the ability to travel, it would be very difficult for me. Even though I feel more American than Mexican, and when I travel to Mexico I feel homesick for the United States, I still want to be able to learn more about my roots. I also want to travel throughout the world – I have never seen Europe or Asia.

Burden of Being a Public Advocate

33. It takes time and energy to fight for what is right. Since the announcement terminating DACA, I have been asked with increased frequency to tell my story to the press and speak at rallies. Even participation in this lawsuit has required significant time. It has been good to see momentum in the Dream movement and know that we have allies, but it is not always rainbows and sunshine. Because I am a recognizable public figure, I sometimes experience harassment.

34. For example, I was at the gym with Cesar recently when another patron said: "Why do you guys feel like you're entitled? You're illegals!" Speaking up takes a toll, but I know that DACA was not won overnight and that if I want justice, I have to be on the frontlines. Now that I face the possibility of losing protection from deportation, the risk of speaking up is greater.

Psychological Impact

35. The psychological impact is real. I work out, bike, and have conversations with family and friends to manage the stress, but the uncertainty in my own life feels overwhelming when I am serving a family that was just torn apart by deportation. Sometimes I cannot concentrate, feel like I am in a fog, or I lose the drive to get up in the morning. When I feel those symptoms, I know it is time to take a break or go for a walk. I am resilient, but it still takes a toll.

36. I think back to 2011, when an undocumented high school student, Joaquin Luna, was ready to graduate and apply for college, but he committed suicide because he saw no other way out. He wrote a suicide note saying that he wanted to be an engineer, but since he would not be able to fulfil his dreams on earth, he would construct a new temple in heaven. His story became big in the Dream movement: it inspired a song called “Dream to Belong” and was featured in the film “The Dream is Now.”

37. I am a bit older and stronger, but I think of all of the young DACA recipients who have never known trying to go to college without work authorization or a Social Security Number. For me, every Dreamer, including myself, has a piece of Joaquin inside. It is so important that something happens to protect us, not just for me, but for our entire community.

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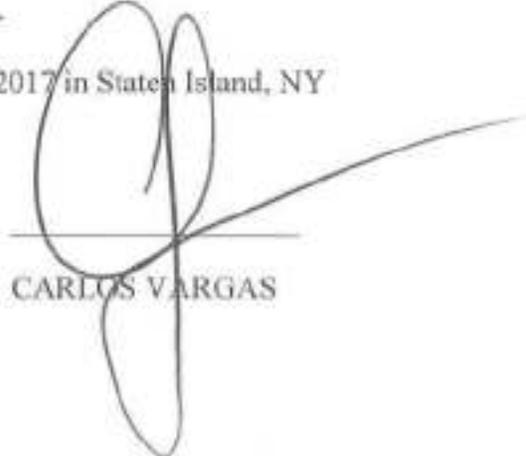
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38. The United States is the only country I know. For me, DACA is not only work authorization and the chance to achieve the American dream, it is a part of my identity. Having papers through DACA is recognition that I am here and I am an American. If taken away, I will lose a part of who I am.

I declare under penalty of perjury under the laws of the United States and the State of New York that the foregoing is true and correct.

EXECUTED December 13, 2017 in Staten Island, NY



CARLOS VARGAS

EXHIBIT FFF

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MARTÍN JONATHAN BATALLA VIDAL, *et al.*,

Plaintiffs,

v.

KIRSTJEN NIELSEN, Secretary, Department of
Homeland Security, *et al.*,

Defendants.

**DECLARATION OF
HIROKAZU YOSHIKAWA**

Case No. 1:16-cv-04756 (NGG) (JO)

I, Hirokazu Yoshikawa, declare:

1. I serve as the Courtney Sale Ross Professor of Globalization and Education at New York University’s Steinhardt School of Culture, Education and Human Development. I also serve as a tenured University Professor at New York University (NYU). At NYU, I am affiliated with the Metropolitan Center on Equity and Transformation in Schools, the Institute on Human Development and Social Change, and within the Steinhardt School Department of Applied Psychology, the Doctoral Program in Psychology and Social Intervention and the master’s program in Human Development and Social Intervention.

2. I write this declaration in support of all Plaintiffs in the lawsuit regarding the Deferred Action for Childhood Arrivals program (“DACA”).

3. I am a developmental and community psychologist with a Ph.D. in clinical psychology from New York University. Prior to my current position, I was the Walter H. Gale Professor of Education at Harvard University and served as the Academic Dean of the Harvard

Graduate School of Education, which was ranked by U.S. News and World Report as the top graduate school of education.

4. I conduct research on programs and policies related to immigration, child and youth development, and poverty reduction in the United States and in low- and middle-income countries. In addition, I co-direct a research center, Global TIES for Children, at New York University that leverages the sciences of human development and its contexts to improve the evaluation of programs and policies aimed at child and youth development in low-income and conflict-affected countries. I have been studying immigration for the last 19 years. I have been conducting research on undocumented status in particular, with a focus on its effects on families and children, for the last ten years. My work on undocumented status and its consequences across generations has resulted in one book¹ and several articles, chapters, and policy reports. I have in the course of this work provided consultation to the Migration Policy Institute, the New York Immigration Coalition, the City Council of New York City, and other organizations. My full curriculum vitae is included as an addendum to this declaration.

5. My most recent review of the literature on undocumented status and youth development was commissioned and peer reviewed by the Society for Research on Adolescence, the leading research association focused on youth development in the United States.²

6. I also served in 2014-15 as a member of the U.S. National Academy of Sciences' consensus committee on the incorporation of immigrants into American society, the most comprehensive review on that topic issued by the National Academies in the last 20 years.

¹ HIROKAZU YOSHIKAWA, IMMIGRANTS RAISING CITIZENS: UNDOCUMENTED PARENTS AND THEIR YOUNG CHILDREN (2011).

² Hirokazu Yoshikawa, Carola Suárez Orozco, & Roberto G. Gonzales, *Undocumented Status And Youth Development In The United States: Consensus Statement Of The Society For Research On Adolescence*, 27 J. RES. ADOLESCENCE 4-19 (2017).

7. I have also testified on the issue of immigration policies related to legal status before the U.S. House of Representatives (May 29, 2014, hearing on “The Impact of Current Immigration Policy on Women and Children”).³

8. For my work on this case, I am being paid \$5,000 by the William T. Grant Foundation. This represents my only compensation for my work on this case.

Summary

9. Multiple studies conducted across the United States in the last ten years suggest the nearly 800,000 undocumented youth and young adults who enrolled in DACA have increased their educational and economic mobility, as well as improved their mental and physical health. Following the termination of DACA, these benefits would be reversed: each of these life-course domains and the mental health and ability of these young people to contribute to American society would be harmed. Using the available evidence on DACA’s impacts—overwhelmingly positive in nature from the existing studies—we can estimate the *loss of benefits or harm* that ending DACA would cause. The resulting lower well-being and social mobility of the DACA population suggest economic, educational and mental-health-related costs of ending the program.

10. Moreover, associated effects on family members of DACA enrollees, such as their children, parents, and other relatives, would also be negative. The negative effects of DACA termination thus pertain not only to the enrollees directly affected, but a much wider segment of adults, youth and children in immigrant families in the United States.

³ Hirokazu Yoshikawa, Jenya Kholoptseva, & Carola Suarez-Orozco, *The Role of Public Policies and Community-Based Organizations in the Developmental Consequences of Parent Undocumented Status*, 27 SOCIAL POLICY REPORTS OF THE SOCIETY FOR RESEARCH IN CHILD DEVELOPMENT 1 (2013).

Background

11. DACA has provided both work authorization and temporary reprieve from deportation to individuals who met certain eligibility criteria (i.e., that individuals be between the ages of fifteen and thirty-one as of June 15, 2012; arrived in the United States before age sixteen; maintained at least five years of continuous U.S. residence; provided proof of high-school graduation or current participation in formal qualifying education; and had no felony convictions or significant misdemeanors). Nearly 800,000 (793,026) undocumented immigrants were approved for DACA between August 15, 2012 and June 30, 2017. Of these, eighty-seven percent, or 689,800 individuals, were still enrolled on September 5, 2017 when the Trump Administration announced it was terminating the program.⁴ The Administration stated it would no longer accept any new applications after September 5, 2017, and that individuals whose DACA status expired on or before March 5, 2018 were required to reapply to be considered for renewal by October 5, 2017. The Migration Policy Institute estimates that beginning on March 6, 2018, each day over 900 DACA recipients will lose their work authorization and protection from deportation.⁵ Based on existing research, this declaration focuses on the likely impacts that terminating DACA will have on this population, as well as their households and families.

⁴ JIE ZONG ET AL., A PROFILE OF CURRENT DACA RECIPIENTS BY EDUCATION, INDUSTRY AND OCCUPATION 1 (2017).

⁵ *Id.* at 2.

Before DACA

12. Several large-scale studies in the United States conducted before DACA was implemented showed that relative to other immigrant youth, undocumented youth experienced higher levels of mental health problems, social isolation, and reduced educational attainment.⁶

13. Many in this population did not know they were undocumented upon immigration, as many came as young children. Usually at some point during their adolescence these youth “awakened” to their status (either by hearing from a parent or other family member in the context of family discussions; or in the course of an expected transition, such as getting a driver’s license or applying for colleges, that was suddenly blocked). Professor Roberto Gonzales of Harvard University has termed this awakening “learning to be illegal,” and has documented the extensive barriers to well-being and normative development this group experiences across the transition from adolescence to young adulthood.⁷

14. Before DACA, undocumented youth reported barriers to accessing higher education, which, when coupled with pressures to contribute to family income, often required them to enter the underground economy. During this period, a minority of undocumented youth reported accessing higher education through the support of state policies and mentorship supports.⁸

⁶ Carola Suárez-Orozco et al., *Growing Up In The Shadows: The Developmental Implications Of Undocumented Status*, 81 HARV. EDUC. REV. 438 (2011); Yoshikawa et al., *supra* note 2, at 4–19.

⁷ ROBERTO G. GONZALES, *LIVES IN LIMBO: UNDOCUMENTED AND COMING OF AGE IN AMERICA* (2016)

⁸ *Id.*

15. “Learning to be illegal” for these youth was accompanied by declines in their psychological well-being and mental health. Youth reported withdrawing from friendships as they were not able to join in talking about or planning for their first jobs, learning how to drive, or thinking about and applying to college. The social isolation and stigma of being undocumented can be heightened during this developmental period of adolescence, when social identity is being forged and both peer and adult relationships are in flux.⁹ The critical sense of belonging – in school; in social networks; and in community settings – was lacking for many of these youth.

16. When undocumented youth experience the full awakening to their status and what it means for their life goals, many experience mental-health problems and social isolation. They often realize all at once their lack of eligibility for formal employment, drivers’ licenses, in-state tuition assistance, federal financial support for higher education, and publicly subsidized health care—a massive downgrading of their sense of integration into community and American life that can lead to these declines in well-being.¹⁰

17. Barriers to health- and mental-health-care access worsened these higher depression, anxiety and other mental health problems among undocumented youth prior to DACA. Youth in California in one study reported that providers often lacked knowledge about what the youth were eligible for in terms of services.¹¹ It is likely that youth in other states

⁹ Diane Hughes et al., *Received Ethnic-Racial Socialization Messages And Youths’ Academic And Behavioral Outcomes: Examining The Mediating Role Of Ethnic Identity And Self-Esteem*, 15 CULT. DIVERSITY AND ETHNIC MIN. PSYCH. 112 (2009).

¹⁰ GONZALES, *supra* note 7.

¹¹ Marissa Raymond-Flesch et al., “*There Is No Help Out There And If There Is, It’s Really Hard To Find*”: A Qualitative Study Of The Health Concerns And Health Care Access Of Latino “Dreamers”, 55 J. OF ADOL. HEALTH 323 (2014); Roberto G. Gonzales et al., *DACA at Year Three: Challenges and Opportunities in Assessing Higher Education and Employment, New Evidence from the UnDACAmented Research Project*, AM. IMMIGRATION COUNCIL (Feb. 1,

experienced even greater barriers, given California's relative generosity in extending state-level health benefits (e.g., MediCal) to low-income undocumented immigrants.

18. The research literature on the effects of parental undocumented status are also relevant to research on DACA, as a segment of the DACA-eligible are parents (typically of young children, given the eligibility criterion of age younger than 31). Several studies have shown that relative to children whose parents are LPRs or U.S. citizens, children with at least one undocumented parent suffer on several dimensions. In early childhood and middle childhood, they show lower cognitive skills and school achievement.¹² By adolescence, they report higher levels of depressive symptoms.¹³ And by early adulthood, children with at least one undocumented parent report between 1.25 and 1.5 fewer years of education, relative to their counterparts with authorized parents.¹⁴

Impacts of DACA Enrollment on Mental Health and Well-Being

19. DACA appears to have improved psychological well-being and mental health for undocumented youth who enrolled. Youth in several qualitative studies reported substantially greater feelings of belonging and peer support following DACA enrollment. The social isolation, anxiety and depression that was the norm for youth struggling with undocumented

2016), <http://www.americanimmigrationcouncil.org/research/daca-year-three-challenges-and-opportunities-accessing-higher-education-and-employment>.

¹² Kalina M. Brabeck et al., *The Influence Of Immigrant Parent Legal Status On U.S.-Born Children's Academic Abilities: The Moderating Effects Of Social Service Use*, 41 APPLIED DEVELOPMENTAL SCI. 1 (2016); Yoshikawa, *supra* note 1.

¹³ Susan Potochnick & Krista M. Perreira, *Depression and Anxiety Among First-Generation Immigrant Latino Youth: Key Correlates And Implications For Future Research*, 198 J. NERVOUS & MENTAL DISEASE 470 (2010).

¹⁴ FRANK D. BEAN, SUSAN K. BROWN & JAMES D. BACHMEIER, *PARENTS WITHOUT PAPERS: THE PROGRESS AND PITFALLS OF MEXICAN AMERICAN INTEGRATION* (2015).

status was alleviated.¹⁵ However, worry about non-DACA-eligible undocumented relatives appeared to continue to be of concern to these youth.¹⁶

20. The mental-health benefits of DACA appear to extend to the U.S.-born children of enrollees. A causal study published in 2017 in *Science* on DACA's effects showed that mental health among children of the DACA-eligible were improved by the program, as reflected in lower Medicaid diagnoses for child adjustment and anxiety disorders. Rates of these disorders were a full fifty-percent lower due to DACA's implementation.¹⁷ This study also showed that parents' stress levels declined as a result of DACA – an important demonstration of how the stresses of immigration status can be transmitted across generations.

21. One explanation for the improved mental health outcomes of DACA recipients and their children may be greater access to health and mental health care services. One large, multi-state study found that twenty-one percent of DACA-enrolled respondents reported accessing health insurance and other health coverage programs for the first time after receiving DACA.¹⁸

22. The other chief mechanism for improved mental health among DACA enrollees is the greater integration into mainstream U.S. society that Deferred Action brought about.¹⁹ For example, in Roberto Gonzales's multi-state survey and interview study, fifty-nine percent of

¹⁵ Rachel Siemons et al., “*Coming Of Age On The Margins: Mental Health And Wellbeing Among Latino Immigrant Young Adults Eligible For Deferred Action For Childhood Arrivals (DACA)*” 19 J. OF IMMIG AND MIN HEALTH 543 (2017); Roberto G. Gonzales et al., *supra* note 11; ROBERT TERANISHI ET AL., IN THE SHADOWS OF THE IVORY TOWER: UNDOCUMENTED UNDERGRADUATES AND THE LIMINAL STATE OF IMMIGRATION REFORM (2015).

¹⁶ Teranishi et al., *supra* note 14.

¹⁷ Jens Hainmueller et al., *Protecting Undocumented Immigrant Mothers Improves Their Children's Mental Health*, 357 SCIENCE 1041 (2017).

¹⁸ Gonzales et al., *supra* note 11.

¹⁹ *Id.*

enrollees reported obtaining a new job within sixteen months of receiving DACA.²⁰ Perhaps more importantly, DACA appears to have increased higher-wage and white-collar employment. Specifically, DACA-eligible in national data report nearly triple the levels of sales jobs as those ineligible and undocumented (15 compared to 6 percent); and over double the rates of office-based jobs (12 compared to 5 percent).²¹ Rates of employment in manual and more hazardous occupational sectors appear to have declined dramatically. The DACA-eligible are half as likely as those ineligible to report working in construction (10 vs. 20 percent) and building maintenance or cleaning (6 vs. 13 percent).²²

23. Other indicators of greater integration into American society include accessing financial institutions and higher education. Close to fifty percent of Gonzales's multi-state sample of DACA recipients reported opening their first bank account after receiving DACA and one third reported obtaining their first credit card, enabling them to build credit histories for the first time in their lives.²³ Finally, although DACA did not provide access to federal financial aid for higher education, enrollees reported greater ability to pay for college due to their increased earnings. Currently, rates of enrollment in higher education are indistinguishable between DACA recipients and individuals of similar ages in the U.S. population as a whole (roughly twenty percent).²⁴

²⁰ *Id.*

²¹ RANDY CAPPS, MICHAEL FIX & JIE ZONG, THE EDUCATION AND WORK PROFILES OF THE DACA POPULATION (2017).

²² *Id.*

²³ ROBERTO G. GONZALES ET AL., TAKING GIANT LEAPS FORWARD: EXPERIENCES OF A RANGE OF DACA BENEFICIARIES AT THE 5-YEAR MARK (2017).

²⁴ Zong, *supra* note 4.

Likely Impacts of Terminating DACA on Mental Health and Well-Being

24. Terminating DACA would substantially increase mental health problems and compromise the well-being of current enrollees, their children, and other members of their communities. Essentially the benefits of DACA reviewed above would be erased, with even greater harm resulting than the situation prior to DACA due to harsher enforcement policies.

25. Specifically, terminating DACA is likely to result in substantial increases in mental-health problems, such as anxiety and depression, social isolation, and withdrawal from participation in community and civic life. The strongest causal study of the effects of DACA on mental health, by Jens Hainmueller and colleagues showed that rates of child adjustment and anxiety disorders were cut in half following implementation of the program, among young children of undocumented mothers. This suggests that rates of these disorders would double following termination of DACA. For youth enrolled, the levels of withdrawal, perceived stigma, and social isolation are likely to return to at least pre-DACA levels.

26. The likely mechanisms of worsened mental health and psychological well-being include exclusion from employment, educational and community contexts that DACA provided access to. Jobs would revert back to the lowest-wage and most hazardous job sector, with double the rates in manual labor such as construction and cleaning.²⁵ Underemployment is likely as the impact of loss of permit for formal employment would be essentially similar to that of job loss. Joblessness and job loss have been extensively linked to greater mental health problems, such as higher depressive symptoms.²⁶ Undocumented workers and those with temporary immigration

²⁵ Capps et al., *supra* note 20.

²⁶ Ariel Kalil, *Joblessness, Family Relations, And Children's Development*, in 83 FAM MATTERS 15, 22; HIROKAZU YOSHIKAWA, THOMAS S. WEISNER, & EDWARD LOWE, MAKING IT WORK: LOW-WAGE EMPLOYMENT, FAMILY LIFE, AND CHILD DEVELOPMENT (2006).

status have substantially lower wages and higher rates of wage theft (wages below the legal minimum for a particular state or city) than Lawful Permanent Residents (LPRs) or U.S.-citizen workers with equivalent educational backgrounds.²⁷ If they were to lose work authorization and become undocumented, former DACA recipients would be at much greater risk of wage theft by their employers. DACA enrollees' participation in higher education will likely decline when the program is terminated as well from current levels of parity from the rest of the American population of the same ages.²⁸ Finally, access to health care will likely be lower due to loss of access to acceptable and accessible forms of identification (e.g., driver's licenses) and proof of formal employment and earnings.

27. For DACA-enrolled parents, terminating the program would result not only in poorer educational, economic, and mental-health outcomes for those individuals, but also in substantially poorer outcomes for their children, spanning academic, educational, and mental-health outcomes for years to come. The higher stress that undocumented parents experience, relative to their DACA-enrolled counterparts, would be transmitted to their children.²⁹

28. Awareness of the end of DACA and foreseeing lowered prospects for economic and educational advancement are likely to lead to dread and depression. Depressive symptoms, according to decades of clinical research, are powerfully driven by hopelessness about the future.

³⁰ With declines in access to jobs, further education, and engaged community life a certainty following loss of the temporary protected status provided by DACA, increased hopelessness about the future and associated higher depression is just as certain to occur.

²⁷ ANNETTE BERNHARDT ET AL., *BROKEN LAWS, UNPROTECTED WORKERS: VIOLATIONS OF EMPLOYMENT AND LABOR LAWS IN AMERICA'S CITIES* (2009).

²⁸ Zong, *supra* note 4.

²⁹ Hainmueller et al., *supra* note 17.

³⁰ Aaron T. Beck et al., *An Inventory for Measuring Depression*, 4 *Archives of Gen Psych* 561.

Exacerbated Harm Due to Current Immigration Enforcement

29. One substantial difference between the pre-DACA period and a possible post-DACA period is the harsher climate of immigration enforcement that has occurred as a result of the Trump administration’s policies. Shifts in federal policy have expanded the criteria that local and federal enforcement use to initiate detention and removal proceedings. Under the Obama Administration’s last set of guidelines, serious crimes (violent offenses and felonies) were prioritized as the basis for initiating such proceedings, especially for detentions and removals that stemmed from interior enforcement. Currently the criteria have expanded to include those who have committed misdemeanors or lesser infractions such as traffic tickets, or those who happen to be present when a targeted person is being detained. The new criteria also include “abuse of any program related to public benefits.” The current administration has thus indicated the use of any public program by someone foreign-born as a criterion for prioritizing detention and removal, comparable to threats to national security and criminal charges. Finally, prior guidelines to use prosecutorial discretion for parents and legal guardians have been revised to no longer consider minimizing the harm to U.S.-citizen children as a criterion for prosecutorial discretion.³¹

30. The current national enforcement climate is therefore likely to exacerbate harm to mental health that results from the termination of DACA. The policy climate is not simply the one that preceded implementation of DACA, but one in which the risk of removal proceedings

³¹ U.S. Department of Homeland Security, *Enforcement of The Immigration Laws to Serve The National Interest* (2017).
https://www.dhs.gov/sites/default/files/publications/17_0220_S1_Enforcement-of-the-Immigration-Laws-to-Serve-the-National-Interest.pdf

has been heightened nationwide. In an *American Economic Review* article, Catalina Amuedo-Dorantes and Mary J. Lopezin document how exposure to harsher local enforcement activities is causally related to higher rates of being held back a grade as well as dropout among students ages six to thirteen.³² Awareness of risk for deportation has been linked to greater mental health problems and lower well-being. For example, a study in Arizona showed that awareness of harsh immigration policies is linked to higher classroom behavior problems and anxiety among children as young as primary-school age.³³ These findings suggest that effects on mental health and educational outcomes are likely to be exacerbated in today's generally harsher policy environment, relative to the pre-DACA period.

31. In addition to the more general impact of immigration-policy climate, immigrants directly affected by detention and removal proceedings experience severe increases in hardship and subsequent mental health problems. Studies of the impact of detention show immediate effects in substantially reduced household income; large increases in anxiety among remaining caregivers as well as children; social isolation and withdrawal from public spaces as well as schooling; and increased behavior problems among children and youth.³⁴ Housing foreclosures, have been shown to rise disproportionately among Latino populations affected by local enforcement.³⁵ Even those not directly affected nevertheless appear to reduce their use of

³² Catalina Amuedo-Dorantes & Mary J. Lopez, *Falling Through The Cracks? Grade Retention And School Dropout Among Children Of Likely Undocumented Immigrants*, 105 AM. ECON. REV. 598 (2015).

³³ Carlos E. Santos, Cecilia Menjivar, Rachel A. VanDaalen, Olga Kornienko, Kimberly A. Updegraff, & Samantha Cruz, *Awareness of Arizona's Immigration Law SB1070 Predicts Classroom Behavioural Problems Among Latino Youths During Early Adolescence*, 2017 ETHNIC & RACIAL STUDIES 1.

³⁴ Ajay Chaudry et al., *Facing Our Future: Children in the Aftermath of Immigration Enforcement* (2010); Joanna Dreby, *U.S. Immigration Policy And Family Separation: The Consequences For Children's Well-Being*, 132 SOC. SCI. & MED. 245 (2015).

³⁵ Jacob S. Rugh & Matthew Hall, *Deporting The American Dream: Immigration Enforcement*

essential health and social services for which their children are eligible, such as Medicaid and the Women, Infants, and Children (WIC) program.³⁶

32. Thus, upon termination of DACA, enrollees would become subject to the current enforcement policies that all other undocumented immigrants have been experiencing. The increases in community-level effects of enforcement on low-income immigrants are likely to be substantial. As resources for their families—for example, access to drivers' licenses; access to formal employment and associated earnings; or providing support and access to mainstream institutions for undocumented family members—DACA enrollees have played critical support roles in communities with high proportions of undocumented individuals. With the loss of DACA, exposure to everyday risk for removal will become the routine experience of these hundreds of thousands of youth, their families, and their communities.

33. In sum, terminating DACA would result in sharp increases in mental health problems and psychological and economic distress among DACA enrollees, their families, and their networks and communities. The evidence appears strongest for anxiety and depression, although few other mental health outcomes have ever been studied linked to DACA or undocumented status.

34. The severe impacts, concentrated among those enrolled with DACA, would extend to the larger population of mixed-status families and low-income immigrants in the

and Latino Foreclosures, 3 SOC. SCI. 1053 (2016).

³⁶ Susan Potochnick, Jen-Hao Chen & Krista Perreira, *Local-Level Immigration Enforcement And Food Insecurity Risk Among Hispanic Immigrant Families With Children: National-Level Evidence*, J. IMMIGRANT & MINORITY HEALTH 1 (2016); Emily Vargas & Maureen A. Pirog, *Mixed-Status Families And WIC Uptake: The Effects Of Risk Of Deportation On Program Use*, 97 SOC. SCI. QUARTERLY 555 (2016); Emily D. Vargas, *Immigration Enforcement And Mixed-Status Families: The Effects of Risk of Deportation on Medicaid Use*, 57 CHILD. & YOUTH SERVS. REV. 83 (2015).

United States, thus harming a much higher number of individuals than the 800,000 current DACA enrollees. The impacts on mental-health, social-mobility, and health-access outcomes for these young people and their households would be severe, with reduced economic and social contributions to society for coming decades. The loss of economic and human potential is likely to be great.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

EXECUTED December 11, 2017 in Chicago, IL

A handwritten signature in black ink, appearing to read "Hirokazu Yoshikawa", written in a cursive style.

HIROKAZU YOSHIKAWA

EXHIBIT GGG

4. My parents were farmers in Mexico who made their living growing corn and other crops and raising goats and sheep. As I grew up, I would help them with the crops and the animals after school. We made enough to survive but once I finished primary school at age 14, my parents could not afford to keep me in school.

5. I did not want to quit school and work on the farm; I wanted to finish my education and to have better opportunities in life.

6. I arrived to Queens, New York, where my aunt lived, in 2000.

Starting a New Life in the United States

7. Starting a new life in the United States, I was full of mixed emotions. I was excited to have the opportunity to seek a better future, but sad to leave my family behind. I spoke with my parents every week, but I had no idea that I would not see my family again over the next seventeen years.

8. While I lived with my aunt and her husband, I started attending high school.

9. School was tough in the first months and the adjustment was hard. Everything about the class structure was different. In Mexico we stayed in one classroom and the teachers rotated, but in the United States the students had to switch classes and go all over the campus. I took English as a second language courses for a year or two.

10. In high school, I also learned that I did not have many of the same opportunities as my classmates. A lot of other students were talking about getting their driver's licenses, but I knew I could not get one without a Social Security Number. It was a big limitation because many jobs required having a driver's license.

11. I wanted to go to college and tried to save some money to do so, but in my last year of high school, I found out that college would be too expensive, even after all my hard

work. A lot of other students were talking about what they were doing to apply for college. There were sometimes college recruiters on campus and I asked them how much the tuition cost. I was shocked and immediately realized I would not be able to afford to go to college. I did not even know about loans at that time, but I would not have qualified because of my immigration status. I graduated from Flushing High School in 2005.

12. In 2006, a woman I had been dating since 2004 became pregnant. We planned to raise our daughter together, but she was living with her brother and they were having problems. Without telling me, she bought a flight and returned to Mexico to live with her mother a couple months before she gave birth.

13. I was heartbroken because I knew I might not ever be able to see her or my daughter again unless I left the United State, and since my daughter was born outside the United States, she would not likely be able to come see me. We are separated by a national border. I have regularly sent money to support her over the years, and I speak with her just about every other week, but to this day—eleven years later—we have never met in person, which is very difficult for me.

14. Around 2008, I met my wife who was working at a restaurant near where I live. We fell in love and got married in 2009. Our first child, a beautiful daughter, was born in 2009 and is now eight years old and in third grade.

The Impact of DACA on My Life

15. In 2012, I remember watching President Obama announce the DACA program on TV and being excited. As he spoke about the requirements for the program, I knew that they applied to me and felt like I would finally have an opportunity to find the kind of security in my life that I never had to support and raise my family.

16. I was worried about giving my personal information to the government, but trusted the government's promise not to use it to deport me. A big part of the decision for me was that I could apply for renewal every two years; I would not have applied and given my information if the program was not renewable.

17. The notary who helped my family file our taxes told me she could help me apply for DACA. We gave her many documents and I paid her about \$500, but she never filed the application.

18. In 2013 an immigration attorney helped me apply for DACA, and actually filed the application. I was granted DACA on April 14, 2014. I was so excited; I immediately applied for a Social Security Number and a driver's license, and within two months bought an old truck that my family started to use to take trips to the lake and water parks.

19. I felt like many doors were opened to me as a result of obtaining deferred action and work authorization through DACA; I did not have to worry anymore about being denied or losing a job because of my status. I could get a license and drive without fear – it was like the world was opened to us because suddenly I was able to take my family to the zoo, the lake, or the beach, which we hadn't been able to do before because it was too difficult to go that far on public transportation with a small child. We were finally able to drive to big box stores to buy food and necessities in bulk which helped us save money, and for the first time we were able to build up a little bit of savings. I also got a credit card so I could build my credit rating, and having credit gave us some leeway to cover our expenses so we wouldn't have to worry about having enough for bills at the end of the month. Having credit was also important because it is necessary to apply to many jobs, apartments, or even cell phone plans, and it opened up the possibility for us to buy a home someday. I have a good job and can support my family. But

most important of all, I no longer had to worry when I went to work in the morning that I could be arrested and not be able to return to my wife and daughter at night.

20. The American Dream for us is to have a family, own a house someday, and to be able to send our children to college. DACA has helped me to pursue my American Dream without fear.

21. In 2016, my wife and I were blessed with a son. He is now 18 months old. My wife is currently pregnant and we are expecting another daughter in February.

22. In 2016 when my DACA expired, I returned to the immigration lawyer who had helped me the first time, but he said he would charge me double for a DACA renewal which did not make sense to me. My brother told me about a nonprofit called Make the Road New York so I went there and they helped me renew for free. My DACA was renewed on February 25, 2016 and expires on February 24, 2018.

The Announcement to Terminate DACA

23. When I heard the September 5th announcement to terminate the DACA program, my heart sank. I worried that everything we had worked to achieve for years, the family we had built, could be torn apart. After being able to live a stable and secure life for years, I could lose my job – which is the primary support for my family – as well as my driver's license. Without my job, we would quickly go through the savings we have painstakingly put together for years, and I don't know how I would be able to support my wife and three children. With the future of DACA at stake, it is like our life is on hold. I have been stressed because of not knowing what will happen, and my family can sense when I am stressed and it worries them too. When I see what is happening It is very difficult not being able to plan for our children's future because we don't know what is going to happen, whether I will even be able to keep working or drive in two

years, when my children will be ten, three, and two years old. Worst of all, I will once again have to worry every time I leave work each day that I will be arrested and not be able to come home to my wife and children.

24. I have never applied for Advance Parole. Queens is my home and I am settled here with my family, but I wish I could see my family members in Mexico, if I knew I was able to return to my family in the U.S. afterwards. I am worried that I will never be able to travel with Advance Parole now that the DACA program is being terminated. My grandfather suffered a stroke about two years ago and has never fully recovered. I wish I could visit him, see my parents and siblings for the first time in seventeen years, and see my daughter for the first time ever. I didn't apply for Advance Parole then because I was afraid that I would not be able to come back to the U.S. After I saw many other people had done so and had returned safely, I started to consider traveling – but now that is not a possibility.

25. Since my DACA is expiring on February 24, 2018, I applied for renewal in September 2017. I had to rush to get my application completed and submitted because the September 5, 2017, announcement only gave me until October 5, 2017 to apply. While I hope my renewal application is approved, it will only temporarily set back the expiration of my DACA, and I am still very worried for my family's future.

26. My family would not be where we are without DACA. I am worried that after finally being able to work towards our American Dream, that it can be taken away from us in a moment.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED December 13, 2017 in Queens, NY


MARIANO MONDRAGON

Jackson Heights, NY
Sworn to before me this 13th
day of December, 2017



SCOTT ALLEN FOLETTA
Notary Public, State of New York
Registration #02FO6338859
Qualified In Kings County
Commission Expires March 21, 2020

EXHIBIT HHH

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

BATALLA VIDAL et al.,)
Plaintiffs,)
v.) Case No. 1:16-cv-04756 (NGG) (JO)
NIELSEN et al.,)
Defendants.) December 13, 2017

DECLARATION OF MARTIN BATALLA VIDAL

I, Martín Batalla Vidal, declare, pursuant to 28 U.S.C. § 1746, and subject to penalties of perjury, that the following is true and correct:

1. I was born in Mexico and have lived in the United States since May 1997, when I was four years old. This country is my home.

2. I am currently studying Criminal Justice at LaGuardia Community College (“LaGuardia”). I have had DACA since 2015 and renewed DACA one time. My current grant expires February 15, 2019.

Early Life

3. I grew up in Bushwick, a low-income, working-class neighborhood in Brooklyn, New York with my mother and three younger siblings. We shared a two-bedroom apartment, where my siblings and I slept in one bedroom while my mother slept in the other. We moved around many times because our landlords sold the buildings and kicked us. In total, I remember moving six times. The constant change took a toll on our family, but I tried my best to support my mother who raised us by herself.

4. I helped my mother take care of my siblings as the oldest of her four children. As soon as school ended, I would go home and look after my siblings while my mom was working. I spent most of this time doing my homework and getting ready for the next school day.

5. My favorite subject growing up was English. I loved these classes because I could write about anything I felt. I could express how I felt in many different forms. But school was tough because kids fought every day. It seemed that any disagreement in school could turn into a fistfight and, unfortunately, many times it did. I tried my hardest to stay out of trouble and keep a clean record, especially when I got to high school where there were police officers.

6. I had a teacher in middle school that made me and the rest of my classmates believe in ourselves. He told us that life in our neighborhood was hard and that we all struggled. He emphasized that we should not give up and instead should continue to pursue our dreams because our parents were also struggling and making sacrifices for us. These words keep me going even after all these years.

7. My mother always told me I was different from the other kids, but she never told me why. I now know that she was referring to my immigration status.

8. When I was a teenager my paternal grandparents passed away in Mexico one month apart, first my grandmother, then my grandfather. I was the last person my grandmother spoke to before she passed away and I really wanted to say goodbye to her in person. When I told my mom that I wanted to say goodbye to my grandmother before she was buried, she told me I could not go because of my status. My grandparents raised me when I was in Mexico and not being able to attend the funerals of loved ones is something I do not wish upon anyone.

9. I am the oldest of four children. I have three brothers; the two youngest are U.S. citizens. My other brother was a DACA recipient too, who now has a green card: so all of my brothers have status or are citizens now

10. My closest relationship is with my mother. She no longer works due to severe arthritis so I take care of her. We live together and I pay rent and most of our bills. My brothers help with the remaining bills.

11. I first learned exactly how my immigration status affected me when I was in high school. My interest in college grew when I entered the tenth grade and I was eager to know more about the process of going to a university. I was most interested in what options were available to me and I reached out to my school counselor. Sadly, she informed me that I was not eligible for any scholarships or grants due to my undocumented status. She also explained to me that not many resources for undocumented students existed and that my options were so limited that it would be almost impossible for me to go to college. I remember feeling extremely, deeply disappointed. This was a huge blow to me; my dreams of attending a university seemed too far outside of my reach.

12. The next big implication of my immigration status also came in high school. Our school helped students get a work permit so they could work part-time during weekends. With the money earned, my classmates and friends could afford to have a phone, go to the movies, and other things that I could not do. I wanted to work so badly, but I did not have a Social Security Number and the school would not help me get a work permit. I lost out on this opportunity to lead a life similar to those of my friends and classmates and I felt like a loser.

13. I wanted to have a normal life, go to the movies, own a phone so I could communicate with my friends, but I could not afford these things because of my immigration status and all the obstacles it placed in front of me.

Getting My Education: Struggles and Pauses

14. I graduated high school in 2008. Without any scholarships or grants, I had to save money to go to college. As an undocumented student, I did not know how to navigate my way into college; I just knew that I had to save as much money as I could. Eventually, I was able to save up enough to apply and attend LaGuardia Community College in 2010.

15. Despite my savings, I could not pay for school in full because I paid out-of-state tuition due to my immigration status. However, LaGuardia offered a payment plan and I signed up for it. As a college freshman, I started studying business administration.

16. Soon after I started college, however, my mom became very ill and I had to quit school to be with her in the hospital. It took a long time before I managed to go back to school. My mother recovered slowly and I had to care for her while working to support her, myself, and my younger siblings.

17. In 2015, I was able to finally return to school. At that time, I was able to attend ASA College because I received DACA and qualified for a scholarship for DACA recipients. My mother recovered and returned to work. However, her health suffered again after she began working and I had to leave college again to take care after her.

18. I started attending LaGuardia again in the Fall of 2017. I changed my major from Medicine to Criminal Justice because of what is happening in my community due to the current Administration and because I firmly believe everyone should know their rights.

19. If I had had the opportunities afforded to me by DACA right after my high school graduation, I believe I would have graduated college already. It is very tough for me to attend school now because I still have to work full-time and take care of my mother.

The DACA Program

20. I remember President Obama announced the DACA program in 2012 when I was not attending school. My feelings were a mixture of excitement, happiness, and fear. I was home when I watched the announcement and I was happy, but scared at the same time because I did not know how long this program would last.

21. My mother was very happy when she heard the news. She knew that my brother and I could get a Social Security Number, a work permit, and a state identification card with this program. She was also happy that we could enroll in health insurance, and go back to college.

22. Before I applied for DACA, I studied all the requirements and felt unsure about my eligibility since the guidelines stated one had to be enrolled in school. I was not enrolled in any school at the time and it took me about one year before I decided to apply. I wanted to go back to school and knew that having something like DACA would allow me to study again, but I could not go back right away. I had to take care of my mother and work.

23. I remember feeling afraid that this program would be taken away and I was especially worried about the consequences of immigration authorities having all my information. I did not want to get my hopes up for this program only to be denied or have it ripped away from me.

24. My brother encouraged me to go speak with a lawyer. I consulted with an attorney in Manhattan who was charging \$2,000 for DACA applications, not including filing and

other fees. The decision before me was: pay rent or apply for DACA. I decided to pay rent so that I could keep a roof over my mother's head.

25. One day a friend told me about Make the Road New York ("MRNY") and the help they were offering to people who wanted to apply for deferred action through DACA. When I reached out for help at MRNY, they screened me and gave me a list of documents to collect for my application. Obtaining these documents and proof of my presence in this country was a difficult task because it is often hard to get these types of official documents. I started from scratch and had to look for these documents at my old schools, my bank, my dentist's office, and on Facebook.

26. I submitted my initial DACA application in December 2014 with the help of MRNY after finally collecting all the documents required. MRNY also helped me obtain a grant to pay the filing and other fees of my submission.

27. My initial request for deferred action under DACA was approved in February 2015. I applied for renewal of my deferred action under DACA and work authorization on October 11, 2016. My DACA request was approved and I received work authorization from February 16, 2017 to February 15, 2019.

28. When my DACA renewal request was granted, I decided to go back to school because DACA opened doors for me and made it easier to stay in school. With DACA, I could apply to more scholarships. After my brother was granted deferred action through DACA shortly after the program's implementation, he was promoted at his workplace to the position of manager and was relocated to a store in Washington, D.C., a job he absolutely loves. With my brother realizing his potential through DACA, I dreamt even bigger than before.

My American Dream

29. In simple terms, DACA has allowed me to live a more fulfilling and proactive life. Growing up in this country has been a struggle, but my mother taught me and my siblings from an early age that we came to this country to search for a better life and achieve our dreams. Without DACA, this opportunity might not be available to me.

30. With my initial DACA approval, and the knowledge that I could continue to renew it, came a sense of control over my future and enough stability to build my career. DACA has impacted my life significantly and has allowed me to see myself and my family in a better place as we move forward.

Daily Life

31. DACA allowed me to obtain a Social Security Number, a driver's license, scholarships to pay for school, the ability to travel outside of the United States, the means to continue to provide for my mother and myself, and the tranquility of protection from deportation.

32. I am currently attending LaGuardia. I pay my tuition with the money I earn as a physical therapist aide and scholarships. I would not be eligible for some of my scholarships without DACA. If I lose my DACA my scholarship options will be severely limited. Because DACA has been around for years now, most of the scholarships available to undocumented students are for those with deferred action under DACA. I run the risk of losing my opportunity at higher education if I lose my DACA.

33. I travelled to Mexico to visit my grandmother due to her ailing health. I hate to think that the next time I will be allowed to go see her she will be underground—just like my other grandmother. I wish I could see my family in Mexico more often because I am close to three cousins and my great-grandmother. However, without deferred action under DACA, I might not be able to see them at all.

34. I currently work at Park Terrace Rehabilitation and Nursing Center as a physical therapist aide. I could have only done this with the reinvigorated passion for the medical profession that having a grant of DACA awoke in me. I love my work because I get to help and support people in difficult situations who are experiencing serious health needs. My patients led normal lives before they suffered strokes or had traumatic brain injuries due to something like an accident. I take care of them as if they were my own family because often this is how they perceive me and how I think of them. The care and support I offer my patients has an effect that reaches their families because their families trust me and my co-workers to care and protect their loved ones.

35. Being a part of the support system that people rely on to return to their normal lives is an incredibly fulfilling experience and one that I cherish every day. I speak to my patients' families regularly and they always express how my helping their loved ones is reassuring for them. Whether it is a hug or a smile, they feel the support.

36. Our monthly rent is \$2,300 for a small, 2-bedroom apartment in Ridgewood that I share with my mother. My payments help my landlord pay property taxes and I see this as another way that I support my community.

Peace of Mind

37. DACA has given me the tranquility and peace of mind that I will not face the threat of deportation as long as my DACA grant is valid. I now have the ability to travel within this great country, but if I lose my DACA, I will no longer have that peace of mind that my family and I will not be ripped apart. My mother needs me and if I were to be detained or deported, my mother would have an incredibly tough time getting by without me.

38. The work permit I received under DACA has allowed me to work and earn enough to take care of my sick mother. This stability has allowed me to apply myself at work and try to be the best physical therapist aide I can be.

39. Not having to worry about deportation has also allowed me to provide the best support I can to my patients at work. The simple and important fact that I am protected from removal through DACA helps me through the day and allows me to focus on my work and build relationships with my patients without the fear that we could be ripped apart.

My Dream Career

40. Since my return to college, I have decided to change my major from Medicine to Criminal Justice. This change in career paths came as a result of the current Administration's game of playing with the lives of DACA recipients. Is it my hope that majoring in Criminal Justice will allow me to help my community, by learning about and teaching others about the rights that we have. I firmly believe we are all entitled to be well informed of our relationship with the law and the decisions made by those in power.

41. I ultimately want to pursue a law degree and become a lawyer. I believe this will be the best way for me to contribute to my community and to the country I call home. DACA has allowed me to dream bigger and reach for goals that seemed unattainable before.

Devastating Impact of the DACA Rescission

42. When I heard that the President would deal with DACA recipients "with great heart," I felt an uneasy assurance. It was difficult, but I believed that the President would deal with the issue in good faith and not rescind the DACA program. However, on September 5, 2017, when Attorney General Jeff Sessions announced the rescission of the program, I felt lied to and betrayed.

43. The Administration's rescission has taken a physical and emotional toll on my family and me. The uncertainty has caused me to have high levels of stress and anxiety that stem solely from the DACA termination.

44. If I lose my work permit, I will lose my job. One of my worries is that I will not be able to provide for my mother, who has severe arthritis and cannot work. I pay our rent and a majority of our bills and my mother depends on me to provide her food, shelter, and other things.

45. Once I learned about the termination of the DACA program, I became very worried about my ability to provide for myself and my mom. I picked up an additional job, in addition to my work as a physical therapist aide, in order to save money to try to continue to support my mother and myself after my work permit expires. I currently work approximately 57 hours a week in addition to being a full-time student.

46. Another worry for me is that my patients will lose the support system that I provide for them and their families. My patients depend on me to get through the rough patches they are going through and if I lose DACA, this would have a negative impact on them. I have spent my time building relationships with my patients to best be able to help them and even if my workplace could employ someone else, that person would not have the foundations of trust and support that I share with my patients.

47. When my DACA grant expires, I will lose eligibility for most scholarships and grants that I can receive now. It would be impossible for me to continue studying and obtain my degree in Criminal Justice. Not only would I lose my job, but I would also be indebted as well to LaGuardia. My educational prospects seemed bright due to the fact that I can work legally and not worry about deportation, but now my prospects seem bleak and dark because without DACA I will have trouble navigating access to higher education.

48. Without DACA, my dreams will have to be put on hold once again. My mother and my family cannot afford this. I want to contribute to this country and to my community, the only place that I know as home.

49. I have feelings of betrayal, disappointment, uncertainty, and worry due to Administration's decision to terminate DACA. In order to have DACA, you need to have a clean record, and I have kept a clean record, and also thrived under DACA. Because there seems to be no other good reason to terminate DACA, it makes me feel like we are being punished for doing so well. This is a terrible reason deprive us of the stability, opportunities, and peace of mind that this program offers.

50. I am afraid that immigration authorities will target me for removal once my DACA grant expires. I stand to lose my job and my mother will lose her principal provider for almost everything. I do not know how I could continue to pay my rent or the rest of my bills.

51. For now, I am trying to stay positive about what will happen next, but it is difficult to think that way because this Administration continues to ramp up attacks against immigrants. I do not want to put my life on hold again, I want to live a fulfilling life and give back to my community and this country.

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52. I do not know what will happen next or if Congress will act to provide us with the protection that DACA gave us. However, I believe that this country will do the right thing and finally accept us as its own. This is the country I know as home and this is the country I want to contribute to. I believe in the American Dream and that belief is stronger than this Administration's attacks on immigrant communities, the DACA program, and me. I am putting my faith in this country's judicial system to act in the name of the ideals that make this country great.

I declare under penalty of perjury under the laws of the United States and the State of New York that the foregoing is true and correct.

EXECUTED December 13, 2017 in Queens, NY


MARTIN BATALLA VIDAL

EXHIBIT III

was not financially stable at the time. However, to my surprise, a few years later, my father told me I was going to New York City to visit his older sister, my Big Aunt.

5. My dad sent me to live with my aunt in New York City to give me a better life, and opportunities that he did not think I would have if I remained in Costa Rica. He convinced me to go, and in early December 2001 I boarded a plane to New York. I did not know at the time how difficult this decision was for my father or the difficulties I would face because of it.

Life in New York City as an Undocumented Young Person

6. Growing up in New York City was difficult. I did not quite fit in with any group, but I was not shunned either. I grew up in Washington Heights, a community that was familiar yet foreign to me. At the time, there were not many Asian families and it felt like my family was the only one in that Latino community. That was not any different from my life in Costa Rica. However, the language barrier was difficult to overcome, and I was constantly bullied my first year of school in the United States.

7. I remember that I cried a lot that first year because I was homesick and could not adjust to life in the United States. The bullying from my peers did not make it any easier, and I hated learning English with a passion.

8. Living as an undocumented youth was hard. I was in seventh grade, and was a member of the Boost Project, my middle school's honor group. We were given the opportunity to work with NASA, and the school had planned a trip for us to go to Turkey and visit their space camp. Everyone was excited to go and was preparing for the trip. I was the only one who could not participate, and while the school tried to help me they could not do anything about it. It was just too risky to leave the country without the guarantee that I would be able to come back. That was the first time I was denied an opportunity as a result of my legal status, and it would

not be the last. I resented my father because of it. After all, he sent me to this country so I could have opportunities, yet I was missing out on those opportunities because I was undocumented.

9. I did not know other kids like me who were in the same position. I was too scared to say anything to any of my friends. Only a select group of teachers knew of my situation, and tried their best to help me solve it without success. I had support from the counselors in my school which helped me feel that I was not alone and that I had people who were looking out for me.

10. My teachers and counselors helped me gain entry to a good high school. They encouraged me to apply for the Student Sponsor Partners program, and I did. I was accepted into a private Catholic high school in Manhattan. And while it was not my first choice, it was the best four years of my school life in New York. Things did not get easier for me, but I was lucky to have a sponsor pay for my high school education. When I was preparing to graduate, I was once again faced with the hard decision of where to go from there.

11. I did not know if I wanted to go back to Costa Rica or continue with my education here in the United States. I still missed my country a lot, but I was already accustomed to the American way of life. It took me a while to decide, and I waited until the last possible moment to apply for college in New York. I thought about my father's decision to send me here to study, and decided to honor it because it gave me the life I have now. I may not have thought of it as something good, but now I do.

12. Paying for college was hard. I could not apply for financial aid, and the few scholarships I received I could not accept because I could not provide them with a Social Security Number. I also had to show proof of my residency status in order to get in-state tuition. I had done my research, and I knew that I qualified for in-state tuition because I had graduated

from a NYC high school. Even so, my university refused to give it to me at first because the power of attorney that I had submitted did not state in the English translation that my Big Aunt was my legal guardian. I could not believe that such a tiny error in the English translation of such an important legal document was going to set me back. However, I was prepared to argue my case, and pointed out that the original Spanish document did contain the phrase they were looking for. They had no choice but to make the change and let me pay in-state tuition. That was the first time I was able to win something for myself.

13. Since I could not get financial aid, my father had to help me pay for my college education. I felt guilty because I was not the only child he had that was still in school. I had four younger siblings who were still in school, and I felt bad that he had to work so hard to help me. I could not work because I did not have work authorization and because my dad wanted me to focus on school. But I also could not get any scholarships.

14. Whenever I won a monetary award, I could not accept it. I could only accept the paper certificate that said I was being honored for my academic performance. It was frustrating to me because I wanted to be able to pay for my own college education but I could not. It was not until my last semester of college, when I had moved out of my aunt's house with my younger brother, that a new opportunity was available to me: DACA.

Life with Deferred Action Through DACA

15. When President Obama made the announcement that he created the deferred action under DACA program to provide relief and protection for undocumented youth, I was skeptical. I did not trust that the program was going to be helpful, and I was scared that the information I provided would be used against me. It was a college friend who was undocumented like me that encouraged me to apply.

16. I was still unsure, and did not know if the benefits of the program outweighed the risks. I looked for free legal help, and came across a Legal Aid Society flyer for free DACA workshops. I took advantage of it and showed up on the last day. I went alone and brought all the documents they mentioned in the flyer. It was the first time I saw so many people who wanted the help. I did not know if their stories were similar to mine or not, but I was glad to know I was not the only one there.

17. The process was not difficult for me. I had all the documents needed to prove I qualified for DACA, and my dad had sent some money to pay for the application fee. In fact, he was the first one to tell me to apply when he heard the news on TV, but I was more reluctant and hesitant about it.

18. I felt uncomfortable with the Legal Aid lawyers who asked me a lot of questions, some of which I could not answer. It was the first time that I was exposing so much of my life to anyone. I remember I kept holding my breath and I could not stop shaking from all the nervousness I felt until I dropped off my application at the post office.

19. When I started receiving letters from U.S. Citizenship and Immigration Services, I was too scared to open them at first. I was scared that they would reject my application and would come looking for me. The day I received the approval notice I felt relief and happy that I was finally going to be able to start living my life to its greatest potential. I started planning for my future and thinking about what my next steps were going to be.

20. The first thing I did after I got my employment authorization card in the mail was go to the social security office and get my own number. I was finally able to get that coveted number that everyone seemed to ask for. Then I went to the DMV and got my New York State ID.

21. I got my first job in December 2013, and have worked in several jobs since then. I have been able to financially support myself and my younger brother. I took driving lessons and got my driver's license in 2015. I obtained a teaching certification and started my teaching career.

22. I later successfully renewed my request for deferred action under DACA two more times. And when I heard the news about the termination of the program, I could not see what my future was going to look like.

The Uncertainty of the Future

23. My dad's younger sister, Little Aunt, passed away recently, and her daughter, my cousin, came to live with my brother and me. Unlike her or any of my family members here in New York, I am the only one who is undocumented. Everyone else was either born here or came with a green card.

24. Since my aunt's passing, I have been financially supporting my younger brother and my cousin. It has been very stressful, and I have not come to terms with any of it. My family does not seem to understand the uncertainty and worry I feel.

25. I will not be able to work once my DACA grant expires at the end of August 2018, and while I am scared of being deported and I cannot see what the future holds, I cannot let myself sink into depression.

26. I cannot just sit back and do nothing. I have always wanted to go back to school to get a master's degree or a doctorate. I recently decided to take GRE prep classes and will apply for graduate school next year. I do not know if I will be able to finish my graduate studies, if I will face deportation, or how I will be able to financially support myself.

27. I am scared of not being able to live an independent life, and that I will have to once again rely on my family to support me. I am going to continue with my life plans even after my DACA grant expires, because I know that through this lawsuit we will be able to find a solution. I and many Dreamers out there cannot go back. We will make change happen, and I want to be there to make it happen.

I declare under penalty of perjury under the laws of the United States and the State of New York that the foregoing is true and correct.

EXECUTED December 13, 2017 in Queens, NY


CAROLINA FUNG FENG

EXHIBIT JJJ

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

BATALLA VIDAL et al.,)	
<i>Plaintiffs,</i>)	
v.)	Case No. 1:16-cv-04756 (NGG) (JO)
)	
NIELSEN et al.,)	
<i>Defendants.</i>)	December 13, 2017

DECLARATION OF ANTONIO ALARCON

I, Antonio Alarcon, declare, pursuant to 28 U.S.C. § 1746, and subject to penalties of perjury, that the following is true and correct:

1. I was born in Mexico and came to the United States when I was eleven years old. I have lived in Queens, New York ever since.

2. I have worked as a Youth Organizer at Make the Road New York (“MRNY”) since I first received Deferred Action for Childhood Arrivals (“DACA”) in March 2013. I renewed my DACA in March 2015, and again in January 2017. My current grant will expire on January 25, 2019. I am not eligible to apply to extend it under the announced DACA termination.

Background and Moving to the United States

3. I was born on July 4, 1994, in Veracruz, Mexico, and lived there until I was eleven. Even though my parents only had two children, they could not provide for us well from what they earned in our small agricultural town. As a result, my parents left home when I was a small child to look for better-paying work elsewhere. My brother, Salvador, and I stayed with my paternal grandparents while my parents traveled to various other Mexican states to work. For

a time, they settled in Tamaulipas and worked in factories. They travelled to visit us every two months or so. It was too expensive and far to do so more often.

4. Despite their hard work and sacrifice, my parents felt like what they earned as factory workers was still not enough. They had bigger dreams for us than simply to put food on the table. They wanted to build us a solid home and provide us a quality education, so that we would not have to struggle like they had to. When I was six, my parents therefore made the difficult decision to come to the United States. I did not see them again until I was eleven.

5. My grandparents continued to take care of us, and my brother and I were so young that they basically became our parents. When I turned eleven, my parents decided that I should be in the United States, where I would have better opportunities. My little brother, Salvador, stayed behind in Mexico with my grandparents because he was so little.

6. I can still remember the last time I saw my brother before leaving. I thought to myself that I would see him soon. Instead, nine years passed before I did – and it was only possible as a result of DACA.

7. I remember the trip to the United States vividly. We took a bus and a plane, hid in a house in the middle of nowhere, and walked in the desert to get here. Everyone seemed afraid. Adults were given two water bottles, and children were given one, plus a few cans of tuna and corn. I remember thinking over and over that I had to be careful to stay with the group, not to fall behind, that we could risk getting lost. At one point, we ran out of water and food. We found an irrigation ditch in the middle of the desert which we used to refill our water, not caring that it seemed dirty because we were so thirsty.

8. Once I arrived in the United States, New York became my new home. Arriving in New York felt like a dream. It was like being in a world for giants because there were skyscrapers everywhere.

9. I loved my new city but also struggled to get used to it. I had to learn English and adapt to a different culture. The hardest part, however, was living without my grandparents and brother. It also took a year for me to get into school. My parents tried to enroll me in 2005, but the school turned us away because they did not have English as a second language programming.

10. They referred us to a school that was far from where we lived. My parents were unaware that children have the right to a K-12 education here no matter their status or language and did not know where to turn. They were working a lot, so it was my aunt who helped them find a school for me, where I started the following year.

11. Once I started school, I was determined to excel. I thought of my grandfather, who valued school above all. I saw how my parents worked all the time to provide for my brother and me. Their work ethic inspired me to overcome the barriers in my path. I dedicated, and continue to dedicate, all my academic achievements to them.

12. In 2011-2012, my grandparents passed away, just several months apart. Because of my immigration status, I could not go back to Mexico and say goodbye to the people who raised me. I was devastated. It was a terrible time for my family and me.

13. The most painful part of it was seeing my father cry about his own parents. After the second of these deaths, my dad became inconsolable. He seemed to abandon his dreams and goals. He seemed to forget that he wanted to build his own business in this country so that he could work without being exploited, and that my mother planned to be a housewife and was

hoping to have my entire family together in the United States. They had worked for their dreams and for all of us to be together for years, and suddenly, all my father could talk about was going back to Mexico and paying respects to his parents. I think that he was probably experiencing depression, as many undocumented people do in this type of situation.

14. My parents then made another impossibly difficult decision: they decided to return to Mexico to take care of my younger brother. Once again, my family was separated, in yet another way. I was about to graduate from high school, and despite my lack of status, we all believed I would be better off in the United States.

15. After my parents left, I stayed with my aunt and uncle. I was 17 years old. My parents left me \$1,500 dollars, and said goodbye, not knowing when we would next see each other, and under what circumstances.

Activism and Receiving DACA

16. In 2010, I started volunteering at MRNY, the only place I found where I could complete my community service hours for high school as an undocumented person. I remember that on my first day, the facilitator talked about the importance of the DREAM Act. I knew what it was, but I was afraid to share my own story with the group because I was new. However, I immediately felt this was the right place for me to be in.

17. In December 2010, I watched the vote on the DREAM Act on television. I had such high hopes that it would pass. When it did not, I turned off the television, crushed. I could not even talk about it.

18. After the vote, I started to get more involved in community organizing. In February 2011, we channeled our anger and sorrow into power and determination to fight for solutions other than a Congressional fix. Other Dreamers and I started the “Education Not

Deportation” campaign. We started to publicly highlight and elevate the stories of our community members and the injustices the administration was inflicting on Dreamers, including arrests and deportations. We showed how in some cases people had arrived as babies, not even as children, and literally knew no other home.

19. At the beginning, President Obama seemed skeptical. Many people refused to believe how many of us there were, and how we were suffering. As we made more information available and public, the President responded, but only to say that the Administration could not do anything. However, we were now organized, and we were gathering support, and developing leadership. Many of us had “come out” as undocumented and put the fear that keeps so many undocumented people quiet behind us. I spoke publicly in a number of places, and wrote an article about my experience, and my parents’ and my own sacrifices and dreams, which appeared in the New York Times Op-Ed section, called “Do It Yourself Deportation”. New York Times, Feb 1, 2012, <http://www.nytimes.com/2012/02/02/opinion/do-it-yourself-deportation.html>.

20. The attention that comes with this work can be time-consuming and tiring, but we persevered, and our movement has grown more skilled at using social media, press and other tools to communicate our plight. Inspired in part by the civil rights activists of the 1960’s, we also started to escalate our actions despite the personal risk, engaging in civil disobedience. I helped coordinate some of these actions both at local district offices, and in D.C.

21. All of the work, the risk, the exposure, and the late nights paid off on June 15, 2012. I received a call from Natalia, our youth organizer at the time, telling me to run to the MRNY office because something big was going to happen. On my way I checked the news and learned that President Obama was going to announce a program to give relief to some Dreamers.

22. This was only months after my parents had left the country. I was about to graduate from high school and desperate to discover whether I would be included in the relief being announced, so that I could work lawfully and continue to study. When I arrived at MRNY, friends of mine and other community members had already gathered to watch the announcement. President Obama spoke for about ten to fifteen minutes, and the words he shared in those minutes inspired many of us with hope that we had not felt in years. Personally, I felt that I was finally being recognized by the country I call home.

23. In the following weeks, we held workshops for hundreds of youth who came to our office asking for information about the announcement and how they could apply to the DACA program. I graduated from Flushing High School at that time, and spent the summer coming to the office early and staying late. By the time I would reach the office, people would already be outside, hoping to be the first in line.

24. On August 15, 2012, the actual application was released, and we were even busier, helping thousands of people to fill out their applications and collect documents. Many people had concerns about sharing their information with the government, but USCIS provided information saying that it would not share this information or use it against people except for in very limited circumstances.

25. I was not able to apply myself until October 2012 because of the cost of the application. I had a small stipend from MRNY, sold chocolates to students, and was going through my parents' \$1,500 as slowly as I could.

26. I remember the day I received my employment authorization card: I cried for at least an hour, and looked at the card for another two hours. The next week, I went to the social security office and applied for my Social Security Number; finally, I said to myself, I was going

to get those magic numbers. Two or three weeks later I received my Social Security Number, and it changed my life. I could now work lawfully, get a driver's license, and apply for certain scholarships.

27. I started working at MRNY as a Youth Organizer—a position I still hold today. In that position, I have facilitated meetings, organized workshops and, together with my colleagues and our members, decided on campaigns and policy changes we wanted to effectuate. I was a national coordinator for a nationwide network called United We Dream, and coordinated organizations advocating for Dreamers in seven eastern states. I have also helped cultivate new leaders and engaged in communications work.

28. Recently, I helped MRNY launch a new office in Nevada. Other than promoting legislative and administrative solutions for undocumented youth, I have focused on educational opportunities for that community. And, while my focus as a youth organizer is on issues affecting youth, I always promote an inclusive set of strategies, which includes adults—the original Dreamers.

29. I have worked in this position since I first received deferred action through DACA in March 2013. I renewed my DACA in March 2015, and again in January 2017. My current grant will expire on January 25, 2019. I am not eligible to apply to extend it under the announced DACA termination.

30. After graduating from Flushing High School, I received my Associate's Degree from LaGuardia Community College in 2015. I went to school full-time while working part-time, and received a scholarship for the tuition that I was only eligible for because of being a DACA recipient. I am now completing my Bachelor of Arts from Queens College.

31. Beyond job and educational opportunities and the feeling of freedom and safety in the United States, DACA has given me two other gifts. One is the feeling of belonging, and of having a real future here. One of the many opportunities I seized due to this feeling, for example, was applying for and attending a three-month program at Hunter College at the Latino Institute, which helps young people learn about and prepare to run for elected office. This suddenly became a possibility and a goal for me.

32. The second gift was the ability to travel outside of the United States. In 2014, the U.S. Citizenship and Immigration Services granted me special permission to travel to Mexico for a research project. During that visit, I would have some time to see family. I had not been to Mexico for ten years. There are no words to describe the joy I felt when I received the approval. On August 9th, 2014, I landed in Mexico. While I was there I visited the Basilica de Guadalupe, where I prayed for my fellow Dreamers, and for all immigrants.

33. I had to prepare myself mentally and emotionally to see my mom, dad, and brother. I was practicing meditation, to keep calm, but when I arrived I was so excited to see my mom that I forgot all about it. I also went to visit my grandparents' graves. Seeing their graves was very hard and something that no amount of preparation helped with.

The Termination of the DACA Program

34. When the DACA termination was announced, I was shocked by the manner of the announcement. To have the Attorney General, a man who has spoken out against immigrants and demonized immigrant communities, make a public announcement that seemed catered to the increasingly anti-immigrant faction of the Trump administration, felt like an assault.

35. My first reaction after this shock was to be devastated that I will not be able to travel outside the country again. Since my first visit to Mexico, I had returned twice more, with

special permission each time, once to take a course and another as an invited lecturer. Each occasion was a professional and educational opportunity for me, and on each, I had also been able to see my parents and Salvador. Not knowing when I will next be able to travel again, and see them again, is very upsetting. I had looked forward, in particular, to showing them my college diploma on a future visit.

36. Losing my DACA status will mean that I will no longer be able to work lawfully. I worry about returning to a more precarious economic situation. At the moment, I make a good living and can not only provide for myself, but also help out my uncle and aunt, with whom I live. And, I would be losing a job that I love.

37. Losing DACA also means that my ability to pursue further educational and training opportunities will be reduced, as few such opportunities exist at the post-secondary level for undocumented people.

38. Losing DACA will also end the possibility of my running for office. The time and money I have spent in a variety of educational and training programs and my training as an activist, all of which would lend itself to a career in politics, will not be enough to allow me to fulfill my dream of holding public office if I do not have work authorization.

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39. DACA is not a perfect long-term solution for my immigration status, and I intend to keep fighting, as I have for years, for comprehensive immigration reform. Until then, however, I hope that deferred action under DACA is restored.

I declare under penalty of perjury under the laws of the United States and the State of New York that the foregoing is true and correct.

EXECUTED December 13, 2017 in Queens, NY



ANTONIO ALARCON

EXHIBIT KKK

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

STATE OF NEW YORK, *et. al.*,

Plaintiffs,

v.

DONALD TRUMP, *et. al.*,

Defendants,

No. 1:17-CV-5228

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_performancedata_fy2017_qtr3.pdf

² The lesser 689,900 figure represents the total number of individuals who, as of September 4, 2017, were “active DACA recipients.” For example, those who received DACA may have adjusted to lawful permanent resident (LPR) status.

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_population_data.pdf

<https://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Deferred%20Action%20for%20Childhood%20Arrivals/USCIS-DACA-Characteristics-Data-2014-7-10.pdf>. More recently, USCIS published an updated analysis (September 2017). A Kolmogorov-Smirnov (K-S) test of equality of distributions shows that the state-by-state breakdown of the survey sample is representative of the state-by-state breakdown of all “active DACA recipients” ($p = .557$) that USCIS analyzed. The null hypothesis for the K-S test is that the two distributions are statistically the same. A p value of .557 means that we are not confident that we can reject the null hypothesis. In other words, this result means we are only 44% confident (1 minus .557) that we can reject the null hypothesis (and thus say that the two distributions are different). By convention, scholars tend to accept a p value of .05 or less as being statistically significant. A p value of .05 means that we are 95% confident (1 minus .05) in a result. Moreover, the September 2017 USCIS report indicates that the average age of active DACA recipients is 23.8. The average age of the survey sample is similar at 25.2. The most recent USCIS data do not provide detailed cross-tabulations sufficient for weighting purposes.

https://www.ilrc.org/sites/default/files/resources/2017-09-29_draining_the_trust_funds_final.pdf

¹⁴ Higher wages also translate into more in federal income taxes paid, more in state income taxes paid. Large purchases such as cars add to state tax revenues, as most states collect a percentage of the car purchase in sales tax, along with additional registration and title fees. Similarly, home buying further adds to state and local tax revenues in the form of property taxes. There is a large literature on how home buying creates new jobs and adds new spending in local economies. For job creation, see here: <https://www.nar.realtor/topics/home-ownership-matters/jobs-impact-of-an-existing-home-purchase>. For spending in local economies, see here: <https://www.cnbc.com/2017/04/12/immigrant-households-impact-success-of-real-estate-market-says-report.html>

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_population_data.pdf). The state-specific profiles herein use the most up-to-date information at the time of this writing, which is information on the total number of individuals with DACA as of September 4, 2017.

²²

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_performancedata_fy2017_qtr3.pdf

²³ 91.4% of 15,500.

²⁴ 5.4% of 15,500.

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_population_data.pdf

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_population_data.pdf

³⁹ 91.4% of 1,100.

⁴⁰ 1,005 multiplied by \$36,231.91. This translates into \$2.3 million annually in Social Security contributions (6.2% per FICA) and \$0.5 million annually in Medicare contributions (1.45% per FICA).

⁴¹ 44.9% of 1,100.

⁴² 93.6 % of 494.

⁴³ 71.5% of 494.

⁴⁴ 72.7% of 1,100.

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_population_data.pdf

⁴⁶ 91.4% of 920.

⁴⁷ 841 multiplied by \$36,231.91. This translates into \$1.9 million annually in Social Security contributions (6.2% per FICA) and \$0.4 million annually in Medicare contributions (1.45% per FICA).

⁴⁸ 44.9% of 920.

⁴⁹ 93.6 % of 413.

⁵⁰ 71.5% of 413.

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_population_data.pdf

⁵³ 91.4% of 320.

⁵⁴ 292 multiplied by \$36,231.91. This translates into approximately \$0.7 million annually in Social Security contributions (6.2% per FICA) and \$0.2 million annually in Medicare contributions (1.45% per FICA).

⁵⁵ 44.9% of 320.

⁵⁶ 93.6 % of 144.

⁵⁷ 71.5% of 144.

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_population_data.pdf

⁶⁰ 91.4% of 35,600.

⁶¹ 5.4% of 35,600.

⁶² 32,538 multiplied by \$36,231.91. This translates into \$73.1 million annually in Social Security contributions (6.2% per FICA) and \$17.1 million annually in Medicare contributions (1.45% per FICA).

⁶³ 44.9% of 35,600.

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_population_data.pdf

⁶⁸ 91.4% of 2,500.

⁶⁹ 5.4% of 2,500.

⁷⁰ 2,285 multiplied by \$36,231.91. This translates into \$5.1 million annually in Social Security contributions (6.2% per FICA) and \$1.2 million annually in Medicare contributions (1.45% per FICA).

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_population_data.pdf

⁷⁶ 91.4% of 5,900.

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_population_data.pdf

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_population_data.pdf

⁹² 91.4% of 32,900.

⁹³ 5.4% of 32,900.

⁹⁴ 30,071 multiplied by \$36,231.91. This translates into \$67.5 million annually in Social Security contributions (6.2% per FICA) and \$15.8 million annually in Medicare contributions (1.45% per FICA).

⁹⁵ 44.9% of 32,900.

⁹⁶ 93.6 % of 14,772.

⁹⁷ 71.5% of 14,772.

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_population_data.pdf

¹⁰⁰ 91.4% of 25,100.

¹⁰¹ 5.4% of 25,100.

¹⁰² 22,941 multiplied by \$36,231.91. This translates into \$51.5 million annually in Social Security contributions (6.2% per FICA) and \$12.1 million annually in Medicare contributions (1.45% per FICA).

¹⁰³ 44.9% of 25,100.

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_population_data.pdf

¹⁰⁸ 91.4% of 10,200.

¹⁰⁹ 5.4% of 10,200.

¹¹⁰ 9,323 multiplied by \$36,231.91. This translates into \$20.9 million annually in Social Security contributions (6.2% per FICA) and \$4.9 million annually in Medicare contributions (1.45% per FICA).

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_population_data.pdf

¹¹⁶ 91.4% of 4,900.

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_population_data.pdf

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_population_data.pdf

¹³¹ 91.4% of 10,100.

¹³² 5.4% of 10,100.

¹³³ 9,231 multiplied by \$36,231.91. This translates into \$20.7 million annually in Social Security contributions (6.2% per FICA) and \$4.8 million annually in Medicare contributions (1.45% per FICA).

¹³⁴ 44.9% of 10,100.

¹³⁵ 93.6 % of 4,535.

¹³⁶ 71.5% of 4,535.

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_population_data.pdf

¹³⁹ 91.4% of 16,300.

¹⁴⁰ 5.4% of 16,300.

¹⁴¹ 14,898 multiplied by \$36,231.91. This translates into \$33.5 million annually in Social Security contributions (6.2% per FICA) and \$7.8 million annually in Medicare contributions (1.45% per FICA).

¹⁴² 44.9% of 16,300.

¹⁴³ 93.6 % of 7,319.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

10/23/2017

EXHIBIT LLL

allowed me to go back to school, earn a living wage, and purchase a home in which my children can grow up.

4. Despite being ineligible for financial aid and other types of support because of my immigration status, I attended St. Joseph's College and earned a degree in Sociology in 2015. While attending school full-time, I also worked full-time. My family and I made many sacrifices in order for me to be able to pursue a higher education, including hours away from my children and financial challenges due to the fact that most of my paycheck was going toward my college tuition, books, and transportation.

5. Having a work permit allowed me to obtain a driver's license. I remember being so excited about obtaining a driver's license because it meant that I could drive to other cities, fly, and take out-of-state vacations. But most importantly, it meant that I could drive my children wherever they needed to go, including to medical appointments.

6. I now work as an Immigration Case Manager at Make the Road New York's Long Island office. Until recently, an important part of my job was helping DACA recipients like myself renew their status. Through my job, I also help clients with other immigration matters, most frequently with their citizenship applications.

7. I am always looking for opportunities to further my professional development. To that end, I started graduate school at CUNY School of Professional Studies to obtain an Advanced Certificate in Immigration Law. I also applied to become a Department of Justice accredited representative in order to be able to represent people in their immigration matters.

8. By opening the door to increased educational and professional opportunities, having deferred action under DACA ultimately allowed me to become a homeowner. For me,

this meant securing permanent housing for my children where they can thrive and build their childhood memories. As a tenant, I was not able to have pets, something my children always wanted. But as a homeowner, I was able to grant my children's wish for a pet.

How DACA Turned Me into an Advocate

9. Through DACA, I gained hope that through activism, change could happen. After receiving my first work permit, I became so empowered by witnessing the power of people to effect change, that I decided to become an advocate and join the immigrants' rights movement. My spirit, desire for a better future, and professional ambitions grew stronger at that moment.

10. Thanks to DACA, I have been able to develop a stronger voice and become a community leader. I frequently reach out to and talk to youth to motivate them to consider pursuing higher education. I also connect people to social programs and educate them about their rights. I have volunteered in many places including schools, churches, and community organizations with the purpose of helping families improve their lives. I have been recognized by several elected officials and schools for my work and commitment to the community. They include: Congressman Lee Zeldin, Town Supervisor Ed Romaine, County Legislator Gregory DuWayne, and St. Joseph's College.

11. I strive to transmit this spirit of activism and community engagement to my children. In November of this year, I brought my daughter to a meeting with Senator Schumer in Washington, D.C., where we advocated for the passage of a clean Dream Act. I was so proud to be able to share that moment with my daughter.

Devastating Effects of the Termination of DACA

12. Ever since Attorney General Jeff Sessions announced the termination of DACA on September 5th, my life has been a rollercoaster of emotions. I constantly worry about my children, their future, and my future. The thought of being separated from my children gives me a lot of anxiety and stress.

13. When I think about my life without DACA, I think about not being able to afford my mortgage, not being able to earn a decent living and provide for my children, losing my family's health insurance, and losing my driver's license.

14. I live in the New York suburbs, where you need a car to get around. Without a driver's license, I will not be able to drive my children to school or to their medical appointments. My youngest child suffers from asthma, while my oldest suffers from severe allergies. During the winter, my youngest child's asthma tends to worsen, while my oldest child's allergies worsen during the spring. In case of an emergency, or if they need to see their specialist, I would not be able to drive them to the necessary medical appointments.

15. The anxiety and stress of losing DACA, with all its implications, has had a physical impact on my body. For example, I recently went to an urgent care clinic to get treated for severe headaches, and I was diagnosed with migraines for the first time. I have also been experiencing extreme neck pain, for which I recently started physical therapy.

16. I have lived most of my life here in United States, and the thought of having to return to Ecuador terrifies me. Most of my immediate family members and friends currently reside in the United States. Both of my children are currently attending school here, they barely speak Spanish, and all their family and friends live here. I would not want my children to experience any type of trauma by being separated from me, their family, or their friends.

Hope for the Future

17. I sincerely hope that I, and Dreamers like me, can gain a pathway to citizenship—it would be life changing for us, our families, and our communities.

I declare under penalty of perjury under the laws of the United States and the State of New York that the foregoing is true and correct.

EXECUTED December 13, 2017 in Suffolk County, NY



ELIANA FERNANDEZ

EXHIBIT MMM

4. MRNY has more than 21,000 dues-paying members residing in New York City and Long Island, primarily in the boroughs of Queens and Brooklyn. Each member pays an initial membership fee of \$120 over two years, and then \$20 in dues on an annual basis.

5. MRNY members have the right to participate in membership and leadership committees, access leadership development opportunities, and seek a position on the board of directors.

6. MRNY currently has, according to our best estimate, approximately twelve staff members who are Deferred Action for Childhood Arrivals (“DACA”) recipients. These staff members work on our organizing team, in our legal department, in our adult literacy department, on our health team, and on our administrative team. These individuals have job titles including Attorney, Paralegal (including DOJ accredited representatives), Office Manager, Immigrant Youth Organizer, and Adult Literacy Program Administration Coordinator, among others. All of these staff members perform core functions that serve our mission to build the power of Latino and working class communities to achieve dignity and justice through organizing, policy innovation, transformative education, and survival services.

7. Some of these individuals have worked at MRNY for over four years. Antonio Alarcon, for example, a plaintiff in this case, has worked at MRNY since 2013. Additionally, several other current staff members used to be DACA recipients but have since qualified for and been granted other immigration relief.

8. Prior to the creation of the DACA program in 2012, MRNY and its members expended significant time and resources advocating for protection from

deportation for young immigrants. As an institution we have been fighting for legislative reform for undocumented immigrants since 2002. MRNY is one of the founding organizations of Fair Immigration Reform Movement (“FIRM”) and United We Dream (“UWD”), lead national advocacy entities fighting for immigration reform. Since its creation, preserving DACA and its benefits to our community have been a core priority for MRNY. DACA is also central to our organization’s staff structure. Our Youth Power Project, for example, is made up of thousands of members, many of whom are DACA recipients, fought for DACA, or have family members with DACA.

9. Since DACA was established by executive order in June of 2012, MRNY has provided legal assistance to thousands of DACA-eligible individuals. DACA legal screenings, representation, and advocacy have been a significant part of our Legal Services Department’s work at MRNY since that time. MRNY’s DACA-related services have taken place at our Staten Island, Brooklyn, Queens, and Long Island offices. As of September 2013, we had two full-time attorneys focusing almost exclusively on DACA-related services, a full-time advocate in Queens and Brooklyn holding workshops, completing screenings, and assisting in document collection, and an advocate spending half her time doing the same in Staten Island. During the first two years of DACA, we routinely held weekly screening workshops and weekend clinics, which were staffed by our attorneys, advocates, administrative staff, and volunteers.

10. MRNY’s organizing team held consistent Know Your Rights trainings during this period as well. These KYR sessions covered information and eligibility for the DACA program and information on how to apply. These sessions were held weekly, daily

and sometimes up to three times a day to respond to the demand for information in our communities.

11. In the summer of 2014, when initial DACA applicants first became eligible for renewal, MRNY again created a model for services to ensure that those eligible to renew did so timely and correctly. Once again, we offered weekly screening workshops and clinics as well as weekend clinics. MRNY also offered regular KYR sessions for community members.

12. Consistently from June of 2012 until the last day that DACA renewal applications were accepted, we held weekly DACA screening workshops at our Queens office and similar services at our other sites on an as-needed basis, escalating the number of workshops, screenings, and appointments in the final month that USCIS accepted DACA renewal applications.

13. Since the creation of the DACA program, MRNY has provided legal assistance to thousands of DACA eligible individuals. Since the inception of DACA, we have opened 4,560 DACA or DACA Renewal cases, assisting a total of 3,323 individuals. Since there are approximately 42,000 DACA recipients in New York State, MRNY has served nearly 8% of DACA recipients in New York.

14. Due to our deep expertise on DACA-related issues, our staff members have advised countless other advocates and attorneys in New York and across the country. MRNY has become known locally as an organization with expertise in this area.

15. Our DACA legal services have become a large part of our budget planning since MRNY has received significant government-funded resources to provide services to DACA-eligible individuals. Since USCIS is no longer accepting DACA applications, we

have had to work internally to shift resources to other types of legal work in order to ensure grant compliance.

Defendants' Termination of the DACA Program

16. Since Attorney General Jeff Sessions announced the DACA Termination on September 5, 2017, MRNY has expended significant resources responding to community needs in the wake of the decision to end the DACA program. Our response has included activities such as: massive outreach efforts to DACA recipients to inform them of the policy change (including robo calls to our members, conference calls with our staff and members in both English and Spanish, and mass emails), educational workshops, individual outreach to DACA recipients eligible to renew prior to October 5, 2017 sometimes including multiple calls to individuals hard to reach, emergency legal services provided to 175 individuals eligible to renew their DACA, and community support. MRNY also conducted street outreach at all four of our sites handing out informational flyers and inviting people to attend KYR sessions.

17. Our response to the September 5th announcement has also included advocacy and mobilization in support of a congressional response focused on the passage of a "clean DREAM act." We have mobilized thousands of New Yorkers either in NYC, Long Island, or in Washington D.C. in support of a clean DREAM act over the past few months. This work has intensified as the March 5 deadline draws near and no legislative solution has come. We have organized and mobilized hundreds of members to multiple events since September of 2017. MRNY also brought over 300 of our staff and members to Washington D.C. on December 6th, 2017 for a national rally to protect "Dreamers."

18. MRNY's legal response to the September 5th announcement has been extensive. Our work on this litigation has included the active involvement of four members of our legal department, as well as five of our staff members who participate as individual plaintiffs in the case. Four attorneys, including one of our Co-Directors of the Legal Department, have spent many hours working on this litigation and thus deprioritizing other legal work. In addition, as a result of Defendants' challenged conduct, MRNY has expended resources in this litigation in the form of communications, organizing, and administrative staff time, as well as court fees and administrative fees related to federal court litigation.

19. Shortly after September 5, 2017, MRNY staff drafted an advisory about the DACA announcement in English and Spanish, which was posted in all MRNY offices, and made copies available for distribution at the reception areas.

20. The September 5th DACA announcement has also required MRNY to expend staff resources to respond to media inquiries, educating members of the public, and communicating around public events and the *Batalla Vidal* lawsuit. We have drafted and issued several advisories and press statements or releases each week related to the DACA announcement, worked to prepare several members each week for media interviews, and supported our members to tell their stories through opinion articles.

21. MRNY staff also individually called every client eligible to renew their DACA in order to schedule them for an appointment with enough time to complete their application under the short deadline.

22. Additionally, since many of our clients would have been unable to pay the \$495 renewal application fee with such short notice, MRNY coordinated with

organizations such as UWD and the Hispanic Federation who offered to provide the fee for DACA recipients who were unable to pay. The coordination of this effort required significant resources from MRNY, including significant staff time, since there is paperwork involved with each application for scholarships. Since the Hispanic Federation funds were not immediately available to applicants in need, which jeopardized the applicants' ability to file a timely renewal, MRNY paid the fee upfront for some applicants and was then reimbursed by the Hispanic Federation, placing a temporary strain on MRNY's finances.

23. Since October 5, 2017, our staff have been monitoring issues related to the October 5 deadline including applications that were rejected due to postal service delays and clerical errors, as well as applications that were timestamped as arriving in the USCIS lockbox on October 5th itself. Our staff has been in touch with other legal service providers to monitor these issues, and has consistently been in touch with our opposing counsel to seek remedies for the cases we have identified as having been wrongfully rejected by USCIS. Our staff has worked with individuals whose applications were rejected to help them seek a legal remedy, and has prepped many individuals to speak with press about their stories.

24. As a result of our increased staff resources spent challenging the DACA decision, through litigation, advocacy, and otherwise, we have had to shift work away from other priorities. For example, in the month between September 5 and October 5, 2017, many of our immigration legal team members rescheduled non-DACA renewal appointments for after October 5 in order to prioritize DACA renewal appointments.

DACA-eligible individuals who were unable to meet the September 5th deadline

25. Some MRNY members and clients, as well as individuals who have consulted with our immigration attorneys, missed the September 5th deadline to submit an initial DACA application.

26. Since one of the DACA requirements was to be fifteen years old at the time of application, every year, there was a group of youth newly eligible for DACA. Our Youth Power Project ("YPP") is a very active part of our membership base, and every year, some members aged into the program.

27. YPP reaches low-income youth and supports them in becoming effective thinkers, leaders, and decision-makers. YPP supports youth in leading campaigns to educate and mobilize community members.

28. YPP members are generally between the ages of 14-21.

29. YPP is a central part of MRNY's membership. YPP members hold two seats at the board of directors and several key staff members are former YPP members.

30. MRNY youth members are exempt from paying membership dues until they turn twenty-one years old.

31. MRNY does not maintain a list of its youth members, and as noted, youth members are exempt from dues. As a result, I am unable to give an exact count of current youth members. Nevertheless, I have deep familiarity with the Youth Power Project, and have attended YPP meetings and events over the years, and spoken on many occasions with YPP members and leaders. Upon information and belief, I estimate that we have approximately 3500 youth members.

32. Some MRNY youth members meet DACA eligibility requirements except for the requirement that an applicant be fifteen years old. Had DACA not been rescinded, these MRNY youth members would have continued to become eligible for the program upon their fifteenth birthday.

33. Youth members expected to be able to have the opportunity to apply and obtain DACA and the accompanying work permit upon their fifteenth birthday. Obtaining DACA would have enabled them to have more opportunities to pursue higher education, more professional opportunities to obtain employment that pays a living wage and is less susceptible to exploitation, and the opportunity to obtain a driver's license. Youth members' parents had the hope that their children would be able to have these opportunities facilitated by DACA.

34. At the time of the DACA rescission announcement on September 5th, MRNY had several clients with open cases for initial DACA applications. These clients were still gathering the proofs necessary to apply for DACA.

35. The mother of one of these clients obtained a letter from his school, evidencing his current enrollment, two days after the announcement. She was waiting on her son's school to produce that letter in order for him to apply, as they had already gathered all the other necessary documentation. There was a delay because the school was closed at the time his mother was attempting to obtain the letter. The rest of the application packet had already been prepared by MRNY legal staff and was otherwise ready to be mailed to USCIS.

36. This client is sixteen years old and has been in the United States since he was two years old. He has lost the opportunity to be protected from deportation from the

only country he knows, the ability to apply for many scholarships to pursue higher education, and the ability to work lawfully through DACA. He is not currently eligible for any other immigration relief and therefore does not have another avenue to get protection from deportation and employment authorization.

37. As recently as December 1, 2017, a DACA eligible individual came to our Queens office for an immigration legal consult. She came to the consult believing she could still apply for DACA. She was surprised and disheartened that this was no longer an option. She had recently met the DACA educational requirement and was looking forward to applying. The United States has been her home since she was seven years old. She is now twenty-six years old. Because she was only able to obtain an immigration legal consult once she has met the educational requirement, and it was after the it September 5th deadline, she lost the chance to pursue better employment opportunities and to obtain a driver's license. She is not currently eligible for any other immigration relief and therefore does not have another avenue to get protection from deportation and employment authorization.

The DACA Termination's impact on the mental health of MRNY's clients and staff

38. The need to provide assistance to such a large number of clients and community members in the short one-month period between September 5 and October 5 put significant stress on our immigration legal team. The immigration legal team had to put other casework aside in order to prioritize assistance for DACA recipients eligible to renew. Many of our staff members worked extra hours, including evenings and weekends, in order to provide this assistance. Many of our staff members continue working longer hours to catch up on work that had to be deprioritized.

39. Since September 5, MRNY staff has been providing support to our members, clients, and staff who are DACA recipients and who are in need of mental health services relating to the termination of DACA and the consequences this termination is already having on their lives. MRNY has invited mental health professionals into our offices to meet with our staff and has begun compiling resources for outside services as requested.

40. Shortly after the October 5, 2017 deadline, MRNY began to hear from clients whose DACA applications were rejected by USCIS either because they allegedly arrived after the deadline or because of “clerical errors” such as allegedly misdated checks or missing pages of their applications. MRNY compiled these cases and brought them to the attention of the Department of Justice who informed us that DHS was considering a response. When DHS refused to respond within a reasonable time, MRNY, as part of the *Batalla Vidal* litigation team, brought these issues to the court’s attention. To date, MRNY has identified and counseled 15 individuals in this situation.

41. As a result, MRNY’s health team has been prioritizing work to prevent current DACA recipients in New York State from losing access to healthcare if the DACA program is not restored. MRNY, along with the Coverage 4 All Coalition and partner organizations including the New York Immigration Coalition, the Community Service Society, and New York Lawyers for the Public Interest, have been working to ensure that DACA recipients continue to remain eligible for Medicaid assuming they meet the income requirements of the program. MRNY Health Team staff members have been working to educate and inform DACA recipients of their rights related to Medicaid coverage. MRNY is also closely monitoring access to Medicaid following the termination of DACA. All of

this work has required MRNY's Health Department to divert resources from other priorities.

Defendants' Revocation of DACA will cause irreparable harm to Make the Road New York

42. As our individual staff, members, and clients begin to lose their protection from deportation under DACA, we will need to provide additional screening and counseling to these individuals to assess whether they have become eligible for any other forms of immigration relief. As these individuals begin to approach the expiration dates on their work authorizations, many will be in need of supportive services and mental health counseling.

43. Additionally, since the creation of the DACA program in 2012, MRNY has hired a significant number of valuable staff members with DACA status from our membership and from the communities we serve. The ability to hire DACA recipients has increased the diversity of our staff and has helped MRNY work toward its goal of hiring staff members from the communities we serve. The termination of the DACA program would harm our ability to make such future hires and to further our commitment toward diversity and inclusivity.

44. If our staff members with DACA were unable to continue to work at MRNY, our organization would suffer extreme harm. Each one these staff members performs a job for which they have been trained and have developed expertise. MRNY would need to expend significant staff resources on recruitment and training of new staff to fill these positions. MRNY would also lose valuable cultural competency and awareness without these employees on staff.

45. Furthermore, MRNY's productivity would suffer if we were forced to replace all of our staff members with DACA. All of our 203 employees would suffer as a result of this change since our staff with DACA are fully integrated into our staff community.

46. The DACA termination announcement has impacted practically every person on our staff. Many of our staff members have family members or friends with DACA, and all of them have colleagues with DACA.

Defendant's revocation of DACA will impact MRNY through the loss of valuable staff members who are DACA recipients

47. Eliana Fernandez is a paralegal with pending DOJ accreditation status on the immigration legal team at our Brentwood office in Suffolk County. Over the two and a half years Ms. Fernandez has worked at MRNY, she has developed an expertise in naturalization services and has worked on approximately 282 legal cases during her time at MRNY. Ms. Fernandez is supervised by our only immigration attorney at our Brentwood office, Jacqueline Saavedra, who is also a DACA recipient.

48. Ms. Saavedra handles a large caseload, including complex removal defense cases, U non-immigrant status cases, and asylum cases. Ms. Saavedra handles a monthly clinic at our Brentwood office to screen people for immigration relief and provides advice and counsel to hundreds of immigrants at our Brentwood office every year. Since her arrival at MRNY, Ms. Saavedra has handled 231 legal cases at MRNY.

49. Both Ms. Saavedra and Ms. Fernandez are highly qualified for their jobs with extensive expertise in immigration law and work in a community where job applicants with their level of expertise are scarce. If they were to lose their work authorization, MRNY would face difficulty in rehiring for their positions. Additionally, Ms. Fernandez and Ms.

Saavedra are responsible for all of the legal work on a government grant from New York State. If they were to leave MRNY, the organization would likely fail to complete its obligations under this grant.

50. Gustavo Madrigal is a paralegal on our immigration legal team working out of our Staten Island and Brooklyn offices to support immigration attorneys in their casework. Mr. Madrigal has developed substantial expertise in immigration law during the time he has worked for MRNY. Mr. Madrigal is also in the process of becoming a DOJ accredited representative, which will allow him to handle many more cases on his own with the supervision of an attorney, greatly increasing our capacity to help individuals in need. Because Mr. Madrigal has experienced life as an undocumented person and as someone with DACA, he has been able to build strong connections and develop trust with his clients.

51. Mr. Madrigal has also spent time making presentations to our members to discuss the DACA decision, and his personal experience and perspective has been invaluable. If he were to lose his work authorization, it would be an incredible loss to our members and our organization as a whole. It would be very difficult to hire someone for his position who could do the job as well and bring the perspective and passion that he does to the job.

52. Rocio Salazar is a DOJ partially-accredited representative working as a paralegal on our immigration legal team. Specifically, she works screening immigrant clients for immigration relief as part of the Action NYC program funded by the City of New York. Ms. Salazar assists hundreds of clients a month and has handled 473 cases since she began working at MRNY. Her ability to connect with her clients and build trust with

them is deepened by her experience living as an undocumented person and as someone with DACA. Furthermore, MRNY would face obstacles in meeting our grant requirements under Action NYC if Ms. Salazar were to lose her work authorization.

53. Carolina Fung Feng is an Adult Literacy Program Administration Coordinator who manages all adult literacy program outreach, intake, student assessment, and grant compliance at MRNY's Brooklyn and Staten Island offices. In her role, Ms. Fung Feng also collaborates closely with MRNY's administrative and operations teams and supervises part time administrative assistants who help with MRNY's outreach, intake, and testing efforts. In the two years that Ms. Fung Feng has worked at MRNY, she has developed excellent skills as a program manager and has enrolled and kept approximately 600 students a year engaged in English and Citizenship classes.

54. Ms. Fung Feng is very qualified for her job and has developed deep expertise in the areas of adult education program management and grant compliance and reporting. If her work authorization was lost, MRNY would find it difficult to hire a replacement candidate with the personal experience and level of skill that Ms. Fung Feng has developed. Additionally, Ms. Fung Feng is responsible for a great part of the administrative responsibilities associated with at least three New York City grants, two New York State grants, and one federal grant. If she were to leave, we would struggle tremendously to complete our obligations for these grants.

55. Nuve Puma is a Community Health Worker ("CHW") at MRNY in our Bushwick office. She participated in our CHW training in 2014, and started working as a CHW at MRNY several months later. As the first CHW hired on staff at MRNY, Nuve helped us launch our CHW asthma program in partnership with Wyckoff Heights Medical

Center. She has developed expertise in asthma, and conducts home visits to over 275 families a year, helping them manage their asthma, and also identifying triggers in the home and working intensively with the family to mitigate those triggers.

56. In addition, Nuve does outreach and presentations about asthma to hundreds of individuals a year. Nuve also worked on a pilot project where we did home visits for patients who were at risk of having or already had dental disease, helping the families improve their oral health. Our funding for the asthma project is based on the number of home visits we conduct. Without Nuve's leadership and ability to connect with and relate to families, which enable her to conduct a high volume of home visits, MRNY would receive less funding for the work. Decreased funding for this work will have a negative impact on the communities we work with who need and depend on these services.

57. Sonia Molina is an Office Manager for the busiest MRNY site in Jackson Heights, Queens. She started with us as a receptionist four years ago and has shown tremendous leadership and skills in her area of work. As a result, we promoted her once she graduated with her Bachelor's in Hospitality in 2016. The office Ms. Molina manages has fourteen ESOL classes and fifteen to thirty community meetings per week, as well as a number of regularly scheduled services, all of which Ms. Molina helps coordinate. She supervises a department with eight people and helps us keep that office running smoothly. Ms. Molina is a highly-valued member of the MRNY Operations Department, as she is from our community and membership base, and is very skilled at what she does. It would be very difficult if not impossible to replace her.

58. Antonio Alarcon is MRNY's Immigrant Youth Organizer in Queens. Mr. Alarcon has been on staff since 2013. Mr. Alarcon's job responsibilities include his work

with the Youth Power Project building a base of young people from our community and engaging them around issues that they care about. He helps lead our summer youth program. He leads workshops and outreach in schools.

59. Mr. Alarcon also engages in policy work at the state and federal level that impact our community. Mr. Alarcon's experiences living as an undocumented person and as a DACA recipient have been invaluable in his work to support and train our youth members to advocate for change. Without DACA, it would be extremely difficult for MRNY to recruit, hire and train someone with the same combination of extensive knowledge, experience, and ability to connect with undocumented youth.

60. Carlos Vargas is a DOJ accredited representative working as a paralegal with the immigration legal team at MRNY's office in Port Richmond, Staten Island. Mr. Vargas currently conducts all of the intakes and screenings for immigration relief at that office. Mr. Vargas has handled 585 legal cases since he began working at MRNY. The services Mr. Vargas offers are some of the only free immigration legal services available in Port Richmond, a community with a large Mexican population, and on Staten Island as a whole. Mr. Vargas is also MRNY's sole staff member working under a City-funded contract at that office.

61. Mr. Vargas has gained significant expertise in immigration law in the two years he has worked at MRNY. Mr. Vargas routinely works with immigrant community members who have been affected by the brutal enforcement tactics of the current administration to support them in speaking publically, including at city council hearings and press conferences. Mr. Vargas has spoken on behalf of MRNY as a DACA recipient himself at numerous press conferences. If Mr. Vargas were to lose his work authorization,

MRNY's ability to further its mission and continue our services in an underserved Staten Island community would be substantially altered. MRNY's ability to sufficiently perform under a government grant would be in jeopardy. Without DACA, it would be extremely difficult for MRNY to recruit, hire, and train someone with the same experience and ability to connect with undocumented clients.

62. If the DACA Termination is permitted to move forward, we anticipate a continued increase in requests for mental health support from our staff, members, and clients. Currently, MRNY receives routine requests for mental health support from our staff members, a marked increase since the September 5th announcement. MRNY will expend resources to ensure that our staff, members, and clients who are affected by the decision have the support they need through counseling and support services.

63. MRNY has prioritized and will continue to prioritize advocacy for legislative changes in Congress to protect DACA eligible individuals. Our advocacy has included a shift away from other activities in order to prioritize fighting for protections for this newly vulnerable population. MRNY has already had to deprioritize other work in order to make room for the new work necessary to respond to the DACA announcement.

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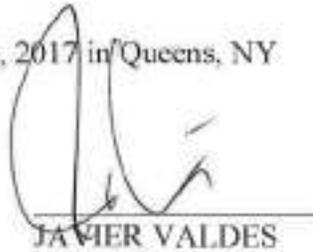
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64. A favorable decision in this case would allow MRNY to use critical resources to further our mission and serve communities in need. Furthermore, the end of the DACA program would cause irreparable harm to our organization through the loss of valuable staff and the deep emotional toll on our current staff and membership.

I declare under penalty of perjury under the laws of the United States and the State of New York that the foregoing is true and correct.

EXECUTED December 14, 2017 in Queens, NY



JAVIER VALDES

EXHIBIT NNN

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

STATE OF NEW YORK, *et. al.*,

Plaintiffs,

v.

DONALD TRUMP, *et. al.*,

Defendants,

No. 1:17-CV-5228

Declaration of Ike Brannon

I, Ike Brannon, declare as follows:

1. I am currently an economist who is president of the consulting firm Capital Policy Analytics. I also have an affiliation with the Cato Institute.
2. I received my MA and Ph.D. in Economics from Indiana University.
3. I was an economics professor in the University of Wisconsin System from 1994-2002. In 2001 I was given tenure and promoted to associate professor.
4. Since then I have worked in Washington DC, for (in order) the Office of Management and Budget, the Congressional Joint Economic Committee, The Senate Finance Committee, The U.S. Treasury, and the House Energy and Commerce Committee.
5. In 2008 I was chief economist for the John McCain for president campaign.
6. My coauthor, Logan Albright, received his Master's Degree in economics in 2011 from Georgia State University, and has worked as a policy analyst in Washington, DC for the last five years, including positions at think tanks and policy organizations such as the American Action Forum, FreedomWorks, Free the People, and Capital Policy Analytics.
7. Whereas the President has expressed a desire to end Deferred Action for Childhood Arrivals (DACA) program, we conducted a thorough investigation of the economic and fiscal costs that such action would impose on the federal government, and to the economy as a whole and published that research in January 2017.
8. We recently updated this analysis to break down these costs by state, using survey data from DACA recipients.
9. My co-author Logan Albright and I began our analysis by comparing DACA recipients to those immigrants who hold H-1B visas. These are high-skilled, well-educated immigrants who are demographically analogous to DACA students, all of whom must necessarily enroll in higher education programs in order to be eligible.

1
2 10. The average DACA recipient is 22 years old, employed, and a student. 17
3 percent of them are on track to complete an advanced degree. The college
4 attrition rate of DACA recipients is miniscule compared to domestic students,
5 an indication of the exceptional caliber of the DACA students. H-1B holders are
6 generally between 25 and 34, employed, and most have completed degrees. In
7 short, we posit that they look like what DACA recipients will look like in a few
8 years' time.

9 11. We begin our analysis by using a study from the Hoover Institute¹ on the
10 economic impact of expanding the H-1B visa program as our baseline. We
11 adjusted that estimate by the difference in the number of recipients and the
12 difference in income. To conform to Congressional budget procedures we
13 compiled a ten year aggregate cost.

14 12. We determined that, if DACA recipients were completely analogous to H-1B
15 holders, their removal would constitute a budgetary loss of \$127 billion and a
16 GDP loss of \$512 billion.

17 13. We adjusted for the fact that DACA recipients, being younger and not
18 completely done with their education, earn on average roughly 43 percent of
19 what H-1B holders earn. What's more, the population of DACA recipients is
20 about 750,000, compared to the 660,000 H-1B holders the Hoover study
21 examined, so we adjusted for these differences.

22 14. From this, we determined that, over a ten-year window, a repeal of DACA
23 would cost the federal government \$60 billion in lost revenue, and the
24 economy as a whole \$215 billion in lost GDP.

25 15. As a way of confirming our result, we consulted a study from the National
26 Research Council that estimated the average long-term fiscal impact for
immigrants who remain in the country for an extended period of time. This
result coincided with our own nearly perfectly (\$59.3 billion versus our \$60
billion).

¹<http://www.hoover.org/sites/default/files/uploads/aafs/2013/05/Estimating-the-Economic-and-Budgetary-Effects-of-H-1B-Reform-In-S.744.pdf>

1 16. There are DACA recipients in 35 states and the District of Columbia. Using
2 survey data from the Center for American Progress,² we estimated the total
3 cost of repealing DACA for each of the relevant states, based on the proportion
4 of DACA recipients who live locally.

5 17. Of the 50 states, California will bear the highest cost, with over 30 percent of
6 DACA recipients. Factoring in budgetary and economic effects, California's
7 total cost over a ten year window would be \$84.2 billion (See Table 1).

8 18. It is important to note that these estimates are conservative, as DACA
9 recipients will likely end up being more productive than their current salaries
10 indicate, as they age and complete their degrees. Nor does this analysis factor
11 in the enforcement cost of physically deporting recipients, should the program
12 be eliminated.

13 19. In summary, the repeal or rollback of the DACA program would have a
14 significant and negative fiscal and economic impact on the country, and would
15 disproportionately affect the various states in which DACA recipients are most
16 prevalent.

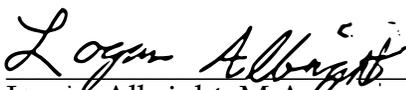
17 20. Accompanying this statement is a list of my publications over the past decade.

18 21. The state of Washington paid us \$3,000 for completing this statement.

19 I declare under penalty of perjury under the laws of the United States of America that
20 the foregoing is true and complete to the best of my knowledge.

21 Executed on the 6th of December, 2017.

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23 _____
24 Ike Brannon, Ph.D.

25 
26 _____
Logan Albright, M.A.

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28 ²https://cdn.americanprogress.org/wp-content/uploads/2015/07/DACA-Wong_NILC_CAP-Codebook-PDF.pdf

Table 1: Cost of DACA Repeal By State 2018-2028

State	Budget Cost (Millions \$)	Economic Cost (Millions \$)	Total Cost (Millions \$)
AL	258	924.5	1,182.5
AZ	2,826	10,126.5	12,952.5
CA	18,372	65,833	84,205
CO	768	2,752	3,520
CT	642	2,300.5	2,942.5
DC	900	3,225	4,125
DE	258	924.5	1,182.5
FL	5,910	21,177.5	27,087.5
GA	1,158	4,149.5	5,307.5
HI	126	451.5	577.5
IA	258	924.5	1,182.5
IL	1,926	6,901.5	8,827.5
IN	642	2,300.5	2,942.5
KS	384	1,376	1,760
MA	258	924.5	1,182.5
MD	642	2,300.5	2,942.5
MI	768	2,752	3,520
MN	126	451.5	577.5
MO	126	451.5	577.5
NE	126	451.5	577.5
NJ	384	1376	1760

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NM	258	924.5	1,182.5
NV	126	451.5	577.5
NY	10,794	38,678.5	49,472.5
NC	2,184	7,826	10,010
OH	126	451.5	577.5
OK	126	451.5	577.5
OR	384	1,376	1,760
PA	258	924.5	1,182.5
SC	258	924.5	1,182.5
TN	258	924.5	1,182.5
TX	5,142	18,425.5	23,567.5
UT	384	1,376	1,760
VA	1,026	3,676.5	4,702.5
WA	1,800	6,450	8,250

List of Ike Brammont's Publications

Publication	Title	Date	Type of Piece	Co-Authors	General Subject Matter
Cato Institute	"When Does Antitrust Activity Stifle Innovation?"	Winter 2017-2017	Article		Antitrust
Regulation	"What Is a Life Worth?"	Winter 2004	Journal Article		Life's Worth
Regulation	"How the Packers Lost Out"	Winter 2002	Journal Article	Michael F. Gorman	Economy
Regulation	"Obfuscation at the EPA"	Summer 2011	Journal Article		EPA
Regulation	"Lure of the Big City"	Summer 2011	Book Review	Edward Glaeser	The allure of big cities
Regulation	"When DC Freezes Over"	Summer 2010	Journal Article		Snow Clearance
Regulation	"Yet Another Pop Econ Book"	Summer 2008	Book Review	Tim Harford	Economics
Cato Institute	"A Liberal Heretic Contradicts Piketty"	Spring 2015	Article		Smalltown USA
Cato Institute	"Income Inequality and the NBA"	Spring 2014	Article		Income
National Affairs	"Rethinking Tax Benefits for Home Owners"	Spring 2014	Journal Article		Tax Reform
Regulation	"Remembering the Man Behind Rational Expectations"	Spring 2006	Journal Article		John Muth
Regulation	"A Collapsing Housing Bubble?"	Spring 2006	Journal Article	Suzanne Stewart	Housing Bubble
Regulation	"Treating the Unserious Seriously"	Spring 2005	Book Review	Robert Hahn	Economic Regulation
Cato Journal	"Nudge: Improving Decisions about Health, Wealth,	Fall 2008	Book Review	Richard H. Thaler and	Improving Economic Decisions
Regulation	"FDR at Breakfast"	Fall 2007	Book Review	Amity Shlaes	Great Depression
The Weekly Standard	"Tax Reform Must Not Keep Tax Breaks for Real Estate"	11/8/17	Article		Tax Reform
Forbes Online	"Hugh Hewitt's Phony Budget Accounting In Defense	11/7/17	Op-Ed		Mortgage Interest Deduction
Forbes Online	"How State Pension Funds--And 401k Managers--	11/2/17	Op-Ed		State Pension Funds and 401ks
Forbes Online	"What Do Manufacturers Want from Tax Reform?"	10/24/17	Op-Ed		Tax Reform
The Weekly Standard	"Kevin Warsh, Candidate for Federal Reserve Chair, Is	10/6/17	Article		Federal Reserve
The Weekly Standard	"How We Tax Employee-Ownership is One Thing our	10/4/17	Article		Tax Reform
Cato At Liberty	"The Dubious Defense of the Jones Act"	9/28/17	Blog Post		Jones Act
Forbes Online	"A System On Trial: South Korean Political Reform	9/28/17	Op-ed	Jared Whitley	South Korean political reform
The Weekly Standard	"In Pursuit of the Second Best Policy"	9/21/17	Article		Flood Insurance
Cato At Liberty	"The Green Investment Pension Con"	9/19/17	Blog Post		Green Investment
Daily Record (NC)	"Employer Tax Cuts Help Employees"	9/19/17	Op-ed		Employer tax cuts
Newsweek	"RESCINDING DACA WILL COST THE US ECONOMY	9/17/17	Article		Immigration
The Weekly Standard	"Cutting the Corporate Tax Can Help Workers. Really."	9/13/17	Article		Tax Reform
Weekly Standard	"Cutting the Corporate Tax Can Help Workers. Really."	9/13/17	Op-ed		Corporate tax rate
The Weekly Standard	"Bring on the Hurricane Irma Bowl!"	9/7/17	Article		NFL
The Weekly Standard	"How Not to Fix Fannie Mae and Freddie Mac"	9/5/17	Article		Financial Crisis
Time Magazine	"Hurricane Harvey Proved We Need More Flood	9/5/17	Op-ed	Ari Blask	NFIP
Cato At Liberty	"The Economic and Budgetary Cost of Repealing DACA	8/31/17	Blog Post		DACA
Cato At Liberty	"Will Harvey Reform Flood Insurance"	8/31/17	Blog Post		Flood Insurance
SSRN	"Corporate Income Taxes and Labor: An Investigation	8/30/17	Policy Analysis		Income Tax
The Weekly Standard	"The Sordid Prosecution of Aaron Schock"	8/25/17	Article		Aaron Schock
The Weekly Standard	"Ode to a Couch"	8/21/17	Article		Garbage
Forbes Online	"President Moon's Anti-Corporate Policies Jeopardize	8/14/17	Op-ed		South Korea's anti-corporate
The Weekly Standard	"Remembering Glen Campbell"	8/9/17	Article		Glenn Campbell
Politico	"The government's hidden housing subsidy for the	8/8/17	Op-ed	Ari Blask	Federal flood insurance
The Weekly Standard	"Rename the Rose Fitzgerald Greenway"	8/4/17	Article		Rose Fitzgerald Greenway

List of Ike Brannon's Publications

Publication	Title	Date	Type of Piece	Co-Authors	General Subject Matter
The Weekly Standard	"The Deep State Takes on Tillerson"	8/3/17	Article		Rex Tillerson
The Weekly Standard	"A Tough But Telling Race in Virginia"	8/2/17	Article		Virginia Elections
Forbes Online	"Puerto Rico's Fuzzy Economics"	7/31/17	Op-ed		Puerto Rico
The Weekly Standard	"Will Illinois Need a Federal Bailout?"	7/27/17	Article		Illinois' debt crisis
The Weekly Standard	"Still Stupid"	7/27/17	Article		Economy
The Hill	"The private alternative to the National Flood"	7/20/17	Op-Ed	Ari Blask	Flood Insurance
The Hill Online	"The private alternative to the National Flood"	7/20/17	Op-ed	Ari Blask	Federal flood insurance
Cato Institute	"Reforming the National Flood Insurance Program:"	7/19/17	Policy Analysis	Ari Black	Flood Insurance
Hudson Institute	"Tax Reform and the Republican Manufacturing and	7/10/17	Policy Analysis	Thomas J.	Tax Reform
Peoria Journal Star	"Brannon: Hello Uncle Sam, goodbye Illinois"	6/29/17	Op-Ed		Illinois
Peoria Journal Star (IL)	"Brannon: Hello Uncle Sam, goodbye Illinois"	6/29/17	Op-ed		Illinois' debt crisis
Weekly Standard	"Will Illinois Need a Federal Bailout?"	6/27/17	Op-ed		Whether Illinois will need a
Cato At Liberty	"Towards a Private Flood Insurance Market"	6/20/17	Blog Post		Private Flood insurance
Cato At Liberty	"The Impetus for GSE Reform"	6/15/17	Blog Post		GSE Reform
The Weekly Standard	"The Solar Power Market Is Under Threat--From One of	6/9/17	Article		Solar Power
Weekly Standard	"The Solar Power Market Is Under Threat--From One of	6/9/17	Op-ed		The solar power industry
The Weekly Standard	"David Malpass, Treasury's Conservative Standard	6/6/17	Article		Department of Treasury
The Weekly Standard	"Never Eat Lunch at Your Desk"	6/5/17	Article		Lunch
Cato At Liberty	"The Wall Street Journal Declares "Creditor Emptor""	5/24/17	Blog Post		Puerto Rico
The Weekly Standard	"Puerto Rico's Faux Pension Reform"	5/24/17	Article		Puerto Rico
Weekly Standard	"Puerto Rico's Faux Pension Reform"	5/24/17	Article		Puerto Rico Pension Plan
Forbes Online	"How Would Corporate Tax Reform Benefit Workers?"	5/22/17	Op-ed		Corporate tax reform
Investor's Business Daily	"The High Cost Of Not Paying Your Bills: Puerto Rico's	5/22/17	Op-ed		Puerto Rico
The Weekly Standard	"Take a Hike"	5/22/17	Article		Government Subsidies
Milwaukee Wisconsin Journal	"Flanders, Brannon: Repeal minimum markup law"	5/21/17	Op-ed		Minimum markup laws
The Weekly Standard	"No, Dems Haven't Cracked the Code for Winning Over	5/15/17	Article		National Election
The Hill	"Beryllium broadside: Obama's last-minute rule-making	5/10/17	Op-Ed		Economy
The Hill Online	"Beryllium broadside: Obama's last-minute rulemaking	5/10/17	Op-ed		Workplace regulations
Cato At Liberty	"A New Approach for Occupational Licensing in	5/8/17	Blog Post		Occupational Licensing
The Weekly Standard	"The Wheels of Change Turn Slowly"	4/27/17	Article		Economy
The Weekly Standard	"Oxfam Is Opposing Corporate Tax Reform That Would	4/18/17	Article		Tax Reform
Weekly Standard	"Oxfam Is Opposing Corporate Tax Reform That Would	4/18/17	Op-ed		Corporate tax reform
The Weekly Standard	"Time to Fix Fannie and Freddie"	4/10/17	Article		Financial Crisis
The Weekly Standard	"How Tax Reform Could Hasten Housing-Finance	4/6/17	Article		Tax Reform
Cato At Liberty	"Puerto Rico Continues to Ignore Congress"	4/5/17	Blog Post		Puerto Rico
The Weekly Standard	"Rock and Roll Hall of Fame Hoochie Coo"	4/5/17	Article		Rock and Roll Hall of Fame
Cato At Liberty	"Marketplace Radio Laments Uber's Victims:"	4/4/17	Blog Post		Investment Banks
Cato At Liberty	"Puerto Rico's Half-Hearted Stab at Fiscal Reform	3/20/17	Blog Post		Puerto Rico
Forbes Online	"Rushed Beryllium Rule Deserves A Second Look"	3/15/17	Op-Ed		Beryllium
National Review	"The Ture-Kennedy Blueprint"	3/15/17	Book Review		"JFK and the Reagan Revolution:
Forbes Online	"Improve, Don't Destroy, The Gig Economy"	2/27/17	Op-Ed		Gig Economy

List of Ike Brannon's Publications

Publication	Title	Date	Type of Piece	Co-Authors	General Subject Matter
Weekly Standard	"The House Tax Reform Plan Is Not a Fundraising Ploy"	2/24/17	Op-ed		Tax reform
Weekly Standard	"How One Company's Perfidy Makes Your Cell Phone	2/23/17	Op-ed		Perfidy in America
Weekly Standard	"How One Company's Perfidy Makes Your Cell Phone	2/23/17	Op-ed		Perfidy in America
The Weekly Standard	"How One Company's Perfidy Makes Your Cell Phone	2/22/17	Article		Corporate Finances
Forbes Online	"It's More Important To Get Puerto Rican Pension	2/21/17	Op-ed		Puerto Rican pension reform
Forbes Online	"It's More Important To Get Puerto Rican Pension	2/21/17	Op-ed		Puerto Rican pension reform
The Weekly Standard	"Bob Michel, House GOP Statesman Across Five	2/17/17	Article		Bob Michael
The Weekly Standard	"Revenge of the Nerds"	2/14/17	Article		Tax Reform
The Weekly Standard	"Let's Boost Building"	2/13/17	Article		Infrastrcture
The Weekly Standard	"Housing's Drag on the Economy"	2/13/17	Article		Economy
The Weekly Standard	"How the NFL Can Make a Bigger Investment to	2/1/17	Article		NFL
The Weekly Standard	"What Dow 20,000 Means"	1/25/17	Article		Economy
The Weekly Standard	"The Pro Bowl Takes a Step Toward Resembling a Real	1/24/17	Article		NFL
The Weekly Standard	"Liberal Opposition to New Housing Reaches its	1/23/17	Article		Infrastrcture
Cato At Liberty	"The Economic and Fiscal Impact of Repealing DACA"	1/18/17	Blog Post		DACA
Forbes Online	"The High Costs Of An Immediate Repeal Of DACA"	1/18/17	Op-ed		Repealing DACA
The Weekly Standard	"Puerto Rico's New Governor Should be Given Time to	1/16/17	Article		Puerto Rico
The Weekly Standard	"How Trump Can Repeal and Replace DACA"	12/22/16	Article		Immigration
Weekly Standard	"How Trump Can Repeal and Replace DACA"	12/22/16	Op-ed		Trump repealing DACA
The Hill	"Will Trump let the EU kill a US manufacturing deal?"	12/20/16	Op-Ed		Economy
The Weekly Standard	"The FDA--Finally--Sees the Light on Chantix"	12/20/16	Article		FDA
The Hill	"Puerto Rico's path forward shouldn't include old	12/13/16	Op-Ed	Logan Albright	Puerto Rico
Peoria Journal Star	"Spotlight: Cutting corporate tax rates would help	12/9/16	Op-Ed		Tax Reform
Peoria Journal Star (IL)	"Cutting corporate tax rates would help Peoria"	12/9/16	Op-ed		Cutting corporate taxes
The Weekly Standard	"Puerto Rico Is Using a Phony Pension Crisis to	12/7/16	Article		Puerto Rico
Cato At Liberty	"Problems with Paid Family Leave Redux"	12/5/16	Blog Post		Family Leave
Desert Sun	"Column: Here's how to begin fixing colleges"	12/4/16	Column		Education
Forbes Online	"How And Why We Should Fix The Biodiesel Tax Credit"	12/4/16	Op-Ed		Tax Credits
Cato At Liberty	"DC's Paid Family Leave Bucks the Trend—and	11/28/16	Blog Post		Economy
The Weekly Standard	"The Dangerous Ideological Roots of Climate	11/18/16	Article		Environment
The Weekly Standard	"Puerto Rico's Oversight Board May Be on the Verge of	11/17/16	Article		Puerto Rico
Cato At Liberty	"Washington DC Progressives Fight to Preserve Gas	11/4/16	Blog Post		Gas Stations
The Weekly Standard	"The 'Unofficial' Gear of Major League Baseball"	11/1/16	Article		MLB
Foundation for Economic	"Is Parking Really "Free" If You Can't Find Any?"	10/28/16	Article		Transportation
Cato At Liberty	"Why Don't We Allow Markets to Dictate Parking	10/27/16	Blog Post		Parking Policy
The Weekly Standard	"Harry Caray Is My Wingman"	10/24/16	Article		MLB
Weekly Standard	"Harry Caray Is My Wingman"	10/24/16	Op-ed		Harry Caray
The Weekly Standard	"A Chicago Cubs Love Story"	10/17/16	Article		MLB
The Hill	"How Puerto Rico's oversight board can follow others'	10/13/16	Op-Ed		Puetro Rico
The Weekly Standard	"As Goes Puerto Rico So Go the States?"	10/10/16	Article		MLB
Cato At Liberty	"Ending the Tax Breaks for Real Estate"	10/7/16	Blog Post		Tax Policy

List of Ike Brannon's Publications

Publication	Title	Date	Type of Piece	Co-Authors	General Subject Matter
The Weekly Standard	"Incompetence Is No Reason for a Government Agency	10/7/16	Article		FDA
Cato At Liberty	"The Answer Is a New Government Program. What's	10/4/16	Blog Post		Limited Government
The Weekly Standard	"The Complicated Dynamics of Insurance Companies	10/3/16	Article		Insurance
Weekly Standard	"The Complicated Dynamics of Insurance Companies	10/3/16	Op-ed		Obamacare
Lincoln Times-News (NC)	"The reason why the poverty rate fell"	9/16/16	Op-ed		Poverty
Cato At Liberty	"The Reason Why the Poverty Rate Fell"	9/13/16	Blog Post		Poverty
The Weekly Standard	"Up in Smoke"	9/12/16	Article		FDA
Weekly Standard	"Up in Smoke"	9/12/16	Op-ed		FDA warning labels and smoking
Cato At Liberty	"Tentative Steps Away from the Gas Tax and towards a	9/6/16	Blog Post		Tax Policy
Cato At Liberty	"It's Time to End the Government's Outsized Role in	8/4/16	Blog Post		Finance
Cato At Liberty	"How Growth Can Impact Spending and Why Spending	8/3/16	Blog Post		Economy
Cato At Liberty	"Sales Tax Holidays Make for Terrible Tax Policy"	7/28/16	Blog Post		Tax Policy
Cato At Liberty	"The Tyranny of Free Parking"	7/19/16	Blog Post		Free Parking
The Hill	"Global Warming Alarmist Reveals The Anti-Science	7/8/16	Op-ed		Reducing drug deaths through
The Hill	"Legalize marijuana and reduce deaths from drug	7/8/16	Op-Ed		Marijuana
The Weekly Standard	"Puerto Rico's False Deadline"	6/28/16	Article		Puerto Rico
The Weekly Standard	"For Whom the Bridge Tolls"	6/24/16	Article		Infrastructure
The Weekly Standard	"Treasury's Tax Regulations Will Dampen Domestic	6/21/16	Article		Department of Treasury
Weekly Standard	"Treasury's Tax Regulations Will Dampen Domestic	6/21/16	Op-ed		Tax regulations
The Hill	"How the Puerto Rico rescue makes state pensioners	6/13/16	Op-Ed		Puerto Rico
The Hill Online	"How the Puerto Rico rescue makes state pensioners	6/13/16	Op-ed		State pensions
The Weekly Standard	"Fixing Regulatory Overreach"	6/13/16	Article		Federal Regulation
Weekly Standard	"Fixing Regulatory Overreach"	6/13/16	Op-ed		Financial regulatory overreach
The Weekly Standard	"How to Change Bankruptcy Law"	6/6/16	Article		Bankruptcy
Weekly Standard	"How to Change Bankruptcy Law"	6/6/16	Op-ed		Bankruptcy laws
The Weekly Standard	"The Gig Is Up"	5/30/16	Article		Economy
Weekly Standard	"The Gig Is Up"	5/30/16	Op-ed		U.S. economy
RealClearMarkets	"The 'Gig' Economy Is Great For the U.S. Economy"	5/26/16	Article		Economy
The Weekly Standard	"Treasury Pretends Not to Know What a 'Bailout' Is"	5/20/16	Article		Department of Treasury
Weekly Standard	"Treasury Pretends Not to Know What a 'Bailout' Is"	5/20/16	Op-ed		Puerto Rico's debt crisis
The Hill	"What we do in Puerto Rico sets a precedent, like it or	5/5/16	Op-Ed		Puerto Rico
The Hill Online	"What we do in Puerto Rico sets a precedent, like it or	5/5/16	Op-ed		Puerto Rico's debt problems
RealClearMarkets	"Puerto Rico Contagion Will Cost Taxpayers"	5/2/16	Article		Puerto Rico
RealClearMarkets	"Treasury and Fed Team Up to Create the Next	4/28/16	Article		Department of Treasury
Cato At Liberty	"Who Are the Victims of the Volkswagen Scandal? Not	4/26/16	Blog Post		Volkswagon Scandal
TribTalk	"Texas' strong economic growth is a cause — and	4/26/16	Article		Immigration
The Weekly Standard	"We Need a Serious Approach to International Tax	4/25/16	Article		Tax Reform
Cato At Liberty	"Food Labeling Regulations Are Bad for Your Health"	4/22/16	Blog Post		Food Labels
Cato At Liberty	"Let's Name Something Cool after Prince. And Stop	4/22/16	Blog Post		Naming Rights
Peoria Journal Star	"Op-Ed: Who would benefit from a per-mile fee?"	4/22/16	Op-Ed		Transportation
The Weekly Standard	"Luck o' the Turkish"	4/20/16	Article		Turkey

List of Ike Brammont's Publications

Publication	Title	Date	Type of Piece	Co-Authors	General Subject Matter
The Weekly Standard	"Andrew Ross Sorkin's Misplaced Faith in the Non-	4/15/16	Article		FSOC
Cato At Liberty	"If the Laws are Inconvenient, Just Change Them: The	4/14/16	Blog Post		Puerto Rico
The Hill	"Let Obama have his Supreme Court justice, in	4/14/16	Op-Ed		Tax Reform
The Weekly Standard	"Government Takes Aim at Fitness Instructors"	4/11/16	Article		Department of Labor
The Weekly Standard	"The Proposed Puerto Rico Bailout is Good on Rhetoric	4/8/16	Article		Puerto Rico
Foundation for Economic	"Feds' Crazy Plan: Make Risky Loans, Don't Charge for	3/18/16	Article		Federal Regulation
The Weekly Standard	"Tax Policy, Not Luck of the Irish, Is Responsible For	3/17/16	Article		Tax Reform
Cato At Liberty	"Government-Directed Lending Comes to America"	3/16/16	Blog Post		Government Lending
The Weekly Standard	"Higher Ed, Higher Prices"	3/14/16	Article		Education
Cato At Liberty	"Stop Encouraging Homeownership"	3/10/16	Blog Post		Homeownership
Cato At Liberty	"The Administration's Puerto Rico Jujitsu Threatens the	3/3/16	Blog Post		State's Rights/Puerto Rico
The Weekly Standard	"Dusty Agonistes"	3/2/16	Article		MLB
The Hill	"What would a Puerto Rican bankruptcy look like?"	2/24/16	Op-Ed		Tax Reform
The Weekly Standard	"Let Them Go Bankrupt"	2/22/16	Article		Student Loans
Cato At Liberty	"Using Congressional Budget Rules To (Not) Save	2/5/16	Blog Post		Congressional Budget
The Weekly Standard	"Why It's So Important To Get Puerto Rico's Reform	2/2/16	Article		Puerto Rico
The Weekly Standard	"Retire This Idea"	2/1/16	Article		State Debt
The Weekly Standard	"The Pro Bowl Should At Least Resemble an Actual	1/30/16	Article		NFL
The Weekly Standard	"Don't Abandon All Hope"	1/25/16	Article		Tax Reform
The Weekly Standard	"Oxfam, Schmoxfam"	1/19/16	Article		Wealth Distribution
The Weekly Standard	"D.C. Bobos Sabotage Housing Construction to Protect	1/13/16	Article		DC Construction
Cato At Liberty	"Will the Natural Monopoly in Energy Distribution	1/6/16	Blog Post		Energy Distribution
Cato At Liberty	"The States Have No Business Creating Their Own	12/18/15	Blog Post		State's Rights/Economy
The Weekly Standard	"Pulling Away Punch Bowls"	12/16/15	Article		Economy
The Weekly Standard	"The Unending Morass of Housing Finance Reform"	12/9/15	Article		Housing Finance
Cato At Liberty	Inequality Delenda Est	12/8/15	Blog Post		Inequality
The Weekly Standard	"The Reform Next Time"	12/4/15	Article		Social Security
Cato At Liberty	"Food Labels Kill"	12/1/15	Blog Post		Food Labels/FDA
The Hill	"US should respond to OECD tax project with an	11/30/15	Op-Ed		Tax Reform
The Weekly Standard	"The Paris Trap"	11/29/15	Article		Environment
The Weekly Standard	"Princeton Protestors Hand College Fundraisers a	11/23/15	Article		Education
The Weekly Standard	"Liz Warren Moves to Sabotage Tax Reform"	11/20/15	Article		Tax Reform
The Weekly Standard	"Goldman's Inexplicable Grip on the Fed"	11/12/15	Article		Federal Reserve
The Hill	"A politically viable Puerto Rico reform plan"	11/9/15	Op-Ed		Puerto Rico
The Weekly Standard	"Bill Walker 'Alters the Deal,' and Threatens Alaska's	10/27/15	Article	Jared Whitley	Economy
The Weekly Standard	"Patently Ridiculous"	10/21/15	Article		Patents
The Weekly Standard	"How to Succeed in the Hinterland"	10/12/15	Article		Economy
The Weekly Standard	"A Brief Exegesis of the Central Illinois Music Scene"	10/2/15	Article		Illinois
The Weekly Standard	"Saving Puerto Rico from the Federal Government"	9/28/15	Article		Puerto Rico
The Hill	"How investment in transportation infrastructure	9/23/15	Op-Ed		Transportation
The Weekly Standard	"Yellen Punts"	9/18/15	Article		Federal Reserve

List of Ike Brannon's Publications

Publication	Title	Date	Type of Piece	Co-Authors	General Subject Matter
Bloomberg BNA	"U.S. Business Loses Big From Lack of Transportation	9/17/15	Article	Mike Gorman	Infrastructure
The Weekly Standard	"No More Denali Commissions"	9/14/15	Article		Environment
The Weekly Standard	"Labor's Wishful Thinking"	9/14/15	Article		Department of Labor
The Weekly Standard	"In Amending the EB-5 Program, First Do No Harm"	9/10/15	Article		Immigration
The Weekly Standard	"The Food Truck Farce, Continued"	9/9/15	Article		Public Property
The Weekly Standard	"In Defense of the 'Cadillac Tax'"	9/3/15	Article		Tax
The Weekly Standard	"Fixing the Grid and Improving Energy Policy"	8/26/15	Article		Energy Policy
The Weekly Standard	"In Washington, D.C., Parking Policy Dictates Housing	8/25/15	Article		Housing Policy
The Weekly Standard	"Stock Markets Have the China Syndrome"	8/24/15	Article		Economy
The Weekly Standard	"Pathetic Spin from Goldman Sachs"	8/19/15	Article		Economy
The Weekly Standard	"Even Economists Can't Invest"	8/17/15	Article		Economy
City Journal	"Parking for a Price"	8/13/15	Article	Bryan Weaver	Transportation
The Weekly Standard	"Kill the Coins"	8/13/15	Article		Monetary Policy
The Hill	"Is retirement planning about to become more	8/10/15	Op-Ed		Retirement
The Hill	"A problem Congress can't solve"	6/30/15	Op-Ed		Congress
Peoria Journal Star	"Op-Ed: Central Illinois needs Uber"	6/12/15	Op-Ed		Economy
The Hill	"How Obama could hijack tax reform"	5/26/15	Op-Ed		Tax Reform
The Weekly Standard	"Fixing Puerto Rico"	5/25/15	Article		Puerto Rico
The Weekly Standard	"Jamaal Strikes Blow for Diversity in NPR Fantasyland"	5/6/15	Article		Race
The Weekly Standard	"India Needs to Enforce Its Trade Agreements"	5/4/15	Article		India
The Weekly Standard	"Housing Subsidies: A Play in One Act"	4/29/15	Article		Housing Subsidies
American Enterprise Institute	"The case for 'an innovation box'"	4/28/15	Article		Economy
The Hill	"When a Chinese 'anti-corruption' drive is anything	4/21/15	Op-Ed	Jared Whitley	China
The Hill	"Can there be a role for the government in the advent	4/16/15	Op-Ed		Crypto Currency
RealClearMarkets	"Jeff Bezos May Have Found Amazon's Latest Money	4/15/15	Article		Amazon
The Federalists	"Ivy Leagues Shame Kids For Making Their Way In The	4/10/15	Article		Education
The Weekly Standard	"How Chinese Regulatory Authorities Impose	3/30/15	Article		China
Peoria Journal Star	"In the Spotlight: Peoria should auction food trucks to	3/27/15	Op-Ed		Food Trucks
The Hill	"More must be done to improve access to biosimilar	3/19/15	Op-Ed		Health
The Weekly Standard	"Republicans Appoint Keith Hall to Head CBO"	3/2/15	Article		CBO
CNBC	"Puerto Rico's economic woes are only short-term"	2/11/15	Article		Puerto Rico
The Weekly Standard	"The Food Truck Farce"	2/4/15	Article		DC Subsidies
The Weekly Standard	"An Epic Fail from the New York Times"	1/29/15	Article		Journalism
The Weekly Standard	"Obama's Latest Giveaway . . ."	1/26/15	Article		Federal Subsidies
The Weekly Standard	"Conservatives Should Buy Obama's Tax Increase—If	1/21/15	Article		Tax Reform
The Weekly Standard	"Federal Regs Making it Difficult for Members of	1/14/15	Article		Federal Regulation
The Weekly Standard	"Get Biosimilars to the Market Place"	1/9/15	Article		Health
American Enterprise Institute	"Congress should help small communities by amending	1/6/15	Article		Dodd-Frank
The Weekly Standard	"A Year Later, the Exchanges Still Stink"	12/29/14	Article		Economy
The Weekly Standard	"The White House's College Report Card Will	12/24/14	Article		Education
The Weekly Standard	"Why Are Urban Hospitals Closing Everywhere, but	11/25/14	Article	Devorah Goldman	Health

List of Ike Brannon's Publications

Publication	Title	Date	Type of Piece	Co-Authors	General Subject Matter
The Weekly Standard	"How to Make the Inversion Problem Even Worse"	10/21/14	Article		Department of Treasury
The Weekly Standard	"A Legislative Sleight of Hand for Fannie Mae and	9/30/14	Article		Financial Crisis
George W. Bush Institute	"When a Minimum Wage is Not a Minimum Wage"	9/23/14	Blog Post		Minimum Wage
American Enterprise Institute	"Why the Government Won't Let Colleges Reduce	9/17/14	Article		Education
George W. Bush Institute	"Paying for paving: Tax driving, not gas"	9/16/14	Blog Post		Tax Reform
George W. Bush Institute	"How Britain's Tax Reform Boosted Economic Growth"	9/15/14	Blog Post		British Tax Reform
The Weekly Standard	"A Peorian Makes Sense of Turkey"	9/8/14	Article		Turkey
American Enterprise Institute	"The Minimum Wage Can Never Be High Enough"	9/7/14	Article		Minimum Wage
The Weekly Standard	"The Costs of a Miscarriage of Justice"	9/4/14	Article		Legal
The Weekly Standard	"Paying for Paving"	8/11/14	Article		Transportation
The Weekly Standard	"Detroit Hard Luck City"	7/25/14	Article		Detroit
The Weekly Standard	"The Administration's Cynical Fight Against Corporate	7/23/14	Article		Tax Reform
George W. Bush Institute	"The tax inversion manufactured crisis"	7/22/14	Blog Post		Tax Inversion
The Federalists	"No, Corporate Tax Inversions Are Not An Unpatriotic	7/22/14	Article		Tax Reform
The Weekly Standard	"Student Loan Relief Now"	6/30/14	Article		Education
George W. Bush Institute	"More Economic Growth is Possible and Will Soon	6/23/14	Blog Post		Economy
The Weekly Standard	"PAYGO Begone"	6/16/14	Article		Federal Budget
George W. Bush Institute	"Tax Policy the Texas Way--in Washington, D.C."	6/6/14	Blog Post		Tax Policy
The Weekly Standard	"Tax Policy the Texas Way—in Washington, D.C."	6/3/14	Article		Tax Reform
American Enterprise Institute	"New Flight Rules Are a Heavy Load"	5/25/14	Article		Transportation
The Hill	"Why Fannie and Freddie's failed stress test proves	5/22/14	Op-Ed		Financial Crisis
George W. Bush Institute	"Is the Time Ripe for a Revolution in Transportation	4/28/14	Blog Post		Transportation Funding
George W. Bush Institute	"Rule of Law for me but not for Thee"	4/28/14	Blog Post		Rule of Law
The Weekly Standard	"Rule of Law For Me, Not For Thee"	4/28/14	Article		Property Laws
R Street Institute	"Rethinking tax benefits for home owners"	4/24/14	Policy Analysis	Zackary Hawley,	Tax Reform
R Street Institute	"Homesick: How housing tax breaks benefit the	4/22/14	Policy Analysis	Andrew Hanson	Tax Reform
George W. Bush Institute	"Sisyphus and Tax Reform"	3/28/14	Blog Post		Tax Reform
RealClearMarkets	"Economic Sanctions On Russia Would Be Worse Than	3/23/14	Article		Russia
Cato Institute	"The Paths to Mortgage Finance Reform and Their	3/18/14	Policy Analysis	Mark A. Calabria	Mortgage Finance Reform
The Weekly Standard	"Don't Guarini Me, Bro!"	3/17/14	Article		Tax Reform
The Weekly Standard	"I've Saved Thousands of Dollars Waiting to Get on	3/10/14	Article		Healthcare
The Weekly Standard	"I've Been Trying Since November—But I Still Can't Sign	2/7/14	Article		Healthcare
George W. Bush Institute	"Innovation and Productivity Go Hand in Hand"	1/30/14	Blog Post		Economy
The Weekly Standard	"How to Fix the Pro Bowl"	1/25/14	Article		NFL
National Review	"How the Obama Administration Stole Fannie and	1/22/14	Article		Financial Crisis
George W. Bush Institute	"Praise for French Policy Reforms"	1/17/14	Blog Post		French Policy
George W. Bush Institute	"Immigration and the Texas Boom"	1/7/14	Blog Post		Immigration
George W. Bush Institute	"The Tax Reform Chasm Widens"	12/26/13	Blog Post		Tax Reform
The Weekly Standard	"After a Month of Trying, I Still Can't Sign Up for	12/26/13	Article		Healthcare
George W. Bush Institute	"Environmental Solutions by Fiat"	12/23/13	Blog Post		Environment
The Weekly Standard	"Subsidizing Rich and Poor"	12/23/13	Article		Government Subsidies

List of Ike Bramm's Publications

Publication	Title	Date	Type of Piece	Co-Authors	General Subject Matter
George W. Bush Institute	"Tax Reform: Break-Up Edition"	12/12/13	Blog Post		Tax Reform
George W. Bush Institute	"Homer Simpson's Bear Tax: DC Edition"	11/21/13	Blog Post		Tax Reform
George W. Bush Institute	"Growth Won't Save Entitlements"	10/31/13	Blog Post		Economy
The Weekly Standard	"Europe Leads the Way?"	10/14/13	Article		Economy
George W. Bush Institute	"A Better Way to Measure Growth"	10/8/13	Blog Post		Economy
George W. Bush Institute	"California's Perfect Tax Scam"	9/30/13	Blog Post		Tax Reform
George W. Bush Institute	"The Rich Are Different. So What?"	9/23/13	Blog Post		Economy
George W. Bush Institute	"Who Should be Teaching College?"	8/17/13	Blog Post		Education
George W. Bush Institute	"Making Policy the Wrong Way"	8/13/13	Blog Post		Tax Reform
George W. Bush Institute	"Baby Steps to Tax Reform"	8/1/13	Blog Post		Tax Reform
George W. Bush Institute	"The Death of Growth Has Been Greatly Exaggerated"	7/29/13	Blog Post		Economy
George W. Bush Institute	"Stopping the Mandarins"	7/23/13	Blog Post		China
George W. Bush Institute	"Tax Reform Would Play Well in Peoria"	7/19/13	Blog Post		Tax Reform
George W. Bush Institute	"Capitalism & Chocolate-Chip Cookies"	7/8/13	Blog Post		Economy
George W. Bush Institute	"The Case for a Carbon Tax"	6/27/13	Blog Post		Environment/Tax Reform
American Enterprise Institute	"Warning Pollution"	6/26/13	Article		Environment
George W. Bush Institute	"Patent Wars Restrain Growth"	6/14/13	Blog Post		Patents
George W. Bush Institute	"Is There a Future for Driverless Cars?"	6/7/13	Blog Post		Technology
George W. Bush Institute	"Changing How We Pay Teachers"	5/22/13	Blog Post		Education
The Weekly Standard	"A Glimmer of Hope for the Illinois GOP"	5/22/13	Article		Illinois
Salon	"How a fight with Rick Santorum made an IRS"	5/17/13	Article		IRS
RealClearMarkets	"Why You Just May Come to Like a Carbon Tax"	5/14/13	Article		Environment
George W. Bush Institute	"Taxes Hurt Competitiveness Abroad"	5/13/13	Blog Post		Tax Reform
R Street Institute	"We're Already Paying a Carbon Tax in Disaster Relief"	5/13/13	Op-Ed		Environment
George W. Bush Institute	"Saving on Snacks, the Washington Way"	5/1/13	Blog Post		Economy
George W. Bush Institute	"Spending Without Stimulus"	4/23/13	Blog Post		Economy
George W. Bush Institute	"Time for a Carbon Tax?"	4/22/13	Blog Post		Environment/Tax Reform
RealClearMarkets	"It's time to ask Cyprus for a real concession"	4/22/13	Op-Ed		Cyprus
The Weekly Standard	"Waiting for Obama"	4/22/13	Article		Tax Reform
The Weekly Standard	"Not Worth the Paper It's Printed On"	4/19/13	Article		OMB
The Weekly Standard	"Waiting for Obama"	4/13/13	Op-Ed		Executive Branch
George W. Bush Institute	"Haircuts for the Wrong Heads"	4/4/13	Blog Post		Banking
George W. Bush Institute	"Striking a Deal on Social Security"	3/22/13	Blog Post		Social Security
RealClearMarkets	"It's Time To Ask Cyprus For a Real Concession"	3/22/13	Article		Cyprus
George W. Bush Institute	"What 4% Growth Would Mean For America"	3/21/13	Blog Post		Economy
Salon	"How Republicans really view Social Security"	3/18/13	Article		Social Security
George W. Bush Institute	"Silver Linings Playbook"	3/13/13	Blog Post		Economy
George W. Bush Institute	"Sequester: In Search Of Leadership"	2/27/13	Blog Post		Legislative Branch
George W. Bush Institute		2/13/13	Blog Post		Government Lending
George W. Bush Institute	"The True Cost of the Fiscal Cliff Deal"	2/13/13	Blog Post		Legislative Branch
George W. Bush Institute	"Canada Turns the Tables on the U.S."	2/13/13	Blog Post		Canada

List of Ike Brannon's Publications

Publication	Title	Date	Type of Piece	Co-Authors	General Subject Matter
The Weekly Standard	"Why We Might Get Tax Reform"	2/11/13	Article		Tax Reform
George W. Bush Institute	"No Canary in the Coal Mine ... Yet"	2/6/13	Blog Post		Economy
George W. Bush Institute	"Resisting Automatic Savings"	2/1/13	Blog Post		Banking
George W. Bush Institute	"Tax Cuts Require Entitlement Reform"	2/1/13	Blog Post		Tax Reform
George W. Bush Institute	"Why Keynesian Economics Died"	2/1/13	Blog Post		Economy
George W. Bush Institute	"Public Pension Plans Face Insolvency"	2/1/13	Blog Post		Pension
George W. Bush Institute	"Backing Away from the Cliff"	2/1/13	Blog Post		Economy
George W. Bush Institute	"Moving the Growth Debate Beyond Taxes"	2/1/13	Blog Post		Tax Reform
George W. Bush Institute	"Pension Shortfalls: A Bipartisan Opportunity?"	2/1/13	Blog Post		Pension
George W. Bush Institute	"The Hidden Cost of Unreliable Transportation"	9/25/12	Blog Post		Transportation
George W. Bush Institute	"Productivity Growth: The Numbers and the Reality"	9/11/12	Blog Post		Economy
George W. Bush Institute	"Growth Fuels Turkey's Promise"	8/31/12	Blog Post		Turkey
George W. Bush Institute	"The Battle Over the Regulatory State"	8/14/12	Blog Post		Regulation
George W. Bush Institute	"Quarterbacks, Vigilantes, and Economic Growth"	8/9/12	Blog Post		Economy
George W. Bush Institute	"The Wrong Reason for the Right Policy"	8/1/12	Blog Post		Economy
George W. Bush Institute	"Counting on Living Longer"	7/30/12	Blog Post		Age and Economy
George W. Bush Institute	"The Benefits of Growth: Slow but Inexorable"	7/12/12	Blog Post		Economy
George W. Bush Institute	"The Italian Job: Improving Productivity and	7/8/12	Blog Post		Economy
George W. Bush Institute	"In Defense of Finance"	6/29/12	Blog Post		Finance
American Enterprise Institute	"The Costliest Regulation You've Never Heard Of"	6/21/12	Article		Federal Regulation
George W. Bush Institute	"Problems with Productivity ... or Not"	6/19/12	Blog Post		Economy
George W. Bush Institute	"A Tax Deal That Is No Bargain"	6/15/12	Blog Post		Tax Reform
The Weekly Standard	"Another Bad Sign: Productivity Falls by .9 Percent"	6/8/12	Article		Economy
George W. Bush Institute	"Letting Innovators Innovate"	6/7/12	Blog Post		Regulation
George W. Bush Institute	"Luddites, Lumps of Labor, and a Laundry List of Illogic"	5/31/12	Blog Post		Economy
George W. Bush Institute	"Real Investment Instead of Short-Term Stimulus"	5/24/12	Blog Post		Investments
George W. Bush Institute	"The Importance of Productivity"	5/18/12	Blog Post		Economy
George W. Bush Institute	"Short Run Productivity Measures Tell Us Little"	5/10/12	Blog Post		Economy
George W. Bush Institute	"Enjoying Every Sandwich: Life Expectancy and	5/4/12	Blog Post		Age and Economy
The Weekly Standard	"OECD's Prescription to Raise Taxes Is the Wrong	4/30/12	Article		Tax Reform
George W. Bush Institute	"Lessons from the 1%: How to Get Ahead in Life"	4/27/12	Blog Post		Economy
The Weekly Standard	"Obama Administration Stops Foreigners from Clogging	4/24/12	Article		Immigration
American Enterprise Institute	"About Those Better Roads in China"	4/18/12	Article		China
George W. Bush Institute	"The Cost of Increasing Tax Rates On Capital Gains and	4/16/12	Blog Post		Tax Reform
George W. Bush Institute	"Making Future Generations Foot the Bill"	4/10/12	Blog Post		Economy
The Weekly Standard	"Year 104 and Counting: A Cubs Fan Survival Strategy"	4/4/12	Article		MLB
National Review	"Domestic Oil Policies Do Impact Oil Prices"	3/29/12	Article		Oil
The Weekly Standard	"O Canada!"	3/28/12	Article	Logan Albright	Canada
George W. Bush Institute	"How Growth Benefits Us All — the 1990s vs. the	3/23/12	Blog Post		Economy
The Weekly Standard	"Ryan's Tax Plan Moves the Ball"	3/21/12	Article		Tax Reform
George W. Bush Institute	"Should Peorians Care about Corporate Tax Reform?"	3/15/12	Blog Post		Tax Reform

List of Ike Brannon's Publications

Publication	Title	Date	Type of Piece	Co-Authors	General Subject Matter
George W. Bush Institute	"China's Retreat from State-Directed Capitalism"	3/9/12	Blog Post		China
George W. Bush Institute	"Material Progress and the Plight of the Poor"	3/1/12	Blog Post		Economy
The Weekly Standard	"Obama Burdens the Banks"	1/23/12	Article	Sam Batkins	Banking
The Weekly Standard	"À la Gloire de L'économie Française"	1/20/12	Article		France
The Weekly Standard	"Mortgaging Our Future"	12/26/11	Article	Eli Lehrer	Economy
The Weekly Standard	"Who Benefits from the Mortgage Interest"	12/21/11	Article	Andrew Hanson, Zach	Mortgage
American Enterprise Institute	"Why Unemployment Is Worse Than You Think"	12/13/11	Article	Matt Thoman	Unemployment
The Weekly Standard	"A Cure for the Housing Blues"	11/7/11	Article		Housing
The Weekly Standard	"Privatizing the Liquor Market"	11/4/11	Article	Elizabeth Lowell	Privitization
National Review	"Halloween on the Hill"	10/31/11	Article		Washington,D.C.
The Hill	"Zeroing in on simplifying the tax system"	10/17/11	Op-Ed	Eli Lehrer	Tax Reform
The Weekly Standard	"Let's Start All Over Again"	10/17/11	Article	Eli Lehrer	Tax Reform
National Review	"Increasing Foreign Investment, the Chicago Way"	10/12/11	Article		Foreign Investment
American Action Forum	"European Disunion"	9/26/11	Article		Europe
American Enterprise Institute	"European Disunion"	9/22/11	Article	Matt Thoman	Europe
The Weekly Standard	"Time for an Honest Accounting of Our Disaster"	9/13/11	Article		Federal Budget
National Review	"Let's Have Infrastructure Investment, But the Right"	9/8/11	Article		Infrastructure
National Review	"Stimulus Still Creating Jobs?"	9/6/11	Article		Economy
The Weekly Standard	"The Mortgage Interest Boondoggle"	8/15/11	Article	Benjamin Gitis	Mortgage
American Action Forum	"THE DOWNGRADE: WHAT IT IS AND WHAT IT ISN'T"	8/6/11	Article		Economy
National Review	"The Downgrade: What It Is And What It Isn't"	8/5/11	Article		Economy
American Action Forum	"Dodd-Frank Turns One"	7/22/11	Article	Sam Batkins	Legislation
American Action Forum	"NEW URBANISM ISN'T GOING TO SAVE THE	7/21/11	Article		Economy
American Action Forum	"HOW REFORM OF THE U.S. CORPORATE TAX CODE	7/19/11	Article	Doug Holtz-Eakin,	Tax Reform
American Action Forum	"Obfuscation At The EPA"	6/30/11	Article	Sam Batkins	EPA
American Action Forum	"Lure Of The Big City"	6/29/11	Book Review		"Triumph of the City: How Our
American Action Forum	"EMPLOYMENT EFFECTS OF REDUCING CAPITAL GAINS	6/28/11	Article	Willam Melick, Eric	Tax Reform
American Enterprise Institute	"The Upside of Voter ID Initiatives"	6/16/11	Article		Voter ID
American Action Forum	"A DIFFERENT ROUTE TO REDEMPTION FOR ANTHONY	6/14/11	Article		Anthony Weiner
American Action Forum	"Blaming The Speculators And Other Fairy Tales"	5/17/11	Article		Oil
American Enterprise Institute	"Who Really Stands to Win in the Union Fights?"	5/11/11	Article		Union
American Action Forum	"Export-Import Bank: Obstacles and Options for	5/1/11	White Paper	Elizabeth Lowell	Export-Import Bank
The Weekly Standard	"All Benefits, No Costs"	4/11/11	Article	Sam Batkins	Federal Regulations
American Action Forum	"The Disaster Playbook For Investors"	4/1/11	Article	Ken Solow	Investing
The Weekly Standard	"What Happened to Loeb's Deli?"	3/14/11	Article		Economy
The Weekly Standard	"Hop Aboard the Nanny Train"	3/12/10	Article		DC Metro
Cato Institute	"The Troubling Return of Keynesianism"	1/1/09	Policy Analysis	Chris Edwards	Keynesianism

EXHIBIT 000

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BATALLA VIDAL et al.,)	
<i>Plaintiffs,</i>)	
v.)	Case No. 1:16-cv-04756 (NGG) (JO)
NIELSEN et al.,)	
<i>Defendants.</i>)	December 11, 2017

DECLARATION OF STEPHEN H. LEGOMSKY

I, Stephen H. Legomsky, declare:

1. I am currently the John S. Lehmann University Professor Emeritus at Washington University School of Law, where I have taught courses in immigration law and international human rights law, among others. My coursebook, *Immigration and Refugee Law and Policy*, has been the required textbook at 185 law schools since its inception.

2. I write this declaration in support of all Plaintiffs in the lawsuit in the Eastern District of New York regarding the Deferred Action for Childhood Arrivals program (“DACA”).

3. From October of 2011 to October of 2013, I served as Chief Counsel of U.S. Citizenship and Immigration Services (“USCIS”). In that capacity, I provided policy and legal advice to the USCIS Director on matters pertaining to deferred action programs such as DACA. I was part of the team that provided policy and legal advice on its implementation.

4. After leaving USCIS, I served as Senior Counselor to the then-Secretary of Homeland Security, Jeh Johnson, from July to October of 2015, where I again worked on the program’s implementation. Through this role, I also gained a unique perspective into the many benefits provided by the DACA program.

5. I have also testified before Congress on numerous occasions and served as a consultant on immigration and refugee policies to the transition teams of President Obama and President Clinton and to the Commissioner of the Immigration and Naturalization Service in the George H.W. Bush Administration.

6. Based on my experiences, I believe creating the DACA program was sound immigration policy resulting in significant and quantifiable benefits to the United States, and that the program remains sound immigration policy for this country. Moreover, I strongly believe that large-scale deferred action programs such as DACA are well within the legal authority of the executive branch, for reasons that are laid out comprehensively in my February 25, 2015 written testimony before the Judiciary Committee of the U.S. House of Representatives. That testimony can be found at <https://judiciary.house.gov/wp-content/uploads/2016/02/Legomsky-Testimony.pdf>.

The Creation, Requirements, and Functioning of the DACA Program

7. DACA, which was announced on June 15, 2012 by then-Secretary of Homeland Security Janet Napolitano, allowed certain undocumented individuals living in the United States to seek deferred action. To be eligible, these individuals had to have arrived in the United States under the age of sixteen, lived in the United States continuously since at least June 15, 2007, satisfied an educational or armed services requirement, not pose a threat to national security or public safety, and be 30 years of age or younger.

8. The program's eligibility criteria mean that all current DACA recipients have been in the United States at least ten years. Many have been here far longer, and many reside within households or are members of families where one or more other family members are either U.S. citizens or legal permanent residents.

9. Requests for deferred action through DACA were all subject to case-by-case analysis and extensive background checks, in addition to the explicit requirements. Notwithstanding this intense scrutiny, a relatively low number were denied,¹ since very few undocumented immigrants who did not meet the published criteria applied. The DACA process was designed to exclude those who might be a threat to public safety and/or national security.

10. When individuals filed their requests for deferred action through DACA or requests for renewal of such deferred action, these requests were initially reviewed to ensure that they were complete and were accompanied by the appropriate fee. Originally, this fee was \$465, but it was raised to \$495 as part of a new fee schedule late in 2016.

11. Among other things, the applications asked whether the applicants had traveled outside the United States and under what authority, as well as whether they had been convicted of crimes or were gang members.

12. Key data were then input into the USCIS adjudication system, and the applicant notified to schedule an appointment for biometric information where they were fingerprinted and photographed. Once this process was complete, the individual's information was run through various criminal justice and law enforcement databases, which would reveal the individual's criminal history, whether they were named in a federal law enforcement investigation, and whether investigations had revealed them to be associated with a criminal gang.

13. Once this portion of the process was complete, the cases were assigned to adjudications officers, who would review the files and then most typically either grant the application, deny the application, or issue a Request for Evidence to the requestor if additional

¹ The term "denials" refers to applications for deferred action that fail on the merits, while the term "rejections" refers to applications that fail to get past the Lockbox stage for reasons such as forgetting to sign the application or enclose the check.

information was needed to reach a decision on the application. A Request for Evidence could seek information about discrepancies in the request, information about criminal conduct or gang membership, other information that would make the individual ineligible for deferred action under DACA, or information about travel with proper USCIS permission, known as advance parole.²

14. If the responses were not satisfactory, either an additional Request for Evidence would issue or the request would be denied. If the responses were satisfactory and the outstanding issues were resolved, then the case-by-case analysis moved forward. To receive DACA, applicants had to satisfy the adjudicator that the required criteria were met and that the applicant deserved the favorable exercise of discretion. In most cases, deferred action under DACA was granted. The adjudicator would then decide whether to grant temporary permission to work, as authorized by 8 CFR 274a.12(c)(14).

The Policy Reasons Behind the Creation of the DACA Program

15. The DACA program's continued success is tied to the underlying policy reasons leading to its creation.

16. First, DHS determined that permitting these individuals to live in the United States with the opportunity to apply for deferred action and to qualify for work authorization would promote public safety and security. We understood that effective law enforcement depends on the trust of the communities served. In immigrant communities, this means encouraging undocumented victims of crime and witnesses to crime to report those crimes to the police without fear of being routinely arrested and referred to ICE for removal proceedings.

17. Second, the DACA program reflected a recognition that the United States has limited resources to enforce immigration laws. There are approximately 11 million undocumented

² Applicants for advance parole were required to demonstrate either a compelling humanitarian reason or a significant public interest to justify a request for being allowed to re-enter the United States after travelling abroad.

individuals residing in the United States, and Congress does not appropriate sufficient funds for the Department of Homeland Security (“DHS”) to remove more than a small percentage of the individuals who are removable under the law.

18. It is therefore necessary, if DHS is to implement its mandate of promoting the safety and security of the United States, to focus its limited enforcement resources where they will have the greatest impact on safety and security. This means deprioritizing removal of certain categories of immigrants.

19. Thus, DHS created priorities for immigration enforcement in order to ensure that it used its limited resources in a manner that increased public safety. The agency determined that individuals who met the DACA eligibility criteria were not a priority for removal. The agency determined that individuals who meet specific criteria having to do with age, manner of entry into the United States, and absence of serious crimes on their criminal records were low priorities for removal because deporting them would not promote the nation’s interests in public safety and national security.

20. Third, to request DACA, applicants had to provide their names, addresses, and histories to USCIS. We believed that encouraging them to come out of the shadows and report their presence to USCIS was healthy for everyone.

21. Fourth, we determined that providing deferred action and work authorization to these individuals would provide economic benefits not only to the recipients themselves, but also to their communities, employers, and the larger American community. The DACA-eligible population consists of individuals who arrived in the United States as children, have lived in the United States for many years, and attended academic institutions in this country. They are without fault, call the United States their home, and have built their lives in this country.

22. Before DACA, their educational success made it highly likely that they would be economically successful if given the opportunity to work legally. Individuals consigned to the margins of our society, such as those living in fear of deportation activity, are not able to optimally contribute to the communities where they live and to the country as a whole.

23. This population could thus better contribute to our society if they were able to take advantage of educational and professional opportunities; since DACA this has been demonstrably true.

24. Additionally, without permission to work, DACA-eligible undocumented immigrants were highly vulnerable to unscrupulous employers, who knew they could be hired at low, exploitative wages. This gave these employers an incentive to hire unauthorized workers over US workers. Work permits for DACA recipients largely eliminated that perverse incentive.

The DACA Program Benefits Recipients and Society in General

25. The results of the implementation of DACA strongly show that DACA recipients themselves have benefitted, along with their families, communities, employers, and the larger country as a whole. Their economic and social contributions benefit the nation as a whole.

26. Since the inception of the program, DACA recipients have proven to be extremely successful. They have a very high success rate in pursuing their education and finishing school. After investing in the education of these young people, it does not make economic sense to send them away and allow another country to reap the benefits of these productive individuals.

27. In addition to their educational success, DACA recipients have succeeded professionally as well. This population has exhibited a high degree of motivation and contributes to various sectors of society. Indeed, employers across various industries rely on DACA recipients as part of their workforces.

28. Therefore, when DACA deferred action recipients lose their work authorization, not only are they personally and devastatingly harmed, but their employers are also harmed. For this reason, not only do DACA recipients stand to lose with the termination of the DACA program; the entire country loses as well.

29. At the time of my departure from USCIS and later DHS, DACA remained a strong and sensible program that had proven a success for DACA recipients, the community, employers, and law enforcement officials tasked with enforcing the nation's immigration policies. Indeed, DACA continues to be a sensible program.

30. There is nothing to gain from terminating DACA, while the repercussions of doing so will extend well beyond those directly affected.

31. Subjecting DACA recipients to deportation wastes the resources that the United States has invested in providing an education to these individuals as they grew up in the United States. Removing these young people at the very moment at which they are poised to make economic and professional contributions is only harmful to the United States.

32. Based on my past experiences as the Chief Counsel of USCIS and Senior Counselor to the Secretary of Homeland Security, as well as my several decades of experience teaching and writing in the field of immigration law, I can identify no sound policy reason to terminate the program.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on December 11, 2017, in St Louis, Missouri

Stephen H. Legomsky

EXHIBIT PPP

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

STATE OF NEW YORK, *et. al.*,

Plaintiffs,

v.

DONALD TRUMP, *et. al.*,

Defendants,

No. 1:17-CV-5228

NOV 22, 2017

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Declaration of Leighton Ku

I, Leighton Ku, declare as follows:

1. My name is Leighton Ku and I am over eighteen years of age. I have personal knowledge of and could testify in Court concerning the following statements of fact.
2. I am a Professor of Health Policy and Management and Director of the Center for Health Policy Research at the Milken Institute School of Public Health, George Washington University in Washington, DC.
3. I am a health policy researcher and expert with over 25 years of experience. I have conducted substantial research about immigrant health, health care, and costs. I have authored or co-authored more than a dozen articles and reports about immigrant health issues, including articles in peer-reviewed journals such as Health Affairs and American Journal of Public Health, as well as reports published by diverse non-profit organizations including the Migration Policy Institute, the Cato Institute, the Center on Budget and Policy Priorities and the Commonwealth Fund, as well as many more articles and reports on other subjects. I have testified before the U.S. Senate Finance Committee about immigrant health issues and provided analyses and advice to state governments and non-governmental organizations in many states about immigrant health. I have taught research methods and statistics at the graduate level for over 20 years. I also am a voluntary (unpaid) Executive Board member for the District of Columbia’s Health Benefits Exchange Authority, which governs the District’s health insurance marketplace, formed under the federal Affordable Care Act.
4. I have a PhD. in Health Policy from Boston University (1990) and Master of Public Health and Master of Science degrees from the University of California at Berkeley

NOV 22, 2017

1 (1979). Prior to becoming a faculty member at George Washington University, I was on
2 the staff of the Urban Institute and the Center on Budget and Policy Priorities.

3 5. I have attached my Curriculum Vitae as Exhibit B to this Declaration.
4

5 **Deferred Action for Childhood Arrivals**

6 6. My declaration describes the potential effects of the termination of the Deferred Action
7 for Childhood Arrivals (DACA) program on health and health care access and the
8 implications and costs of the loss of DACA status on states.

9 7. In this declaration I provide (a) general background about health insurance coverage and
10 health care services use of and by DACA recipients and undocumented immigrants, (b) a
11 brief review of research about how DACA improves mental health and how the loss of
12 DACA could worsen it, (c) estimates of potential state-level costs due to the loss of
13 DACA status and (d) a brief discussion of the role of DACA recipients as health care
14 providers and the potential effects of loss of this component of the health workforce.
15

16 **Background Information**

17 8. Under DACA, recipients are protected from deportation, can receive authorization to
18 work legally and can engage in other activities of civil society, such as continue their
19 education, obtain drivers' licenses, etc. Without DACA, they could lose these benefits
20 and privileges. Work authorization is a particularly important benefit under DACA. The
21 survey and analysis conducted by Professor Tom Wong reveals that 91% of DACA

NOV 22, 2017

1 recipients are employed. His data indicate that 57% of the DACA recipients have private
2 health insurance or other benefits through their employment.¹

3 9. Although DACA recipients have certain privileges, federal law and policy does not
4 accord them eligibility for federal health insurance benefits, including Medicaid, the
5 health insurance program for low-income populations. Nor are they permitted to enroll in
6 the health insurance marketplaces (or exchanges) formed under the Affordable Care Act
7 or to receive federal health insurance premium tax credits that are designed to make this
8 insurance more affordable. Despite their protected status, DACA recipients are barred
9 from federal health insurance assistance, like other undocumented immigrants. State or
10 local governments may opt to offer public insurance coverage for certain undocumented
11 immigrants, including DACA recipients, using state or local funds without federal
12 funding support.² For example, the District of Columbia supports a state-funded Health
13 Care Alliance, which provides medical assistance to low-income adults not eligible for
14 Medicaid including undocumented immigrants and DACA recipients; no federal funding
15 is used.³ New York State provides Medicaid coverage to DACA recipients, but not other
16 undocumented immigrants, without federal funding support.⁴

¹ Declaration of Tom K. Wong, University of California, San Diego, Sept. 27, 2017, for *N.Y. et al., v. Trump et al.*, 17-cv-5228 (ECF 55-5).

² A more complete review of immigrant eligibility for health benefits is summarized in Ku L, *Strengthening Immigrants' Health Access: Current Opportunities*. GW Department of Health Policy Issue Brief, Dec. 13, 2013. http://hsrc.himmelfarb.gwu.edu/sphhs_policy_briefs/29.

³ District of Columbia Department of Health Care Finance. Health Care Alliance. <https://dhcf.dc.gov/service/health-care-alliance>

⁴ New York State Department of Health. GIS 13 MA/011:Children's Health Insurance Program Reauthorization Act (CHIPRA) Expanded Coverage for Certain Qualified and PRUCOL Aliens. https://www.health.ny.gov/health_care/medicaid/publications/gis/13ma011.htm.

NOV 22, 2017

1 The only federal health insurance benefit available to low-income undocumented
2 immigrants is very limited emergency Medicaid coverage (42 USC § 1396b (v)).⁵ The
3 costs of their emergency care (e.g., emergency room care, ambulance, etc.) can be
4 covered under Medicaid. However, this limited benefit does not provide broader
5 coverage for other ambulatory or inpatient hospital services, prescription drugs, etc. It
6 provides reimbursement to providers for emergency care rendered to low-income
7 undocumented immigrants for acute conditions that could jeopardize the life or health of
8 the person, including labor and delivery costs for children born to undocumented
9 immigrant mothers. Hospitals are separately required to provide emergency care, to at
10 least screen and stabilize their emergency medical conditions, to all potential patients
11 regardless of insurance coverage or citizenship status, under the Emergency Medical
12 Treatment and Active Labor Act (EMTALA, 42 USC § 1395dd). The Medicaid
13 emergency care benefit essentially provides a mechanism to reimburse providers for the
14 emergency care they are otherwise required to offer to low-income undocumented
15 immigrants.

16 10. In addition, many community-based health care providers provide free- or subsidized
17 ambulatory health care services to undocumented aliens, including those who are
18 uninsured. Perhaps most important, community health centers that receive federal grants
19 under Section 330 of the Public Health Service Act, sometimes also called Federally
20 Qualified Health Centers (FQHCs), including the subset of Migrant Health Centers that
21 focus on care for migrant workers, are required to provide primary health care to all

⁵ A previous limited federal grant program, called “Section 1011,” provided federal funding for emergency care for undocumented immigrants separate from Medicaid, but that program has now expired. <https://www.cms.gov/Regulations-and-Guidance/Legislation/UndocAliens/>.

NOV 22, 2017

1 patients regardless of insurance or immigration status. Many other “safety net providers”
2 – including non-profit, charitable and state or local public clinics – often provide free or
3 subsidized uncompensated care to uninsured persons, including undocumented
4 immigrants, although the basis for providing that care varies. In some cases, state or
5 local laws or policies require them to provide care to the uninsured. In other cases it is a
6 matter of clinical practice and a belief in charitable mission.

7 11. Because of the barriers they face in securing health insurance coverage, non-citizen
8 immigrants, which include DACA recipients, undocumented immigrants and other
9 immigrants who have been legally admitted but are not citizens, are much more likely to
10 be uninsured than U.S. born or naturalized citizens and to have less private insurance and
11 less Medicaid coverage, even when one compares low-income (below 200% of the
12 poverty line) non-citizen immigrants and citizen adults. The lack of insurance creates
13 financial barriers and as a result non-citizens have substantially less access to and use of
14 medical services, including primary health care services, emergency medical care,
15 hospital care and most other forms of health care, than citizens.⁶

16 12. DACA status enables recipients to work and many are thereby able to obtain
17 employment-based private health insurance, which is the dominant form of insurance in
18 the United States. If DACA protections are lost, the former DACA recipients would lose
19 their work authorization and, as a result, would lose their jobs and their employer-based
20 health insurance. If they are not working they have few other options to obtain health
21 insurance, other than emergency Medicaid. Moreover, if the breadwinner in a family
22 loses his or her job and private health insurance, his or her dependents may also lose their

⁶ See, for example, Ku L, Jewers M. Health Care for Immigrants: Policies and Current Issues. Migration Policy Institute, June 2013. www.migrationpolicy.org

NOV 22, 2017

1 insurance coverage, even if they are U.S. born citizens. In principle, a person without
2 employer-based health insurance, Medicaid, or other publicly subsidized coverage, could
3 purchase individual (non-group) health insurance on the private market. The sad reality,
4 however, is that individual health insurance is expensive and a person who is no longer
5 employed or who has low income generally cannot afford individual health insurance
6 premiums. Thus, the health insurance prospects for undocumented immigrants without
7 DACA status and employment are bleak.

8

9 **Mental Health Consequences of the Loss of DACA Protections**

10 **13.** States have an inherent interest in the well-being, public health and safety of their
11 residents; terminating DACA protections undermines the interests of states. Even though
12 DACA does not generally provide health insurance benefits, research indicates that
13 DACA improves the mental health of recipients, by reducing stress related to their
14 undocumented status and the fear of adverse actions, such as deportation, loss of work,
15 loss of educational opportunities, separation from their families, etc. Research, including
16 studies published in peer-review journals by investigators at Harvard Medical School,^{7 8}
17 the University of California at Davis,⁹ and the Universities of California at Berkeley and

⁷ Venkataramani AS, Shah SJ, O'Brien R, Kawachi I, Tsai AC. Health consequences of the US Deferred Action for Childhood Arrivals (DACA) immigration programme: a quasiexperimental study. *Lancet Public Health*. 2017; 2(4): e175-e181.

⁸ Venkataramani AS, Tsai AC. Dreams Deferred: the Public Health Consequences of Rescinding DACA. *New Eng J Med*. 2017; 377(18):1707-9.

⁹ Patler C, Laster, Pirtle W. From undocumented to lawfully present: do changes to legal status impact psychological wellbeing among Latino immigrant young adults? *Soc Sci Med* 2017 March 9 (Epub ahead of print).

NOV 22, 2017

1 at San Francisco,¹⁰ show that the receipt of DACA has significantly reduced
2 psychological stress and improves mental health status. The researchers warn that the
3 loss of DACA protections will lead to higher stress and additional mental health
4 problems for hundreds of thousands of people. In addition, a study by Stanford
5 University researchers found that the DACA status that protected mothers also led to
6 better mental health status for their US-born citizen children; children feel more secure
7 when their parents have legal status. This shows the broader repercussions of changes in
8 DACA policy which can even affect citizen children.¹¹ The stress caused by loss of
9 DACA protections could compound the harmful effects of employment and economic
10 loss and could result in additional demands placed on our mental health and social
11 welfare systems system and, in some cases, may lead to increased risk of disruptive
12 behavior that could pose broader risks and further tax our social, educational and criminal
13 justice systems. DACA helped many youth and young adults “come out of the shadows.”
14 Loss of legal status will push them back into the shadows and jeopardizes the mental
15 health of DACA recipients and their families, with broader societal effects within states.

16

17 **Estimates of Potential Health Costs at State Levels Due to the Loss of DACA**

18 14. The loss of DACA protections would harm states because the loss of private health
19 insurance coverage will increase public expenditures for emergency Medicaid and other

10 Siemons R, Raymond-Flesh M, Auerswald CL, Brindis CD. Coming of Age on the Margins: Mental Health and Wellbeing Among Latino Immigrant Young Adults Eligible for Deferred Action for Childhood Arrivals (DACA). *J Immigr Minor Health*. 2017 Jun;19(3):543-551. doi: 10.1007/s10903-016-0354-x.

11 Hainmueller J, Lawrence D, Martén L, et al. Protecting unauthorized immigrant mothers improves their children’s mental health. *Science* 2017 August 31 (Epub ahead of print).

NOV 22, 2017

1 uncompensated care for those who become uninsured, creating additional financial
2 burdens on the state. In this section, I describe how the loss of employment and
3 employer-based health insurance would push former DACA recipients to emergency
4 medical care reimbursed by Medicaid and other community-based uncompensated care.
5 Even though they may still be able to get these services, these are not optimal forms of
6 health care and would still leave many former DACA recipients with reduced access to
7 medical care, which could endanger their health. The limited nature of these benefits is
8 unlikely to be adequate to accommodate the additional mental health stress caused by the
9 loss of DACA status, described above, as well as other illnesses, accidents and diseases
10 that could afflict any individual, citizen or immigrant alike.

11 15. In this section, I estimate potential financial costs for each state if DACA protections are
12 lost. DACA status provides work authorization to young adults who would otherwise be
13 without legal status and thereby enables them to work legally. A majority of working
14 DACA recipients get private health insurance through their jobs. Loss of work
15 authorization would cause them to lose their jobs. Even if they get jobs without work
16 authorization, they are subject to exploitation and are unlikely to be offered job benefits
17 like health insurance or pension benefits. The loss of or degradation of employment
18 would trigger the loss of employment benefits, like health insurance coverage for them
19 and their dependents. In principle, some of those losing employment-based insurance
20 might be able to purchase individual (non-group) health insurance on the private market,
21 but without the income of a job, the cost of individual health insurance would be
22 prohibitive and essentially unaffordable. As noted earlier, undocumented immigrants are
23 ineligible for Medicaid or health insurance marketplaces (exchanges) and premium tax

NOV 22, 2017

1 credits. As a result, they must instead resort to reliance on emergency Medicaid coverage
2 and/or community-based care for those without insurance, such as that provided by
3 community health centers or state or local public health clinics.

4 16. I use recent data from national survey data to estimate the costs of emergency Medicaid
5 costs and community-based care in each of the states that are plaintiffs in this case
6 (Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Iowa,
7 Massachusetts, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode
8 Island, Vermont, Virginia and Washington), as well as for the nation, if DACA recipients
9 lose their status and, as a result, lose employment and private health insurance coverage.

10 17. For estimates of the number of people affected, I draw on estimates of employment and
11 private insurance coverage in the Plaintiff States, provided in the Declaration of Professor
12 Tom Wong of the University of California at San Diego,¹² based on his survey of DACA
13 recipients, to estimate the effects of potential loss of employment and private insurance
14 coverage. Professor Wong's survey indicated that 91% of DACA recipients were
15 currently employed and 57% had a job with private health insurance. I also provide an
16 estimate of the overall national effects (including states not on the list of plaintiffs), based
17 on data reported by the U.S. Citizenship and Immigration Services, the agency which
18 administers DACA. As of June 30, 2017, 793,026 young people who were brought to the
19 U.S. as children without documentation were approved under DACA across the overall
20 United States.¹³

¹² Declaration of Tom K. Wong, University of California, San Diego, Sept. 27, 2017, for *N.Y. et al., v. Trump et al.*, 17-cv-5228 (ECF 55-5).

¹³ U.S. Citizenship and Immigration Services. Deferred Action for Childhood Arrivals Data (Through June 30, 2017), :

NOV 22, 2017

1 18. For estimates of the implications and costs of alternative sources of medical care that
2 former DACA recipients are likely to use I draw on my own analyses of the Center for
3 Disease Control and Prevention's 2016 National Health Interview Survey (NHIS) and the
4 Agency for Healthcare Research and Quality's 2015 Medical Expenditure Panel Survey
5 (MEPS). I am an experienced analyst of these data and have published numerous studies
6 using these nationally representative health survey data.

7 19. The NHIS and MEPS data do not directly indicate who receives DACA, but permit an
8 estimate of DACA eligibility, based on the criteria of being non-citizen immigrants
9 between the ages of 18 and 36 in the U.S. for more than 5 years who are not participating
10 in Medicaid. (I exclude Medicaid recipients since DACA recipients are not eligible for
11 Medicaid, except emergency Medicaid coverage). I use Prof. Wong's estimate that 57%
12 of employed DACA recipients get insurance through work. (My analysis of NHIS data
13 show that 55% of the DACA group who are working have private insurance, about the
14 same as Prof. Wong's estimate of employer-based insurance coverage among DACA
15 recipients. Two separate data sources yield almost the same estimate, corroborating each
16 other). The loss of DACA status and work authorization would trigger the loss of their
17 jobs and therefore their private health insurance.

18 20. The 2016 NHIS data indicates that DACA-type adults who are not working have a 19
19 percent probability of using emergency room care in the last 12 months. Since the loss of
20 DACA coverage would result in the loss of work authorization, legal work and
21 employment-based insurance, it is reasonable to assume that about 19% of former DACA
22 recipients would need to rely on emergency Medicaid to pay their emergency medical

NOV 22, 2017

1 bills. To estimate the costs of emergency medical care, I relied on analyses of MEPS
2 data and estimated that the average annual cost of emergency room care received by an
3 18-36 year old immigrant who had been in the U.S. for more than five years was \$1,275
4 in 2015. I used estimates of national health expenditure price increases per capita from
5 2015 to 2018, conducted by the federal Centers for Medicare and Medicaid Services¹⁴, to
6 estimate that the annual cost would rise by 13.7% to \$1,450 each for the 19% of adults
7 who had previously been privately-insured working DACA recipients in each state, but
8 who would now be uninsured.

9 21. I estimated the costs of community-based uncompensated care that would be received by
10 the newly uninsured immigrant adults, due to the loss of DACA status. For this, I drew
11 on estimates by Teresa Coughlin and her colleagues at the Urban Institute.¹⁵ That study
12 estimated that in 2013, the average uninsured person received uncompensated medical
13 care costing \$1,702 per person, of which 26% was provided as uncompensated care at
14 publicly-supported state or local community-based ambulatory sites, such as community
15 health centers or state or local clinics; this is equal to \$449 in community-based
16 ambulatory care per uninsured in 2013. This amount was inflated by 24.6% to account for
17 health care cost inflation between 2013 and 2018 to \$559 per uninsured person. I
18 multiplied this amount by the number of former DACA recipients who would lose their
19 jobs and private health insurance in each state.

¹⁴ Centers for Medicare and Medicaid Services. National Health Expenditures.
<https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/index.html>

¹⁵ Coughlin T, Holahan J, Caswell K, McGrath M. *Uncompensated Care for the Uninsured, 2013: A Detailed Examination*. Kaiser Commission on Medicaid and the Uninsured. May 2014.
<https://kaiserfamilyfoundation.files.wordpress.com/2014/05/8596-uncompensated-care-for-the-uninsured-in-2013.pdf>

NOV 22, 2017

1 22. The additional public costs that would be borne at state levels in 2018 are shown in Table
2 1 below, based on the methods and sources described above. These are annual costs in
3 2018; the cumulative costs over several years would be substantially higher. These
4 estimates are conservative, since they do not include the additional costs that might be
5 borne by states if dependents of DACA recipients – their spouses or children – lose
6 private health insurance if the DACA recipient loses his or her job.

Table 1. Estimates of Additional State-Level Costs Due to the Loss of DACA Status, 2018

State	Number DACA Recipients Currently Employed	Number Who Could Become Uninsured If They Lose Their Jobs	Number Who Could Require Emergency Room Care If Uninsured	2018 Costs of Additional Medicaid Emergency Room Care Due to Loss of DACA	2018 Costs of Additional Community- Based Uncompensated Care Due to Loss of DACA	Sum: Total 2018 Additional Public Health Costs Due to Loss of DACA
Colorado	15,281	8,710	1,655	\$2,399,114	\$4,872,939	\$7,272,053
Connecticut	4,560	2,599	494	\$715,919	\$1,454,133	\$2,170,052
Delaware	1,326	756	144	\$208,182	\$422,847	\$631,028
Dist Columbia	707	403	77	\$110,999	\$225,454	\$336,453
Hawaii	532	303	58	\$83,524	\$169,649	\$253,173
Illinois	42,537	24,246	4,607	\$6,678,301	\$13,564,572	\$20,242,873
Iowa	2,570	1,465	278	\$403,489	\$819,544	\$1,223,034
Massachusetts	7,360	4,195	797	\$1,155,519	\$2,347,021	\$3,502,540
New Mexico	6,250	3,563	677	\$981,249	\$1,993,055	\$2,974,304
New York	38,848	22,143	4,207	\$6,099,128	\$12,388,191	\$18,487,320
North Carolina	25,094	14,304	2,718	\$3,939,753	\$8,002,195	\$11,941,948
Oregon	10,347	5,898	1,121	\$1,624,477	\$3,299,542	\$4,924,019
Pennsylvania	5,468	3,117	592	\$858,475	\$1,743,684	\$2,602,159
Rhode Island	1,141	650	124	\$179,137	\$363,852	\$542,989
Vermont	221	126	24	\$34,717	\$70,516	\$105,233
Virginia	11,195	6,381	1,212	\$1,757,613	\$3,569,960	\$5,327,573
Washington	16,394	9,345	1,775	\$2,573,855	\$5,227,863	\$7,801,717
Subtotal	189,831	108,204	20,559	\$29,803,450	\$60,535,017	\$90,338,467
US Total	721,654	411,343	78,155	\$113,299,482	\$230,127,255	\$343,426,737

Source: Estimates by Leighton Ku, November 2017 using methods and data described in the text.

23. Estimates of additional costs that would be borne by the Plaintiff States and for the overall nation in 2018 are presented below. These estimates are based on the loss of employment-based health insurance coverage and the need to rely on public sources of care, such as emergency Medicaid and community-based safety net services.
24. For Colorado, the loss of DACA status could increase public health care costs by \$7.3 million in 2018, including \$2.4 million in Medicaid emergency room costs and \$4.9 million in community-based uncompensated care costs.
25. For Connecticut, the loss of DACA status could increase public health care costs by \$2.2 million in 2018, including \$0.7 million in Medicaid emergency room costs and \$1.5 million in community-based uncompensated care costs.
26. For Delaware, the loss of DACA status could increase public health care costs by \$0.6 million in 2018, including \$0.2 million in Medicaid emergency room costs and \$0.4 million in community-based uncompensated care costs.
27. For the District of Columbia, the estimates described above indicate that the loss of DACA status could increase public health care costs by \$0.3 million in 2018, including \$0.1 million in Medicaid emergency room costs and \$0.2 million in community-based uncompensated care costs. However, circumstances could differ for the District, compared to other states. The District of Columbia has a Health Care Alliance program which is supported by state funds and that provides limited coverage for low-income people ineligible for Medicaid, including the undocumented. The District estimated that

the loss of DACA protections could increase enrollment and costs in the Alliance, costing the District \$283,000 per month in 2018.¹⁶

28. For Hawaii, the loss of DACA status could increase public health care costs by \$0.3 million in 2018, including \$0.1 million in Medicaid emergency room costs and \$0.2 million in community-based uncompensated care costs.
29. For Illinois, the loss of DACA status could increase public health care costs by \$20.2 million in 2018, including \$6.7 million in Medicaid emergency room costs and \$13.6 million in community-based uncompensated care costs.
30. For Iowa, the loss of DACA status could increase public health care costs by \$1.2 million in 2018, including \$0.4 million in Medicaid emergency room costs and \$0.8 million in community-based uncompensated care costs.
31. For Massachusetts, the loss of DACA status could increase public health care costs by \$3.5 million in 2018, including \$1.1 million in Medicaid emergency room costs and \$2.3 million in community-based uncompensated care costs. Massachusetts has other state-funded health programs, including MassHealth and the Health Safety Net Program, which could also provide limited coverage; the costs of providing care in these programs could be higher than my estimate.
32. For New Mexico, the loss of DACA status could increase public health care costs by \$3.0 million in 2018, including \$1.0 million in Medicaid emergency room costs and \$2.0 million in community-based uncompensated care costs.
33. For New York, the loss of private insurance due to the rescission of DACA status could increase public health care costs by \$18.5 million in 2018, including \$6.1 million in

¹⁶ Declaration of Claudia Schlosberg, District of Columbia Dept. of Health Care Finance, Sept. 26, 2017, for *N.Y. et al., v. Trump et al.*, 17-cv-5228 (ECF 55-110).

Medicaid emergency room costs and \$12.4 million in community-based uncompensated care costs. New York currently provides Medicaid to DACA recipients, as it does to certain other legal non-citizen immigrants, but it uses state funds only, without federal matching, to cover DACA recipients. Under current law, the loss of DACA status would mean that current DACA recipients would need to use emergency Medicaid and community-based uncompensated care, as estimated above. It is possible that New York might choose to amend its state rules and extend Medicaid to former DACA recipients; this would impose additional costs to the state which are higher than those that I estimate above.

34. For North Carolina, the loss of DACA status could increase public health care costs by \$11.9 million in 2018, including \$3.9 million in Medicaid emergency room costs and \$8.0 million in community-based uncompensated care costs.
35. For Oregon, the loss of DACA status could increase public health care costs by \$4.9 million in 2018, including \$1.6 million in Medicaid emergency room costs and \$3.3 million in community-based uncompensated care costs.
36. For Pennsylvania, the loss of DACA status could increase public health care costs by \$2.6 million in 2018, including \$0.9 million in Medicaid emergency room costs and \$1.7 million in community-based uncompensated care costs.
37. For Rhode Island, the loss of DACA status could increase public health care costs by \$0.5 million in 2018, including \$0.2 million in Medicaid emergency room costs and \$0.4 million in community-based uncompensated care costs.
38. For Vermont, the loss of DACA status could increase public health care costs by \$0.1 million in 2018, including \$0.03 million in Medicaid emergency room costs and \$0.07

million in community-based uncompensated care costs. (Tom Wong's analysis did not include employment effects for Vermont, so I used data from the U.S. Citizenship and Immigration Services¹⁷ to identify the number of DACA recipients in Vermont and then used methods similar to those described above.)

39. For Virginia, the loss of DACA status could increase public health care costs by \$5.3 million in 2018, including \$1.8 million in Medicaid emergency room costs and \$3.6 million in community-based uncompensated care costs.
40. For Washington State, the loss of DACA status could increase public health care costs by \$7.8 million in 2018, including \$2.6 million in Medicaid emergency room costs and \$5.2 million in community-based uncompensated care costs.
41. In total, I estimate that the Plaintiff States could experience at least \$90 million more in public expenditures in 2018 due to the loss of DACA protections for residents of their states, including \$30 million in emergency Medicaid costs and \$61 million in community-based uncompensated care costs. As noted, because of special programs that exist in certain states, the actual cost could be higher. Over multiple years, the cumulative cost would be far higher.
42. Using similar methods for the overall United States (50 states and the District of Columbia), the total estimated impact of the loss of DACA status is at least \$343 million in 2018, of which \$113 million is for Medicaid emergency room costs and \$230 million is for community-based uncompensated care costs. All told, this could lead more than 400,000 individuals to lose private health insurance coverage and to become uninsured.

¹⁷ U.S. Citizenship and Immigration Services. Deferred Action for Childhood Arrivals Data (Through June 30, 2017), : https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_performancedata_fy2017_qtr3.pdf

Effects of the Loss of DACA Recipients as Health Care Providers

43. DACA recipients are not only patients who use health care services; many are health care professionals and support staff, such as physicians, nurses, medical aides, etc., who care for patients, including U.S. born citizens and others. A large share of the nation's health workforce is immigrant. Immigrant health care professionals not only provide needed manpower for patient care, they also provide diversity, language skills and cultural understanding that help meet the health needs of diverse American patients. The loss of DACA status would lead them to lose work authorization, which would lead to the loss of their jobs and the loss of the service that they render to the community. DACA termination could also cause students to lose eligibility for educational opportunities or scholarships, which may keep them from becoming health professionals. The loss of DACA status would create hardships for the organizations that employ current and future health care professionals, as well as the patients for whom they care. States have an inherent interest in maintaining the supply and quality of medical care for their residents, and this jeopardizes that interest.

44. The Migration Policy Institute analyzed data from the Census Bureau's American Community Surveys and estimated that 5,300 current DACA recipients are health care professionals (e.g., doctors, nurses, technicians) and another 8,600 are health care support staff (e.g., medical aides, home health staff, etc.).¹⁸ Health professionals typically provide care to hundreds of patients in a year, so the loss of several thousand health

¹⁸ Zong J, Soto A, Batalova J, Gelatt J, Capps R. *A Profile of Current DACA Recipients by Education, Industry and Occupation*. Washington, DC: Migration Policy Institute. Nov. 2017. www.migrationpolicy.org.

professionals would disrupt care for hundreds of thousands of patients living in states across the country. More are engaged in other positions in health care organizations, such as management, computer services, food service, etc. The Migration Policy Institute support estimated that 40,700 DACA recipients work in the education, health care or social services industry. Health care executives representing numerous hospitals have written President Trump, explaining the importance of DACA recipients as valued members of their health care workforce and how their employment is vital to their patients.¹⁹

45. In addition, large numbers of DACA recipients are training to become future health care professionals, including physicians, nurses, etc.; the loss of status would short-circuit their dreams and the service they would render to others in the future. The American Association of Medical Colleges has noted that a substantial number of DACA recipients have applied for or are enrolled in medical colleges and cancellation of DACA would imperil their education and their ability to serve patients in the future.²⁰ Even after a DACA recipient has completed medical school, he or she must typically complete post-graduate medical residency to become a fully qualified physician, but the loss of work authorization would endanger their residencies.²¹ Similar problems are likely to occur for those in training for nursing and other health professions.

¹⁹ Hochman R, et al. Letter to President Trump regarding DACA. Sept. 2, 2017. <https://www.chausa.org/docs/default-source/media-resources/catholic-health-care-system-ceos-ltr-to-president-trump-re-daca-9-2-2017.pdf>

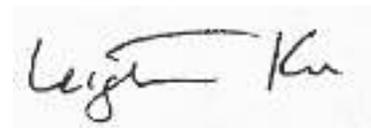
²⁰ Cited by Japsen B. How Trump's Move to End DACA May Worsen the Doctor Shortage. *Forbes*. Sept. 5, 2017. <https://www.forbes.com/sites/brucejapsen/2017/09/05/how-trumps-move-to-end-daca-worsens-the-doctor-shortage/#6a7f47b65b06>

²¹ Weinstein D, Saldana F. DACA and the Dream of Becoming a Physician. *New Eng J Med*. 2017; 377:1913-1915.

46. The loss of immigrant health workers could have adverse effects on the long-term care of frail elderly and disabled individuals: large numbers of DACA recipients work as home health workers, providing community-based care to senior citizens and those with disabilities in their homes.²² Reductions in the number of health workers through the cancellation of DACA would create hardships for the health facilities that employ them and the patients who rely on them for care. It is particularly worth noting that the Medicaid program is the leading payer for long-term care services in the U.S. The lack of suitably trained long-term care staff will adversely affect state Medicaid programs and limit the ability of these state programs to provide the care that they are obligated to offer to Medicaid recipients.

I declare under penalty of perjury under the laws of the United States of America that the forgoing is true and correct to the best of my knowledge.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Leighton Ku". The signature is written in a cursive style with a horizontal line above the name.

Leighton Ku, PhD, MPH

November 22, 2017

²² Scheiber N, Abrams R. What Older Americans Stand to Lose If Dreamers are Deported. *New York Times*. Sept. 7, 2017.

EXHIBIT QQQ

Talking Points - DACA Rescission

BACKGROUND

On June 15, 2012, then-Secretary of Homeland Security Janet Napolitano issued a memorandum entitled “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children,” establishing an administrative program that permitted certain individuals who came to the United States as juveniles and met several criteria – including lacking any lawful immigration status – to request consideration of deferred action for a period of two years, subject to renewal and eligibility for work authorization.

Recognizing the complexities associated with terminating the program, the Department will provide a limited window during which it will adjudicate certain requests for DACA and associated applications meeting certain parameters specified below.

TALKING POINTS: President Trump Directs Phased Ending of DACA

- Acting Secretary Duke issued a memo rescinding the June 15, 2012 memorandum that created the Deferred Action for Childhood Arrivals (DACA) program.
- President Donald J. Trump, in close coordination with the Department of Homeland Security and the Department of Justice, considered a number of factors, including the legality of the DACA program, the likely outcome of imminent litigation, and the administrative complexities associated with ending the program.
- We are a nation of laws. DACA was an unconstitutional, unwarranted exercise of authority by the Executive Branch. Only the U.S. Congress has the authority to pass legislation to provide immigration benefits to individuals.
- President Obama noted repeatedly in the months and years leading up to the creation of DACA that the President of the United States does not have the authority to create such a an open-ended, wide-ranging program without Congressional authorization.
- DACA will be phased out. All DACA benefits are provided on a two-year basis, so individuals who currently have DACA will be allowed to retain both DACA and their work authorizations (EADs) until they expire.
- U.S. Citizenship and Immigration Services will adjudicate – on an individual, case-by-case basis – properly filed pending DACA *initial requests* and associated applications for Employment Authorization Documents that have been accepted as of September 5, 2017.
- USCIS will adjudicate – on an individual, case-by-case basis – properly filed pending DACA renewal requests and associated applications for Employment Authorization Documents from current beneficiaries that have been accepted as of the date of this memorandum, and from current beneficiaries whose benefits will expire between September 5, 2017 and March 5, 2018 that have been accepted as of October 5, 2017.

- Individuals who have not submitted a request by September 5th, for an *initial grant* under DACA may no longer do so. All requests for initial grants received after September 5th will be rejected.
- In general, individuals who will no longer have DACA will not proactively be referred to ICE and placed in removal proceedings unless they satisfy one of the Department's enforcement priorities.
- The Department of Homeland Security urges DACA recipients to use the time remaining on their work authorizations to prepare for and arrange their departure from the United States – including proactively seeking travel documentation – or to apply for other immigration benefits for which they may be eligible.
- As of September 4, 2017, there are 689,821 individuals with current valid DACA.
- It should be noted that DACA was not intended to be available to persons who entered illegally after 2007. Thus, persons entering the country illegally today, tomorrow or in the future will not be eligible for the wind down of DACA.

EXHIBIT RRR



PRESS BRIEFINGS

Press Briefing by Press Secretary Sarah Sanders

Issued on: September 5, 2017



ALL NEWS

James S. Brady Press Briefing Room

1:54 P.M. EDT

MS. SANDERS: Good afternoon. This morning, faced with the very real possibility of a potential immediate shutdown of the entire DACA program by a federal court, President Trump took the responsible and constitutional step of announcing that the administration will be phasing out the program over the next two years.

Today's September 5th deadline was set by the plaintiffs presenting the administration with two, and only two, real options to choose from: the likely sudden cancellation of the program by a judge or an orderly wind-down that preserves the rule of law and returns the question to the legislative branch where it belongs. The President chose the latter of the two options.

The President made the best decision in light of the fact that the system was set up by the Obama administration, in clear violation of federal law. President Obama even admitted this himself when announcing the program, calling it a "temporary stopgap measure" and calling on Congress to act.

DACA was initiated after Congress explicitly rejected the same proposal in legislative form. In other words, President Obama didn't just suspend federal law, but implemented a policy Congress had explicitly rejected.

There is a misconception that DACA primarily serves as a shield from deportation. This is misleading. DACA grants work authorization to nearly 800,000 individuals who are not legally authorized to work. DACA recipients, whose average age is in their 20s, were not an enforcement

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priority before, and they certainly won't become a priority now. The priorities remain the same: criminals, security threats, and those who repeatedly violate our immigration laws.

The main effect of today's announcement is that work permits and other government benefits are being gradually phased out. But rather than leave DACA recipients and men and women of immigration enforcement in confusing limbo, while the DACA program was challenged by states in the same court that struck down another of the previous administration's unlawful immigration orders earlier this year, President Obama [sic] is laying out a responsible 24-month phase-out — sorry, President Trump. (Laughter.)

No permits will be expiring for another six months, and permits will remain active for up to two full years. The President was elected partly on his promise to deliver meaningful immigration reform that puts the jobs, wages, and security of the American people first. He is delivering on that promise every day, and he has put forward serious proposals to Congress that would responsibly end illegal immigration, prevent visa overstays, remove dangerous criminals, protect American jobs and wages, and create a merit-based system that grows our middle class.

These are not just President Trump's priorities; they are the American people's priorities. For decades now, the American people, immigrant and U.S.-born, have asked Congress to establish a lawful immigration system that protects our country. They've asked for strong, secure borders, they've asked us to protect American security and American jobs, and they've asked us to have compassion, not only for those who are here illegally, but for unemployed American citizens, including millions of unemployed African American and Hispanic citizens who continue to suffer under a broken system.

The President's DACA decision today brings us closer to a safer, fairer, and legal immigration system. Now that he has ended this unsustainable and unconstitutional program imposed by the previous administration, the President is calling on the men and women in Congress to fulfill their duty to the American people by truly reforming our immigration system for the good of all people.

And with that, I'll take your questions. John.

Q Sarah, one question that went unanswered today was, some 359 members of the DACA program enlisted in the U.S. Army in 2016. Their tour of duty would run the standard four years, I would assume, but their DACA status would only last two years. If there's no fix by Congress

before March the 5th, do you know what will happen to those people? Will they become ineligible to remain in the military, or will there be special dispensation? Has that been worked out?

MS. SANDERS: We have confidence that Congress is going to step up and do their job. This is something that needs to be fixed legislatively, and we have confidence that they're going to do that. And we stand ready and willing to work with them in order to accomplish responsible immigration reform, and that would include — DACA is certainly part of that process.

Q There are many Republicans who believe that getting something on the Republican side is not going to be easy; that the divisions that we see between the center and the right in the Republican Party will become only deeper. What gives you confidence that this will actually happen?

MS. SANDERS: With all due respect, I don't think the American people elected Congress to do things that were easy. They elected them to make a government that works, to work properly, and to work for American people. And that's their job. And if they can't do it, then they need to get out of the way and let somebody else who can take on a heavy lift and get things accomplished.

Major.

Q Sarah, in the context of DACA as a piece of legislation, would the President be willing to sign only something that addresses that? Or would it also be to have components of the RAISE Act? Would there need to be funding for the border wall? Or would he be willing to sign something that simply addresses DACA legislatively?

MS. SANDERS: The President wants to see responsible immigration reform, and he wants that to be part of it. But again, we can't take just a one-piece fix. We've got to do an overall immigration reform that's responsible and, frankly, that's lawful. And that's what the President wants to see Congress do.

Q What would be the priorities for him in a comprehensive reform package? It would be DACA and what else?

MS. SANDERS: And certainly to control the border, to improve vetting and immigration security, enforce our laws, and do things that protect American workers.

Q Let me ask you a question on North Korea. In the President's mind, is it an option to simply contain a North Korea that possess nuclear weapons?

MS. SANDERS: Certainly the priority of the administration is to have denuclearization of the Korean Peninsula, and it's also to protect American citizens. But certainly the priority would be that.

Phil.

Q Sarah, you're talking about a comprehensive immigration fix from Congress in a span of six months, and much to the President's frustration, Congress hasn't been able to really do much at all this year. What gives him confidence that they're going to be able to act on immigration? Has he spoken to any congressional leaders since making this DACA decision?

MS. SANDERS: He's spoken to a number of leaders, but hopefully, as you guys all know, they just came back from a three-week vacation. I think that they should be rested and ready to take on some big challenges that America faces.

Q Why put the fate of the lives of 800,000 DREAMers, people —

MS. SANDERS: Because it's Congress's job to legislate. It's not the President's job to create law. It's Congress's job to create legislation. I think that's something we all learned in 8th grade civics; I know I certainly did. And I think that every member of Congress should know that that is their duty, and we're asking them to fulfill it. It's pretty simple.

Q Do you think they'll be able to do it?

MS. SANDERS: I think that the American people elected them to do it. And again, if they can't, then they should get out of the way and let somebody else take their job that can actually get something done.

Steve.

Q What consideration are you giving to negotiations with North Korea, over the nuclear program?

MS. SANDERS: Look, I think in the terms of negotiations, we're looking at putting aggressive measures, both diplomatically, economically. And as we've said, all options are on the table and we're going to continue to push for a safer and denuclearized Korean Peninsula. And that's the priority here.

Jim.

Q It sounds the President is saying, and your saying, that if we're going to allow the DREAMers to stay in this country, we want a wall. Is that accurate?

MS. SANDERS: I don't think that the President has been shy about the fact that he wants a wall, and certainly something that he feels is an important part of a responsible immigration reform package.

Q Can I ask you one follow-up question? Why did the President not come out and make this announcement himself today? Why did he leave it to his Attorney General? It's his decision. These kids — their lives are on the line because of what he is doing. Why not have him come out and make this call?

MS. SANDERS: It's in large part a big part of the legal process. This was deemed illegal by, I think, just about every legal expert that you can find in the country, including many of Obama's own attorneys said that this was not a lawful program. And therefore it would be the Department of Justice to make a legal recommendation, and that's what they did.

Q Thank you, Sarah. Quick question, yes or no, and then a follow-up. Would the President sign a standalone DACA extension?

MS. SANDERS: Again, I have addressed this. The President is hoping to work with Congress on responsible immigration reform, and I laid out the priorities that the administration has on that front.

Q So the President has voiced, and you've voiced, some objections to the constitutionality of DACA. Where does the President stand on the program itself?

MS. SANDERS: I think that in the answers that I have given, is that the President has been — and I think part of the reason that this is complicated, and one of the reasons he's wrestled with this

back and forth, in large part is because this is not a easy one, and certainly something where he wants to be able to make a decision with compassion, but at the same time you can't allow emotion to govern. And this has to be something where the law is put in place and it's something that he would support if Congress puts it before him.

Q You would support it, if it came with — I am just trying to get the specifics

MS. SANDERS: Again, responsible immigration reform. We can't just have one tweet to the immigration system; we need really big fixes and big reform in this process. And we've laid out the principles that we feel are important in that.

John Decker.

Q Thank you, Sarah. Is this a position — what?

MS. SANDERS: Sorry, John Decker.

Q Thanks, Sarah. The President had, recently as February, expressed sympathy for the DACA recipients. Today we heard in a statement from House Speaker Paul Ryan, who said that these so-called DREAMers have done nothing wrong. Was this a difficult decision for the President to take this drastic action, given what he's said as recently as February? And does he agree with House Speaker Paul Ryan that these individuals — 800,000 individuals — have done nothing wrong?

MS. SANDERS: I think largely, yes, and that's why I said it was one of the things that the President wrestled with this decision all throughout the weekend. So I kind of addressed that, so I think that's pretty clear.

Q It was just this weekend that he wrestled with it? It wasn't leading up to it?

MS. SANDERS: Well, no — I mean, I think we've been clear throughout the process. There wasn't a final decision made until over the weekend because of the back-and-forth and the complexity of the issue, and the ability to make the right decision, and allow Congress to actually do their job and provide a fix, instead of just stopping the program. And that was a big point for the President.

Jordan.

Q Thanks, Sarah. I want to drill down a little more on what you mean when you say the President wants to act with heart and compassion in regard to these DACA recipients. Does that mean offering them a pathway to citizenship?

MS. SANDERS: I think it means providing a more permanent solution that's done through the legislative process; done legally and responsibly, unlike the previous administration.

Q A permanent solution — does that mean you're giving them legal status, legislatively? Like, what is the permanent solution that the President —

MS. SANDERS: I think that's something we want to work with Congress to determine exactly what that looks like. But there has to be — something needs to be done. It's Congress's job to do that, and we want to be part of that process. And make sure that there is a fix put in place and that this isn't ignored, like it has been for the last five years.

Q If Congress doesn't get it done by the March 5th deadline, considering the President's personal feelings about these DACA recipients, would he consider giving them additional time to get a solution passed?

MS. SANDERS: We'd like to have confidence that Congress will actually do their job. We're going ask that they do that and that they allow us to work with them and be part of that process. But again, if Congress doesn't want to do the job that they were elected to do, then maybe they should get out of the way and let someone else do it.

Steven.

Q Sarah, when we heard from the Attorney General this morning, he repeatedly referred to DACA recipients as illegal aliens. And at one point he intimated that hundreds of thousands of Americans did not get jobs that were taken by DACA recipients. Does the President share that view?

MS. SANDERS: I think that it's a known fact that there are over 4 million unemployed Americans in the same age group as those that are DACA recipients; that over 950,000 of those are African Americans in the same age group; over 870,000 unemployed Hispanics in the same age group. Those are large groups of people that are unemployed that could possibly have those jobs.

But again, we're looking for fixes. We're not looking for complaints but we're looking for solutions. And that's our focus moving forward.

Q How do you reconcile those statistics with the idea that hundreds of thousands of people, if the President gets what he wants, could achieve legal status? How do you reconcile those two competing interests?

MS. SANDERS: Well, I think one of the first things is, the President is looking to create a whole lot more jobs in America so that it addresses both problems. There's a reason he's focused largely, since day one of taking office, in creating a better market for businesses to create jobs, to hire more people, higher wages.

He's gotten rid of over 800 regulations that have helped do just that. 1.2 million jobs have been created since he came into office, and every single day we're looking for more ways to grow that number. And so we're doing our part to address and create an environment that allows people to have more jobs. And we're going to continue doing that.

Kristen.

Q Sarah, thanks. The President vowed to treat DREAMers with "great heart." How is this move treating them with great heart?

MS. SANDERS: I think by allowing an orderly process to take place. You know, there's a lot of people that I've seen attacking the President for not showing the level of compassion that they feel like he should. To me, the most heartless thing that I've seen all day today is that Democrats, like Nancy Pelosi, are using this decision today for fundraising while the President is trying to fix this situation. They are politicizing an issue instead of actually doing their job.

If they would spend less time fundraising and more time focusing on solutions, we wouldn't even be in this problem in the first place.

Q But keeping it on the President's decision, where all of this stems from, the DREAMers, the supporters of DREAMers says this is cold-hearted; you're leaving the future of 800,000 people uncertain, up in the air. What's your message to them?

MS. SANDERS: It's not cold-hearted for the President to uphold the law. We are a nation of law

and order. And the day that we start to ignore the things that we are that, then we throw away everything that gives these people a reason to want to come to our country. If we stop becoming the country that we were envisioned to be, then we throw away what makes us special, what makes America unique. This President is not willing to do that. The previous administration was; this one isn't.

But we want to have real solutions. We want to have laws that address these problems, but it's Congress's job to legislate, not the President's. And we actually want to uphold the Constitution, and I think people across this country should be celebrating the fact that they have a President that is standing up and upholding the Constitution as he was elected to do.

Margaret.

Q I'd like to ask you about North Korea. But quickly on DACA, is the President committed to honoring the will of Congress, essentially whatever Congress passes on DACA? Or does he reserve the right to veto a DACA fix if he feels that it doesn't kind of holistically do what you're talking about — a bigger-picture thing that touches on some of these things?

MS. SANDERS: As I've said, we want responsible immigration reform, and that would be part of that package and part of that process.

Q And then on North Korea, if I could just ask. Vladimir Putin has said that he doesn't believe that sanctions are going to work at all against North Korea. And I'm wondering whether the President himself is coming around to that perspective, or whether he still believes sanctions can be effective, and if he has any plans that you could share with us to talk with the Chinese President or the Russian President himself.

MS. SANDERS: Look, we've been clear about what our priorities are; that now is not the time for us to spend a lot of time focused on talking with North Korea, but putting all measures of pressure that we can. And we're going to continue through that process.

We've also said that everybody, including Russia, including China, need to do more to address the threat. This is a global threat, and everybody needs to take part in putting pressure on North Korea. And as we've said many times before, both Secretary Mattis and the President, that all options are on the table, and we're going to continue to keep them on the table until we get the results that we're looking for.

Q Sarah, the President has said that the DACA recipient should “rest easy.” He’s also said on several occasions that he loves them. Is he giving them his personal assurance that at the end of six months they will not be deported?

MS. SANDERS: I think he is giving Congress the ability to do their job. I’ve said that earlier —

Q What does “rest easy” mean when he said they should rest easy?

MS. SANDERS: Look, the President gave the ability for us to have a six-month process for Congress to actually step up and fix this problem. And they certainly have the ability to, and certainly should take that opportunity.

Q One other question about — during the other immigration moves that the administration has made, you made the argument that the President’s powers over immigration are very, very broad and unquestioned. Why in this case does he feel he can’t do anything by himself and he has to turn it over to Congress?

MS. SANDERS: That was a specific statute within the Constitution that allows the President to take action to protect Americans. These are two very different things and certainly not apples to apples.

John Gizzi.

Q Thank you, Sarah. Two questions. On DACA —

MS. SANDERS: Two-question Tuesday.

Q Kansas Secretary of State Kris Kobach, a close ally of the President’s, denounced the decision because of the six-month delay in it, and said there should be no phase-out; it should have been implemented immediately. What’s your response to that criticism from a strong supporter and ally of the President?

MS. SANDERS: I think our response is pretty clear. The President made a decision, and we feel very much that it was the right one.

Q The other thing is that you talk about 4 million jobs that could go to other people. Has the President ever discussed this part of DACA with some of the leaders of organized labor to try to

involve them in the process — President Trumka of the AFL-CIO, President Hoffa of the Teamsters, and others that they work with?

MS. SANDERS: I'm not sure about specific conversations on that exact figure, but I do know that he has had conversations with individuals and relevant stakeholders in this process on both sides that know that that is an issue.

Whether DACA existed or not, the fact that there are 4 million people in this age group that are unemployed and certainly why creating a better job market is a priority for the administration.

Francesca.

Q Thank you, Sarah. I wanted to follow up on what Jim asked. I don't know that we heard back here the rest of your answer.

You said that the reason that Attorney General Jeff Sessions put out the earlier statement on camera was because it was a legal argument. But a lot of what we've been talking about in here is a legislative argument. Why have we not heard from the President directly on this day? And can we expect to hear from him later today on this?

MS. SANDERS: You have heard directly from the President. He issued a pretty lengthy statement directly from the President.

Q Why was it Attorney General Jeff Sessions that went on camera when the President hasn't gone on camera to make this case today about what a big heart he has and how compassionate he is, and how he wants Congress to take legislative action on this to essentially save DACA?

MS. SANDERS: The President has spoken about this numerous times in the past. But at the same time, this was a legal issue because there was a court decision that had to be made with a timeline not placed — that the administration created, but a timeline that was created by the attorney generals in those states that were forcing this issue and this decision to take place by today. It was a legal decision, and that would fall to the Attorney General, and that's why he would be the one making the announcement.

Peter.

Q Talking about stakeholders, has the President talked to any enrollees in the DACA program?

MS. SANDERS: I believe he has had several conversations with enrollees and those that have been part of the program.

Q Can you tell us anything about that — in what context, and what he got out of those conversations?

MS. SANDERS: Look, again, I think that the President's goal was to talk to a lot of people on both sides of the issue, and, one, do what it takes to uphold the law, uphold the Constitution, but also allow Congress to create a permanent solution and fix the problem, which he's done by allowing for that six-month period.

Q He's had those conversations recently as part of this recent deliberation?

MS. SANDERS: Again, I'm not sure on the exact timeline, but I know he has had many conversations with people on both sides of this issue, certainly people that support keeping it as is and those that support getting rid of it.

Q (Inaudible) people will be affected by it, though, right?

MS. SANDERS: Right. Again, like I said, he's, I know, had conversations with people that have been part of the program.

Catherine.

Q Sarah, you said the President wrestled with the decision all weekend. Can he walk us through any of the process he went through to get to this — when did he make this decision, who was he consulting with, and how this came about?

MS. SANDERS: He made the final decision over the weekend. And as I said, he spoke to many relevant stakeholders and individuals that support a variety of positions on this program.

Q Sarah, can you tell us anything about the meeting today — the Big 6, what are you expecting out of that? Is there anything you're hoping to get out of that?

MS. SANDERS: We'll continue to keep you guys posted. I think the ultimate goal is, as Congress

is coming back into session, to talk about some of the big priorities — certainly tax reform, immigration reform, among many other things that are going to be on the agenda for the fall.

Noah. I'll go here, and then I'll come back to you.

Q The President has basically told Congress to do this, but he hasn't written any legislation, similar to how he approached —

MS. SANDERS: I didn't know it was the President's job to write out specific details of legislation. (Laughter.) I think that's exactly what the —

Q Well, other Presidents with their major initiatives have taken a greater role in helping to craft that legislation. They found friendly allies in Congress to actually be the ones to propose it, but this President has not. Why hasn't he made that shift? And does he think it's — is he reconsidering it in light of the fact that some of the other major pushes he's tried to make have not been successful legislatively?

MS. SANDERS: We've laid out detailed principles, and we have worked with members of Congress on specific pieces of the legislation, and we'll continue to do that.

Q Thank you, Sarah. Quick international question. The situation in Myanmar is quickly escalating to a major humanitarian crisis. Has the President been briefed on the situation in Myanmar? If so, is he planning to speak to any of the leaders during the upcoming meeting about this situation?

MS. SANDERS: I know this is something that we're monitoring closely, but I'm not aware of any specific conversations that are planned at this time. But as always, in calls like that, we will keep you guys posted and put a readout after.

Cecilia.

Q The President says that DREAMers won't be a priority for enforcement, but that's not a guarantee of protection. Is this White House willing to offer one?

MS. SANDERS: Again, they're not a targeted priority. But the goal here is that Congress actually fixes the problem, and then that isn't an issue. And so that's the focus over the next six months, is making sure that something takes place, that Congress does their job, and a real solution is

Q But is there a way to put this in writing so that these 800,000 people who are very fearful of ending up in a country that they don't know have some guarantee that, in fact, they won't be deported in, say, 6 months?

MS. SANDERS: I think that the statement that the President put out earlier today lays out what the priorities are and lays out what the focus of the administration is, and that they are not targets — they are certainly not priority targets of this administration. They weren't before, and they won't be now.

And again, Congress has six months, which is a pretty long time to get something done. And we hope they do, and there's a solution in that so that this isn't a problem moving forward.

Anita.

Q I was wondering — you mentioned that the President had spoken over the weekend or in recent days to various stakeholders. We had talked to the attorney general's office in Texas and they had said that they did not get a heads up or nobody conferring with them about this. Did you all talk to the 10 states, and are you positive that they are not suing?

MS. SANDERS: I know that various members of the administration have been in contact with individuals in those states.

I'm going to wrap here, but I have one note — I have one thing I'd like to just add. The President will be announcing the donations that he will be personally making to the various charities. And thank you to those who have submitted; we had several people put in submissions, and he'll be doing that tomorrow.

And again, I know there were a lot of questions over the weekend. That will be a personal donation of \$1 million from the President to various organizations and charities, many of which came from this room. So thank you again for that.

Hope you have a good day.

END

2:20 PM. EDT



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