

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS,
BROWNSVILLE DIVISION**

STATE OF TEXAS, *et al.*,

Plaintiffs,

v.

UNITED STATES OF AMERICA, *et al.*,

Defendants,

KARLA PEREZ, *et al.*,

Defendants-Intervenors,

and

STATE OF NEW JERSEY,

Movant.

Case No. 1:18-cv-0068-ASH

**MEMORANDUM OF LAW OF NINETEEN UNIVERSITIES AS
AMICI CURIAE IN SUPPORT OF DEFENDANTS' OPPOSITION TO PLAINTIFFS'
MOTION FOR A PRELIMINARY INJUNCTION**

Anton Metlitsky (*pro hac vice* pending)
Jennifer Sokoler (*pro hac vice* pending)
O'Melveny & Myers, LLP
7 Times Square
New York, NY 10036
Tel: 212-326-2000
Fax: 212-326-2061
Email: ametlitsky@omm.com
jsokoler@omm.com

Ryan K. Yagura
Texas Bar No. 24075933
O'Melveny & Myers LLP
400 South Hope Street
Los Angeles, CA 90071
Phone: (213) 430-6000
Fax: (213) 430-6407
Email: ryagura@omm.com

Counsel for Amici Curiae

TABLE OF CONTENTS

	Page
INTRODUCTION	1
ARGUMENT	3
I. DACA Students Enrolled at <i>Amici</i> Institutions Are Some of the Most Gifted and Motivated Young People in the World	3
II. Enjoining DACA Would Harm <i>Amici</i> 's Students and Alumni, and Would Deprive Both <i>Amici</i> Institutions and the Country of Their Promise.....	8
A. Plaintiffs' Proposed Injunction Would Have a Devastating Impact on DACA Students	8
B. Enjoining DACA Would Prevent Undocumented Students From Fully Benefitting From and Contributing To <i>Amici</i> 's Institutions.....	10
C. Enjoining DACA Deprives the Nation of Invaluable Resources.....	12
CONCLUSION.....	15

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Batalla Vidal v. Nielsen</i> , 279 F. Supp. 3d 401 (E.D.N.Y. 2018)	9
<i>Nat'l Ass'n for the Advancement of Colored People v. Trump</i> , 298 F. Supp. 3d 209 (D.D.C. 2018)	9
<i>Plyler v. Doe</i> , 457 U.S. 202 (1982).....	10
<i>Regents of Univ. of California v. United States Dep't of Homeland Sec.</i> , 279 F. Supp. 3d 1011 (N.D. Cal. 2018)	9
<i>Sweezy v. New Hampshire</i> , 354 U.S. 234 (1957).....	4
Other Authorities	
Amanda Mott, <i>Inaugural President's Innovation Prize Winners Announced at Penn</i> , PENNNEWS (Apr. 20, 2016), https://news.upenn.edu/news/inaugural-president-s-innovation-prize-winners-announced-penn	13
<i>Brown President Urges Trump to Continue DACA</i> , BROWN UNIV. NEWS (Aug. 30, 2017), https://news.brown.edu/articles/2017/08/daca	14
Brown University, <i>Undergraduate Admission</i> , https://www.brown.edu/admission/undergraduate/apply	4
Columbia Undergraduate Admissions, <i>Undocumented Students and DACA</i> , https://undergrad.admissions.columbia.edu/applyfirst-year/undocumented-students	5
Cornell University, <i>About Cornell University</i> , https://www.cornell.edu/about/mission.cfm	4
Dartmouth College, <i>Dartmouth College Mission Statement</i> , http://home.dartmouth.edu/mission-statement	3
Duke University, <i>Indenture of James B. Duke Establishing the Duke Endowment</i> (1924), https://archive.org/details/indentureofjames00slsn	3
<i>Durbin: Let's Show The American Dream Is Still Alive By Passing The Dream Act</i> (Sept. 12, 2017), https://www.durbin.senate.gov/newsroom/press-releases/durbin-lets-show-the-american-dream-is-still-alive-by-passing-the-dream-act	13

TABLE OF AUTHORITIES
(continued)

	Page(s)
Gabe Ortiz, <i>Luke: DACA “Gave Me a New Faith, and Brought Out a New Me to Reject Fear”</i> , AMERICA’S VOICE (Dec. 9, 2016), https://americasvoice.org/blog/luke-daca-gave-new-faith-brought-new-reject-fear/	6
Georgetown University, <i>Georgetown Continues to Voice Support for Rights of Undocumented Students</i> (Dec. 13, 2017), https://www.georgetown.edu/news/georgetown-signs-onto-amicus-brief-supporting-daca	6
Greg Lee, <i>Undocumented Santa Ana Scholar Accepted to Harvard Medical School</i> , ABC NEWS (June 16, 2016), http://abc7.com/news/undocumented-santa-ana-scholar-accepted-to-harvard-medical-school/1388040/	14
Harvard College Admissions & Financial Aid, <i>What We Look For</i> , https://college.harvard.edu/admissions/application-process/what-we-look	4
Harvard College Financial Aid Office, <i>How Aid Works</i> , https://college.harvard.edu/financial-aid/how-aid-works	5
Harvard University, <i>The Charter of the President and Fellows of Harvard College, Under the Seal of the Colony of Massachusetts Bay, and Bearing the Date May 31st A.D. 1650</i> , https://library.harvard.edu/university-archives/using-the-collections/online-resources/charter-of-1650	3
Institute for Immigration, Globalization, & Education, <i>In the Shadows of the Ivory Tower: Undocumented Undergraduates and the Liminal State of Immigration Reform</i> 7 (2015), https://www.luminafoundation.org/files/resources/in-the-shadows.pdf	7
Jake Miller, <i>White Coats for DACA</i> , HARVARD MED. SCH. NEWS (Sept. 14, 2017), https://hms.harvard.edu/news/white-coats-daca	14
L. Rafael Reif, President of MIT, <i>Trump Should Not Repeal DACA</i> , BOSTON GLOBE (Aug. 31, 2017), https://www.bostonglobe.com/opinion/2017/08/31/trump-shouldn-repeal-daca/9sqIjciw0UseCKGTSVCRIK/story.html	3, 12
Laura Anthony, <i>Two Years Later, Tania Chairez Still ‘Undocumented and Unapologetic’</i> , DAILY PENNSYLVANIAN (April 17, 2014), http://www.thedp.com/article/2014/04/q-a-with-tania-chairez	11
Letter from Caltech President Thomas F. Rosenbaum to The Caltech Community (Sept. 5, 2017), http://www.caltech.edu/content/statement-daca	2

TABLE OF AUTHORITIES
(continued)

	Page(s)
Letter from Cornell University President Martha E. Pollack to President Donald J. Trump (Aug. 31, 2017), http://news.cornell.edu/stories/2017/09/pollack-urges-trump-support-daca-program	1
Letter from Harvard University President Drew Gilpin Faust to President Donald J. Trump Regarding DACA (Aug. 28, 2017), https://www.harvard.edu/president/news/2017/letter-to-president-trump-regarding-daca	1, 15
Letter from Princeton University President Christopher L. Eisgruber to President Donald J. Trump (Aug. 30, 2017), http://www.princeton.edu/president/eisgruber/speeches-writings/archive/?id=18048	2
Liz Mineo, <i>Ask the Undocumented</i> , HARVARD GAZETTE (May 4, 2017), https://news.harvard.edu/gazette/story/2017/05/4-undocumented-harvard-college-students-recount-their-journeys-and-their-hopes/	5, 6, 7
MIT Student Financial Services, <i>Financial Aid at MIT</i> , https://sfs.mit.edu/financial-aid-mit	5
MIT, <i>MIT Mission</i> , http://www.mit.edu/aboutmit/	4
Northwestern University, <i>Why Study Abroad?</i> , http://www.northwestern.edu/studyabroad/prospective-students/why-study-abroad/index.html	10
Penn for Immigrant Rights, <i>Founders Statement</i> , https://upenn4immigrantrights.wordpress.com/blog/	11
Princeton University, <i>Affordable for All</i> , https://www.princeton.edu/admission-aid/affordable-all	5
Princeton University, <i>In Service of Humanity</i> , https://www.princeton.edu/meet-princeton/service-humanity	4
Roberto Torres, <i>These 3 Companies Are Coming to the Pennovation Center</i> , TECHNICAL.LY (June 30, 2016), https://technical.ly/philly/2016/06/30/pennovation-center-cosy-xeed-fever-smart/	13
Santiago Tobar Potes, <i>DACA Student: Deporting Me and 800,000 Dreamers Is a Man-Made Disaster That Will Be Terrible for US</i> , FOX NEWS (Sept. 5, 2017), http://www.foxnews.com/opinion/2017/09/05/daca-student-deporting-me-and-800000-dreamers-is-man-made-disaster-that-will-be-terrible-for-us.html	5

TABLE OF AUTHORITIES
(continued)

	Page(s)
Stanford University, <i>The Founding Grant with Amendments, Legislation, and Court Decrees</i> (1885), https://stacks.stanford.edu/file/druid:bz978md4965/su_founding_grand.pdf	3
Stephanie Leutert, <i>Undocumented in the Ivy League</i> , AM. Q. (May 5, 2012), http://www.americasquarterly.org/content/undocumented-ivy-league	7
Teach for America, <i>Teach for America Urges Congress To Pass The DREAM Act</i> (Sept. 5, 2017), https://www.teachforamerica.org/top-stories/daca-dream-act-how-you-can-stand-tfa-dreamer-teachers-and-undocumented-students	13
Troy Parks, <i>Med Student ‘Dreamers’ Speak Out on Maintaining DACA Protections</i> , AMA WIRE (Feb. 13, 2017), https://wire.ama-assn.org/ama-news/med-student-dreamers-speak-out-maintaining-daca-protections	14, 16
Yale Admissions, <i>What Yale Looks For</i> , https://admissions.yale.edu/what-yale-looks-for	4

INTRODUCTION

Amici are nineteen distinguished American institutions of higher education.¹ *Amici* have educated and helped launch the careers of many celebrated leaders and innovators in all fields, including more than 200 Nobel Prize recipients, half of the astronauts who have walked on the moon, dozens of Fortune 500 CEOs, and numerous Academy Award and Pulitzer Prize-winning artists and authors. And every day, *amici*'s alumni can be found teaching in our schools, performing cutting-edge research, discovering ground-breaking technology, healing patients in our hospitals, starting businesses, leading our armed forces, and reporting on current events for local and global news outlets. This is no coincidence, but a reflection of *amici*'s principal objective: To improve the human condition by educating the next generation of people with the talent, drive, and heart needed to identify and solve society's most pressing problems.

In furtherance of this mission, all *amici* institutions have admitted students who have applied for and been granted relief from deportation under Deferred Action for Childhood Arrival ("DACA"). "[L]ike their peers," the DACA students on *amici*'s campuses "are extraordinarily talented young people who . . . aspire to be leaders in public service, science, business, medicine, and the arts. They embody the drive and determination that has made the United States the most prosperous and innovative country in the world."² And by virtue of

¹ They include Brown University, California Institute of Technology ("Caltech"), Columbia University, Cornell University, Dartmouth College, Duke University, Emory University, Georgetown University, George Washington University, Harvard University, Massachusetts Institute of Technology ("MIT"), Northwestern University, Princeton University, Stanford University, University of Chicago, the University of Pennsylvania, Vanderbilt University, Washington University in St. Louis, and Yale University.

² Letter from Harvard University President Drew Gilpin Faust to President Donald J. Trump Regarding DACA (Aug. 28, 2017), <https://www.harvard.edu/president/news/2017/letter-to-president-trump-regarding-daca>. See also, e.g., Letter from Cornell University President Martha E. Pollack to President Donald J. Trump (Aug. 31, 2017), <http://news.cornell.edu/stories/2017/09/pollack-urges-trump-support-daca-program> ("I believe that our DACA students are

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

The injunction that Plaintiffs seek would deter young people from pursuing higher education and preclude the remarkable students enrolled at *amici* institutions from deriving the full benefit of their time on our campuses. Enjoining DACA would threaten *amici*'s ability to attract and educate the most talented individuals and so undermines their educational missions.³ Indeed, ending DACA would force future scholars, innovators, and leaders to choose between withdrawing to the margins of our society and national economy or returning to countries that they have never called home. Whatever they choose, their gifts and education will be lost to this nation. *Amici* therefore urge this Court to deny Plaintiffs' motion for a preliminary injunction.

Amici submit this brief to inform the Court about their experiences with the DACA students on their campuses and to warn of the consequences—to the students, *amici*, and the country—of enjoining DACA. At this time of profound challenges—from global pandemics and insoluble conflicts, to climate change and income inequality—the importance of *amici*'s shared mission of advancing and improving the human condition through teaching and research comes

'incredible kids.' . . . It would be more than a shame if you . . . extinguish so many bright and productive futures just as they are getting started."); Letter from Princeton University President Christopher L. Eisgruber to President Donald J. Trump (Aug. 30, 2017), <http://www.princeton.edu/president/eisgruber/speeches-writings/archive/?id=18048> ("I expect that the extraordinary young people at Princeton and other institutions of higher education who have benefited from the DACA program will be leaders in building the innovation economy that your administration has championed.").

³ Letter from Caltech President Thomas F. Rosenbaum to The Caltech Community (Sept. 5, 2017), <http://www.caltech.edu/content/statement-daca> (ending DACA "cuts to the core of what we stand for as an educational institution: to identify, attract, and support talented individuals, and to create a community where students, staff, and faculty alike can learn from each other and thrive").

into sharper focus. To achieve their ambitious goals of advancing knowledge and transforming our society, schools must be able to identify and educate the very best students, and those students must be able to work after graduation. Enjoining DACA would unjustly sideline a discrete group of students. As one of *amici*'s Presidents put it, no student—*amici*'s or otherwise—should be forced to live in constant fear of “losing the opportunities they earned, the communities they think of as home, and the nation they love.”⁴ Nor should the nation lose the benefits of that student's full participation in our society.

ARGUMENT

I. DACA STUDENTS ENROLLED AT *AMICI* INSTITUTIONS ARE SOME OF THE MOST GIFTED AND MOTIVATED YOUNG PEOPLE IN THE WORLD

Although important differences exist from school to school, *amici* are united in a core mission: to educate extraordinary students from diverse backgrounds and prepare them for leadership, active citizenship, and achievement in every field of human endeavor. Each of *amici*'s schools, to borrow from one, “educates the most promising students and prepares them for a lifetime of learning and of responsible leadership.”⁵ From their founding charters⁶ to their

⁴ L. Rafael Reif, President of MIT, *Trump Should Not Repeal DACA*, BOSTON GLOBE (Aug. 31, 2017), <https://www.bostonglobe.com/opinion/2017/08/31/trump-shouldn-repeal-daca/9sqIjciw0UseCKGTSVCR1K/story.html>.

⁵ Dartmouth College, *Dartmouth College Mission Statement*, <http://home.dartmouth.edu/mission-statement> (last visited July 12, 2018).

⁶ See, e.g., Duke University, *Indenture of James B. Duke Establishing the Duke Endowment*, at 24 (1924), <https://archive.org/details/indentureofjames00slsn> (calling for courses of instruction in areas that “can do most to uplift mankind” and “help to develop our resources, increase our wisdom and promote human happiness”); Stanford University, *The Founding Grant with Amendments, Legislation, and Court Decrees*, at 24 (1885), https://stacks.stanford.edu/file/druid:bz978md4965/su_founding_grant.pdf (Stanford University's “chief object is the instruction of students with a view to producing leaders and educators in every field of science and industry”); Harvard University, *The Charter of the President and Fellows of Harvard College, Under the Seal of the Colony of Massachusetts Bay, and Bearing the Date May 31st A.D. 1650*, <https://library.harvard.edu/university-archives/using-the-collections/online-resources/>

current websites,⁷ these clearly stated educational objectives govern how *amici* “determine for [themselves] on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study.” *Sweezy v. New Hampshire*, 354 U.S. 234, 263 (1957) (Frankfurter, J., conc’g) (quotation omitted).

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

charter-of-1650 (last visited July 12, 2018) (Harvard’s mission includes “the advancement of all good literature, arts, and sciences”).

⁷ See, e.g., Cornell University, *About Cornell University*, <https://www.cornell.edu/about/mission.cfm> (last visited July 12, 2018) (Cornell University’s “mission is to discover, preserve and disseminate knowledge, to educate the next generation of global citizens, and to promote a culture of broad inquiry throughout and beyond the Cornell community”); MIT, *MIT Mission*, <http://www.mit.edu/aboutmit/> (last visited July 12, 2018) (MIT’s goal “is to advance knowledge and educate students in science, technology, and other areas of scholarship that will best serve the nation and the world in the 21st century”); Princeton University, *In Service of Humanity*, <https://www.princeton.edu/meet-princeton/service-humanity> (last visited July 17, 2018) (“Princeton University has a longstanding commitment to service, reflected in Princeton’s informal motto — Princeton in the nation’s service and the service of humanity — and exemplified by the extraordinary contributions that Princetonians make to society.”).

than themselves.”⁸ Additionally, *amici* have worked to ensure that the most qualified students can enroll in their institutions, irrespective of their socioeconomic and immigration status.⁹

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

- Santiago Tobar Potes, a rising junior at Columbia University, was a straight-A student in high school, scored at the highest levels on state and national academic tests,

⁸ Yale Admissions, *What Yale Looks For*, <https://admissions.yale.edu/what-yale-looks-for> (last visited July 12, 2018); see also Harvard College Admissions & Financial Aid, *What We Look For*, <https://college.harvard.edu/admissions/application-process/what-we-look> (last visited July 12, 2018) (“We seek to identify students who will be the best educators of one another and their professors—individuals who will inspire those around them during their college years and beyond.”); Brown University, *Undergraduate Admission*, <https://www.brown.edu/admission/undergraduate/apply> (last visited July 12, 2018) (“We will consider how your unique talents, accomplishments, energy, curiosity, perspective and identity might weave into the ever-changing tapestry that is Brown University.”).

⁹ Indeed, many of *amici* provide at least their undergraduate students complete, need-based financial aid. See, e.g., Harvard College Financial Aid Office, *How Aid Works*, <https://college.harvard.edu/financial-aid/how-aid-works> (last visited July 12, 2018) (Harvard is “committed to meeting 100 percent of demonstrated financial need for all four years” of undergraduate education irrespective of citizenship status); MIT Student Financial Services, *Financial Aid at MIT*, <https://sfs.mit.edu/financial-aid-mit> (last visited July 12, 2018) (MIT promises its undergraduate applicants that once they are admitted, the university will “meet [their] full financial need for all four years of [their] undergraduate career.”); Columbia Undergraduate Admissions, *Undocumented Students and DACA*, <https://undergrad.admissions.columbia.edu/apply/first-year/undocumented-students> (last visited July 12, 2018) (Columbia is “committed to meeting 100% of the demonstrated financial need of all students admitted as first-years or transfer students pursuing their first degree, regardless of citizenship status”); Princeton University, *Affordable for All*, <https://www.princeton.edu/admission-aid/affordable-all> (last visited July 17, 2018) (“The full need of all admitted international students is met the same as it is for students from the United States.”).

speaks six languages and is an accomplished violinist who gave free lessons to impoverished youth in his hometown of Miami, Florida.¹⁰

- Laura Veira-Ramirez, a rising junior at Harvard concentrating in history and literature with a secondary in sociology, had the highest grade point average in her high school class in Connecticut.¹¹ At graduation, she gave a speech that revealed her undocumented status to many of her classmates for the first time, precisely because she “wanted to show how much you [can] accomplish even though you may be undocumented.”¹²
- Luis Gonzalez, a rising senior at Georgetown majoring in American Studies, graduated from high school in California, with a 4.69 grade point average and with passing scores on all nine of the Advanced Placement exams that he took.¹³ As the secretary of his high school’s National Honor Society chapter, he helped organize an anti-bullying campaign in the elementary school he had attended and spent most of his Saturdays tutoring classmates in math.
- Luke Hwang, a current PhD candidate in chemistry at the University of Chicago, graduated from a competitive math and sciences magnet high school in Bergen County, New Jersey, where he won a number of awards at regional science fairs and volunteered as an Emergency Medical Technician in his local ambulance corps. Luke was next accepted as a University Scholar in the Macaulay Honors College at the City College of New York, from which he received a Bachelor’s of Science in Chemistry. In addition to graduating *summa cum laude*, Luke received an award for obtaining the highest grade point average of any chemistry major.¹⁴
- Barbara Olachea Lopez Portillo is a rising senior at Dartmouth, where she is double majoring in film and media studies and sociology. She was the valedictorian of her high school class in Phoenix, Arizona, the secretary of her school’s student government, and an active participant in various other extracurricular activities, including Inspire Arizona, an organization that promotes civic engagement.

¹⁰ Santiago Tobar Potes, *DACA Student: Deporting Me and 800,000 Dreamers Is a Man-Made Disaster That Will Be Terrible for US*, FOX NEWS (Sept. 5, 2017), <http://www.foxnews.com/opinion/2017/09/05/daca-student-deporting-me-and-800000-dreamers-is-man-made-disaster-that-will-be-terrible-for-us.html>.

¹¹ Liz Mineo, *Ask the Undocumented*, HARVARD GAZETTE (May 4, 2017), <https://news.harvard.edu/gazette/story/2017/05/4-undocumented-harvard-college-students-recount-their-journeys-and-their-hopes/>.

¹² *Id.*

¹³ Georgetown University, *Georgetown Continues to Voice Support for Rights of Undocumented Students* (Dec. 13, 2017), <https://www.georgetown.edu/news/georgetown-signs-onto-amicus-brief-supporting-daca>.

¹⁴ Gabe Ortiz, *Luke: DACA “Gave Me a New Faith, and Brought Out a New Me to Reject Fear”*, AMERICA’S VOICE (Dec. 9, 2016), <https://americasvoice.org/blog/luke-daca-gave-new-faith-brought-new-reject-fear/>.

- Johan Villanueva, a rising junior at MIT majoring in chemical engineering, graduated second in his class from the largest public high school in Chicago. In addition to being the co-captain of his high school's Math Team, Johan was involved in Homeland Helpers, a student group dedicated to assisting the city's homeless population, the Environmental Club, and the National Honor Society.

DACA students' presence on *amici*'s campuses is all the more notable given the enormous challenges that undocumented youth face in order to obtain a higher education. To start, the vast majority of these students have grown up in households that survive on incomes far below the federal poverty line, and most are the first persons in their families to attend college.¹⁵ Additionally, these students often cope with family instability and anxiety relating to their undocumented status.¹⁶ As one DACA student at Yale explained:

[The] challenges . . . start in high school—when many undocumented students, seeing no way out of their limbo status, lose motivation. Others pick up jobs on the side to financially help their families, slowly drifting away from their classwork. Even for those who remain dedicated to their classes, studies show a lack of information regarding university options and an inability to obtain financial aid obstructs the path to higher education.¹⁷

Given the significant adversity that DACA students have surmounted prior to even applying to *amici* institutions, it is no surprise that they have also excelled on *amici*'s campuses. Jin Park¹⁸ was born in South Korea and came to New York City at age 7. Growing up, Park understood that his family was different: “I knew that my family couldn’t get a car, that we

¹⁵ See Institute for Immigration, Globalization, & Education, *In the Shadows of the Ivory Tower: Undocumented Undergraduates and the Liminal State of Immigration Reform* 7 (2015), <https://www.luminafoundation.org/files/resources/in-the-shadows.pdf> (reporting on a survey of undocumented students that found “61.3% . . . had an annual household income below \$30,000” and 67.6% were first-generation college students).

¹⁶ *Id.* at 2 (“[Undocumented youth] are disproportionately more likely to grow up in poverty, crowded housing, lacking health care, and residing in households where families have trouble paying rent and affording food.”).

¹⁷ Stephanie Leutert, *Undocumented in the Ivy League*, AM. Q. (May 5, 2015), <http://www.americasquarterly.org/content/undocumented-ivy-league>.

¹⁸ Jin Park is a Defendant-Intervenor in this litigation.

didn't have health care, and that we should avoid busy streets, where immigration raids often take place[,] . . . but I didn't quite understand it.”¹⁹ He found out about his immigration status when a Manhattan hospital rejected him from an internship program on that basis. Jin credits DACA with giving him the confidence to apply to college to pursue his dream of becoming a “doctor to work on policies to help the most vulnerable.”²⁰ Indeed, his professional goals are an outgrowth of his experience growing up undocumented: “When I was 11, I had to search online how to treat a burn at home because my father had been burned at work and couldn't go to the hospital.”²¹ A 2018 Harvard graduate and Class Day speaker, Jin was nominated by his school for both a Rhodes and Marshall Scholarship.

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

A. Plaintiffs' Proposed Injunction Would Have a Devastating Impact on DACA Students

DACA students are American in everything except immigration status. They have come of age in this country, excelling in our elementary, middle and high schools, praying in our houses of worship, playing on our little league teams, and celebrating our national holidays. Still more, an amazing number of these young people have demonstrated their dedication to this country's ideals by actively engaging in its civic life to the full extent permitted by law. Even before their arrival on our campuses, many of *amici*'s students and alumni led voter registration drives, carried petitions, testified before state and federal legislative bodies, wrote letters to the editor, and participated in documentary film projects. And they continue to do so today—despite

¹⁹ Mineo, *supra* note 11.

²⁰ *Id.*

²¹ *Id.*

the potential consequences for themselves, their friends, and their loved ones. In short, many of these young people have engaged in precisely the kind of courageous civic activities that are crucial to the continued vitality of our democracy.

While DACA does not provide our students and alumni a path to citizenship, it does offer them a measure of security and access to opportunities for educational and professional development. As Juan Jose Martinez Guevara, a rising junior at Georgetown, whose goal is someday to “work for the government—to help achieve what is best for America in the world and to help make the world a safer place”—put it:

Thanks to DACA, I now have a part-time job on campus and can help ease the cost of college on my parents. Thanks to DACA I can feel safe and confident while traveling, whether it be to attend school or to visit my family. Thanks to DACA I can focus on my studies without worrying that it may all be taken away from me at any second. I have always *thought* of myself as an American, but it is thanks to DACA that I can begin to truly *feel* like one, too.

Enjoining DACA would wrest from Juan and hundreds of thousands of strivers like him the sense of safety and possibility that they deserve and have come to rely on. *Batalla Vidal v. Nielsen*, 279 F. Supp. 3d 401, 431 (E.D.N.Y. 2018) (“[E]ducational institutions have enrolled DACA recipients who, if they lose their DACA benefits, may be forced to leave the United States or may see little need to continue pursuing educational opportunities.”); *see also Regents of Univ. of California v. United States Dep’t of Homeland Sec.*, 279 F. Supp. 3d 1011, 1048 (N.D. Cal. 2018) (“DACA recipients, their employers, their colleges, and their communities all developed expectations based on the possibility that DACA recipients could renew their deferred action and work authorizations for additional two-year periods.”); *Nat’l Ass’n for the Advancement of Colored People v. Trump*, 298 F. Supp. 3d 209, 240 (D.D.C. 2018) (“Because DHS failed to even acknowledge how heavily DACA beneficiaries had come to rely on the expectation that they would be able to renew their DACA benefits, its barebones legal

interpretation was doubly insufficient and cannot support DACA’s rescission.”). Through no fault of their own, these young people would face the terrifying prospect of having to return to a life in which they have little chance of making the best use of their hard-earned skills and knowledge, or, worse still, being removed altogether and forced to make their way in a country that is wholly foreign to them.

An injunction ending DACA also would send a clear message to the more than one million undocumented children in the United States that the trails *amici*’s students and alumni have blazed lead nowhere and are not worth following. That message is antithetical to the commitment to equal opportunity on which this country was founded, raising “the specter of a permanent caste of undocumented [immigrants] . . . denied the benefits that our society makes available to citizens and lawful residents.” *Plyler v. Doe*, 457 U.S. 202, 218–19 (1982). Rather than serving our country’s interests, enjoining DACA will deprive our society of the many contributions these young people are prepared and eager to make.

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

Consistent with their missions, *amici* are committed to providing a full and complete education to all of their enrolled students—anything less is insufficient to prepare them to identify and solve the consequential problems that *amici* expect them to address over the course of their careers. DACA helps *amici* achieve this objective by making it possible for undocumented students to participate fully in educational work opportunities, such as off-campus internships and on-campus research with university faculty. It also allows them to conduct field work outside of the United States and participate in *amici*’s varied study abroad programs.²² By

²² Indeed, *amici* have emphasized the importance of study abroad programs to better prepare students to “build global competence” and navigate careers in an interconnected world. *See, e.g.*,

participating in these experiences, students generate questions for further exploration during their time on campus and begin to chart their course for after graduation.

For instance, during his time at MIT, Jose Gomez, who came to the United States from northern Mexico when he was five years old, participated in MIT's Undergraduate Research Opportunity Program at the MIT Space Systems Laboratory, where, among other things, he participated as a flyer in a NASA reduced gravity flight. This work in turn resulted in Jose co-authoring a paper that was presented at an international conference in Vienna, Austria.

Separately, thanks to DACA, Jose was eligible to participate in an externship at a startup company that develops robots to improve the efficiency of e-commerce order fulfillment. During this externship, Jose led the development of a tactile sensor kit for a robotic hand and designed and prototyped robotic finger mechanical components using 3D printed parts and rubber casting. Given this achievement, it is no surprise that the startup asked Jose to return as an applications engineer after he graduated with a Bachelor's of Aerospace Engineering in June 2017. Without DACA, Jose's story would not have been possible.

In addition to unlocking the full array of enriching activities that comprise a world-class higher education, deferred action under DACA empowers undocumented students to talk about their lived experiences without fear of retribution, adding meaningfully to the robust exchange of ideas that *amici* seek to cultivate on their campuses. For instance, while attending the University of Pennsylvania's Wharton School of Business, recent alumna and DACA recipient Tania Chairez founded Penn for Immigrant Rights ("PIR"), an organization intended to "debunk

Northwestern University, *Why Study Abroad?*, <http://www.northwestern.edu/studyabroad/prospective-students/why-study-abroad/index.html> (last visited July 12, 2018).

misconceptions and connect immigration to current events.”²³ Under her leadership, PIR conducted “undocu-trainings . . . [to] mak[e] sure as many student leaders as possible know what it even means to be an undocumented person.”²⁴

True, numerous DACA students have continued to speak publicly about their immigration status despite Plaintiffs’ attempt to enjoin DACA—including the many students who agreed to the use of their name in this brief. But enjoining DACA would place these students, and the many more whom these threats to DACA have silenced, in a position wholly at odds with the principles of academic freedom to which *amici* are fervently committed. These students should not have to risk their own physical liberty—and that of their families—in order to tell their stories.

C. Enjoining DACA Deprives the Nation of Invaluable Resources

The DACA students at *amici* institutions—and the many thousands more enrolled at other colleges and universities—are by definition the product of this nation’s education system and the communities that support it. Through the opportunities provided by American institutions of higher education all over this country, including *amici*’s, these young people now have the skills to give back—in ways big and small—to the country that raised them. And they want nothing more than the opportunity to do so. “[D]riving them out” now “would be throwing away a tremendous national investment” for no discernible benefit.²⁵

²³ Penn for Immigrant Rights, *Founders Statement*, <https://upenn4immigrantrights.wordpress.com/blog/> (last visited July 12, 2018).

²⁴ Laura Anthony, *Two Years Later, Tania Chairez Still ‘Undocumented and Unapologetic’*, DAILY PENNSYLVANIAN (April 17, 2014), <http://www.thedp.com/article/2014/04/q-a-with-tania-chairez>.

²⁵ Reif, *supra* note 4.

Take Cristina Velasquez, whose mother brought her to Madison, Wisconsin, when she was six years old. In a letter to Senator Richard Durbin of Illinois, Cristina wrote that her values and attitude were shaped by the people surrounding her during her childhood, especially their “compassion, patience and hard work.” During middle school, Cristina’s family relocated to Florida, where she went on to graduate from high school with impeccable grades and a track record of community engagement, but she could not afford to attend college. After taking a gap year to focus on saving money, Cristina enrolled at Miami-Dade Community College before transferring to the Georgetown School of Foreign Service, from which she graduated a few months ago. While at Georgetown, Cristina spent both of her summers working with high-achieving, low-income middle school students, and received several awards for her academic achievement and commitment to public service. This year, Cristina will return to the classroom as one of 190 DACA recipients who will be teaching some of our nation’s most marginalized and vulnerable youth through Teach for America.²⁶

Consider, too, Alfredo Muniz, who arrived with his parents in Houston, Texas when he was only a year old and went on to earn a full scholarship to attend the University of Pennsylvania, from which he graduated in 2016 with undergraduate and graduate degrees in mechanical engineering and robotics.²⁷ While at Penn, Alfredo and a classmate developed XEED, a sensor-based system that collects and transmits data about limb movement in

²⁶ *Durbin: Let’s Show The American Dream Is Still Alive By Passing The Dream Act* (Sept. 12, 2017), <https://www.durbin.senate.gov/newsroom/press-releases/durbin-lets-show-the-american-dream-is-still-alive-by-passing-the-dream-act>; Teach for America, *Teach for America Urges Congress To Pass The DREAM Act* (Sept. 5, 2017), <https://www.teachforamerica.org/top-stories/daca-dream-act-how-you-can-stand-tfa-dreamer-teachers-and-undocumented-students>.

²⁷ Amanda Mott, *Inaugural President’s Innovation Prize Winners Announced at Penn*, PENNNEWS (Apr. 20, 2016), <https://news.upenn.edu/news/inaugural-president-s-innovation-prize-winners-announced-penn>.

individuals with Parkinson's disease.²⁸ Healthcare professionals and patients can use this information to better assess the disease's progress and the effectiveness of treatment. The project, which has the potential to help hundreds of thousands of patients around the world, was awarded the 2016 University of Pennsylvania President's Innovation Prize, which was accompanied by \$100,000 to support its further development.²⁹

And as a final example, take Blanca Morales. Blanca arrived in the United States when she was five years old. She "believed [her] teachers when they said that if [she] just worked hard enough, [she] could achieve great things."³⁰ Heeding their advice, Blanca graduated as the valedictorian of her high school class and with honors from the University of California, Irvine, before receiving a full scholarship to attend Harvard Medical School.³¹ Blanca's ultimate goal is to return to Santa Ana, California, the town where she grew up, to give back to its current residents the "opportunities" and "encouragement" that they gave her.³² Without DACA, Blanca would be "left to wonder if [she] will be deported" before she has the opportunity to do so.³³ "When I received this white coat, I took an oath to act whenever there are injustices and to embrace my duty to advocate for patients," Blanca said. "The end of DACA is an injustice to

²⁸ *Id.*

²⁹ Roberto Torres, *These 3 Companies Are Coming to the Pennovation Center*, TECHNICAL.LY (June 30, 2016), <https://technical.ly/philly/2016/06/30/pennovation-center-cosy-xeed-fever-smart/>.

³⁰ Troy Parks, *Med Student 'Dreamers' Speak Out on Maintaining DACA Protections*, AMA WIRE (Feb. 13, 2017), <https://wire.ama-assn.org/ama-news/med-student-dreamers-speak-out-maintaining-daca-protections>.

³¹ *Id.*

³² Greg Lee, *Undocumented Santa Ana Scholar Accepted to Harvard Medical School*, ABC NEWS (June 16, 2016), <http://abc7.com/news/undocumented-santa-ana-scholar-accepted-to-harvard-medical-school/1388040/>.

³³ Jake Miller, *White Coats for DACA*, HARVARD MED. SCH. NEWS (Sept. 14, 2017), <https://hms.harvard.edu/news/white-coats-daca>.

my future patients, because it threatens my ability to treat diabetes, to perform heart surgery or perhaps even cure cancer as a future physician.”³⁴

Cristina, Alfredo, Blanca, and countless others like them have “bound” themselves to this nation through their “hard work, perseverance, grit and determination to succeed.”³⁵ And this nation, in turn, has bound itself to them. The United States now stands to benefit greatly by permitting the young people that it has raised “to put their skills to their highest use.”³⁶ “[F]orcing them to return to the shadows of our society” by enjoining DACA would be a tragic mistake.³⁷

CONCLUSION

For the foregoing reasons, enjoining DACA would impede *amici*’s ability to advance their missions, impose a direct harm on their current students and alumni, and deprive the United States of the benefit of DACA students’ considerable talents. Accordingly, Plaintiffs’ motion for an injunction should be denied.

³⁴ *Id.*

³⁵ *Brown President Urges Trump to Continue DACA*, BROWN UNIV. NEWS (Aug. 30, 2017), <https://news.brown.edu/articles/2017/08/daca>.

³⁶ Faust, *supra* note 2.

³⁷ *Id.*

Dated: July 20, 2018

Respectfully submitted,

By: /s/ Ryan K. Yagura
Ryan K. Yagura
Attorney-in-Charge
Texas Bar No. 24075933
Southern District of Texas No. CA197619
O'Melveny & Myers LLP
400 South Hope Street
Los Angeles, CA 90071
Telephone: (213) 430-6000
Facsimile: (213) 430-6407
ryagura@omm.com

Anton Metlitsky (*pro hac vice* pending)
Jennifer B. Sokoler (*pro hac vice* pending)
O'Melveny & Myers LLP
7 Times Square
New York, New York 10036
Telephone: (212) 326-2000
Facsimile: (212) 326 2061
ametlitsky@omm.com
jsokoler@omm.com

Attorneys for Amici

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service of the foregoing document was automatically accomplished on all known filing users through the Court's CM/ECF system and/or in accordance with the Federal Rules of Civil Procedure on this 20th day of July, 2018.

/s/ Ryan K. Yagura
Ryan K. Yagura