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

In The Supreme Court of the United States

DEPARTMENT OF HOMELAND SECURITY, ET AL.,
Petitioners,
v.
REGENTS OF THE UNIVERSITY OF CALIFORNIA, ET AL.,
Respondents.

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

KEVIN K. McALEENAN, ACTING SECRETARY OF HOMELAND SECURITY, ET AL.,
Petitioners,
v.
MARTIN JONATHAN BATALLA VIDAL, ET AL.,
Respondents.

On Writs Of Certiorari To The United States Courts Of Appeals For The Ninth, District Of Columbia, And Second Circuits

AMICI CURIAE BRIEF OF EMPIRICAL SCHOLARS IN SUPPORT OF RESPONDENTS

OSSAI MIAZAD
MICHAEL N. LITROWNIK
CHAUNIQUA D. YOUNG
OUTTEN & GOLDEN LLP
685 Third Avenue, 25th Floor
New York, NY 10017

RACHEL WILLIAMS DEMPSEY
OUTTEN & GOLDEN LLP
One California Street, 12th Floor
San Francisco, CA 94111

NIKOLAS BOWIE
Counsel of Record
OREN NIMNI
IVAN ESPINOZA-MADRIGAL
OREN SELLSTROM
LAWYERS FOR CIVIL RIGHTS
61 Batterymarch Street, 5th Floor
Boston, MA 02110
(617) 988-0606
nbowie@law.harvard.edu

COCKLE LEGAL BRIEFS (800) 225-6964
WWW.COCKLELEGALBRIEFS.COM

TABLE OF CONTENTS

TABLE OF AUTHORITIES

TABLE OF AUTHORITIES—Continued

TABLE OF AUTHORITIES—Continued

Page

TABLE OF AUTHORITIES—Continued

TABLE OF AUTHORITIES—Continued

TABLE OF AUTHORITIES—Continued

Page

TABLE OF AUTHORITIES—Continued

TABLE OF AUTHORITIES—Continued

Page

TABLE OF AUTHORITIES—Continued

Page

TABLE OF AUTHORITIES—Continued

Page

TABLE OF AUTHORITIES—Continued

TABLE OF AUTHORITIES—Continued

INTEREST OF *AMICI CURIAE*[1]

Amici curiae are fourteen academic social scientists who have conducted significant research on immigration, specifically the Deferred Action for Childhood Arrivals ("DACA") population and the long-term effects of formal legal status and deferred action on the lives of immigrants and their families, including their children and grandchildren.[2] *Amici curiae* are affiliated with leading universities across the country and their research has been funded by major foundations, including the National Science Foundation, and published in respected journals.

Robert Courtney Smith is Professor in the Austin W. Marxe School of Public and International Affairs, Baruch College, and Sociology Department, Graduate Center, CUNY. He authored *Mexican New York: Transnational Worlds of New Immigrants* (California, 2006), and *Horatio Alger Lives in Brooklyn, But Check His Papers* (under contract, University of California press), which analyze how immigration status and other factors affect intergenerational individual and family mobility. His current project, the DACA Access Project, studies the long-term effects of having,

---

[1] Rule 37 statement: All parties issued blanket consents to the filing of amicus briefs. Nobody but *amici* and their counsel authored any portion of this brief or funded its preparation and submission.

[2] This Court has often relied on social science research to inform its decisions. *See*, *e.g.*, *Hall v. Florida*, 134 S. Ct. 1986, 1993 (2014); *Roper v. Simmons*, 543 U.S. 551, 569–70 (2005); *Atkins v. Virginia*, 536 U.S. 304, 318 (2002).

lacking, gaining, or losing formal immigration status or deferred action, especially DACA.

Caitlin Patler is Assistant Professor of Sociology at the University of California, Davis, where her research analyzes the origins and reproduction of inequality in the United States, with a special focus on how laws, legal statuses, and law enforcement institutions drive socioeconomic and health disparities. Dr. Patler is the Principal Investigator of the DACA Longitudinal Study, an original survey and in-depth interview study that follows 502 DACA recipients and undocumented non-recipients in California over time.

Cecilia Menjívar holds the Dorothy L. Meier Chair in Social Equities and is Professor of Sociology at the University of California, Los Angeles. Her research on immigration examines the effects of immigration laws and policies on various aspects of immigrants' lives, especially family dynamics, access to institutions, and citizenship and belonging.

Douglas S. Massey is the Henry G. Bryant Professor of Sociology and Public Affairs at Princeton University, where he also directs the Office of Population Research. He is the Co-Director of the Mexican Migration Project, which annually since 1987 has gathered data from representative community samples on documented and undocumented migrants to the United States. Since 1998 he has also Co-Directed the Latin American Migration Project, which uses the same methodology to gather data on documented and

undocumented migrants from other nations in Latin America and the Caribbean.

James D. Bachmeier is Associate Professor of Sociology at Temple University and a non-resident Fellow at the Migration Policy Institute. His research is focused on immigration and the integration of immigrants in the United States. He co-authored, with Frank D. Bean and Susan K. Brown, *Parents without Papers: The Progress and Pitfalls of Mexican American Integration* (2015, Russell Sage), and has published his research in *Social Forces, Demography, International Migration Review*, and *the ANNALS of the American Academy of Political and Social Science.*

Elizabeth Aranda is Professor of Sociology at the University of South Florida. Her work has been supported by the National Science Foundation. Her primary field of interest is immigrant emotional well-being. She has conducted influential research on issues of immigrant integration, such as psychological well-being and emotional adaptation, contributing to the improvement of our understanding of the subjective experience of migration and settlement in a new country. She is co-author on several articles and books on immigrant youth and young adults (with and without DACA) and their subjective well-being.

Mary C. Waters is the PVK Professor of Arts and Sciences and the John Loeb Professor of Sociology at Harvard University. A demographer and sociologist, Waters is an expert on the assimilation of immigrants, specializing in the socioeconomic outcomes of young

adults whose parents are immigrants. A member of the National Academy of Sciences, Waters chaired the interdisciplinary NAS Committee of 17 immigration experts who produced the 2015 report on *The Integration of Immigrants into American Society* (National Academies Press).

Frank D. Bean is Distinguished Professor of Sociology (and Education and Economics) at the University of California, Irvine. A demographer who is a leading senior researcher on the estimation of unauthorized and legal status from survey data and on the assessment of the educational effects of migration status on the descendants of immigrants, he both co-directed the Urban Institute/RAND national evaluation of the 1986 IRCA's effects and the large-scale 2004 IIMMLA survey of second-generation immigrant integration in Los Angeles.

Susan K. Brown is Professor of Sociology at the University of California, Irvine. Her work examines immigrant integration, population distribution, and educational inequalities. She is co-author of *Parents Without Papers: The Progress and Pitfalls of Mexican American Integration*, winner of an outstanding scholarship award. She is a co-investigator of "Immigration and Intergenerational Mobility in Metropolitan Los Angeles," a survey in 2004 of the immigrant second generation.

Catalina Amuedo-Dorantes is Professor of Economics at University of California, Merced, a Research Fellow at CReAM, FEDEA and IZA, an Advisory

committee member of the Americas Center Advisory Council at the Federal Reserve Bank of Atlanta, and the Western Representative in the Committee for the Status of Women in the Economics Professions (CSWEP) since 2015. Her areas of interest include labor economics, international migration and remittances. She has published scholarship on contingent work contracts, the informal work sector, international remittances, as well as on immigrant savings, health care and labor market outcomes. Her current research broadly focuses on immigration policy and its consequences.

Leisy J. Abrego is Professor in the Chicana and Chicano Studies Department at the University of California, Los Angeles. Over two decades, she has researched how local, state, and federal U.S. immigration policies and practices have affected the day-to-day lives of migrants and their families. Her research analyzes how young people—undocumented and 1.5 generation immigrants, and DACA recipients—internalize and respond to immigration policies and practices. In her current project, she interviews DACA recipients and their relatives to analyze the family-level consequences of DACA.

Joanna Dreby is Associate Professor of Sociology at the University at Albany—SUNY. A leading qualitative methodologist, Dr. Dreby is an expert on the impacts of migration, family separation, and immigration enforcement on children and gender and generational relationships in families. She is author of two award-winning books, *Divided by Borders: Mexican Migrants*

and their Children (University of California Press 2010) and *Everyday Illegal: When Policies Undermine Immigrant Families* (University of California Press 2015).

Francesc Ortega is the Dina A. Perry Professor in Economics at the Queens College of the City University of New York. Dr. Ortega's main area of research is the analysis of the economic effects of immigration, with a focus on labor market and macroeconomic outcomes. Much of his recent work has been devoted to quantifying the economic contribution of unauthorized workers to the U.S. economy and to the evaluation of the potential impact of policy proposals aimed at providing legal status.

Amy Hsin is Associate Professor of Sociology at Queens College, City University of New York (CUNY), and faculty affiliate at CUNY Institute of Demographic Research. She has researched the determinants of Asian American achievement in education, and the effect of aggressive policing on the educational performance of immigrant youth and Black/Latino youth. She is a principal investigator on a large study of DACA funded by the W.T. Grant Foundation, which analyzes DACA's effects on college attendance and work, and analyzes DACA recipients' strong academic trajectories.

As scholars who conduct empirical research on the DACA population, *amici* have a substantial interest in this matter. In this brief, they present social science research relevant to the legal questions before this

Court, including research concerning: the demographic and socioeconomic characteristics of the DACA population; how those individuals benefit from DACA; how their United States citizen relatives, including children, benefit from having parents or family members with DACA; and how DACA recipients and their United States citizen relatives would be harmed if DACA were ended.

INTRODUCTION AND SUMMARY OF THE ARGUMENT

Research on DACA, as well as more general scholarship on the effects of having, gaining, lacking, and losing deferred action or legal status in the United States, shows unequivocally the strong reliance interests in DACA, both on the part of DACA recipients and on the part of their U.S.-citizen children and families. Rescinding DACA would cause harm to a particularly hardworking and high-achieving segment of U.S. society, and its effects would reverberate through generations.

Social science research on the DACA population reveals that DACA recipients are successful, long-term residents of the United States who are deeply embedded in American life, and who, in the seven years since DACA's inception, have come to rely on its promises of increased stability and economic security for themselves and their relatives. Most DACA recipients have attended and graduated from American schools and

many live with U.S.-citizen children or immediate family members. DACA protects its recipients in a number of important ways, including by increasing their earnings and labor market participation, improving their ability to continue their education, and facilitating their ability to function without fear in daily life, such as by enabling them to get drivers' licenses to drive to work or to pick up their children. DACA also decreases the harms attached to undocumented status, including heightened anxiety and stress, or fear of separation from children or family.

U.S.-citizen children and immediate family members of DACA recipients also benefit significantly from DACA, because of DACA recipients' increased incomes, ability to continue their education and training, increased ability to function without fear, and decreased risk of harm due to undocumented status. For example, U.S.-citizen children whose parents received deferred action experienced reduced rates of adjustment and anxiety disorders, compared to children whose parents did not. DACA further protects U.S.-citizen children and other immediate family members from substantial harms that result from having a family member, especially the primary breadwinner, removed or living under the constant threat of removal.

In sum, seven years of research into the DACA population, as well as studies of other populations that have gained and lost legal status or deferred action in the United States, show that DACA recipients and their family members strongly rely on the protections

of DACA, the loss of which could ripple deeply outward.

ARGUMENT

I. Immigrant legal status and work authorization have a critical impact on the lives of individuals and their children and families.

A. Overview of DACA and DACA Recipients.

DACA was initiated to address the legal and social limbo in which its recipients found themselves: On one hand, they had grown up in the United States and saw this country as home, attended U.S. schools, and contributed to the country with their taxes. On the other hand, they were often prevented from continuing their education due to eligibility and tuition-related barriers and were unable to find legal employment. In then President Obama's words, DACA was created to help the young people who "want to staff our labs, or start new businesses, or defend our country." He observed that DACA recipients were "Americans in their heart, in their minds, in every single way but one: on paper." Press Release, The White House, Office of the Press Sec'y, *Remarks by the President on Immigration* (June 15, 2012), https://obamawhitehouse.archives.gov/the-press-office/2012/06/15/remarks-president-immigration.

As would be expected given the DACA initiative's central mission, the DACA population is young, and deeply settled in the U.S. Two-thirds were under age 25 in 2017, when the average age was 24; only 24%

were ages 26–30, and only 11% were 31–36. U.S. Citizenship and Immigration Services (USCIS) data from 2017 showed that 20% of DACA recipients were still in high school. Some 83% of DACA recipients were unmarried when applying, and only 15% were married. *See* Gustavo López & Jens Manuel Krogstad, *Key Facts About Unauthorized Immigrants Enrolled in DACA* (2017), https://www.pewresearch.org/fact-tank/2017/09/25/key-facts-about-unauthorized-immigrants-enrolled-in-daca; *see also* Roberto G. Gonzales et al., *Becoming DACAmented: Assessing the Short-Term Benefits of Deferred Action for Childhood Arrivals (DACA)*, 58 Am. Behavioral Scientist 1852, 1862 (2014) (reporting the average age of DACA recipients in study sample was 22.6 years in 2014). All DACA recipients have been in the U.S. at least 12 years (since June 15, 2007, to qualify for DACA), but many have been here longer—16 years on average according to one field-based study.[3] *See* Robert Courtney Smith, DACA Access Project (in field study of 1,707 interviews of DACA recipients in New York state, finding average age of arrival of 6.8 years old).

As a group, DACA recipients are high achievers. Due to the initiative's educational requirements, DACA recipients generally have at least a high school

---

[3] U.S. Citizenship & Immigration Servs. (USCIS) reported the average age of DACA recipients as 24.2 years in August 2018, which yields an average stay of 16–18 years. *See* U.S. Citizenship and immigration services (USCIS), https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/DACA_Population_Data_August_31_2018.pdf.

diploma, a GED, or are pursuing adult education. As of 2014, DACA recipients were enrolled in college at nearly the same rate as all Americans (18% for DACA versus 20% for the overall U.S. population). Jie Zong, Ariel Ruiz Soto, Jeanne Batalova, Julia Gelatta, & Randy Capps, *A Profile of Current DACA Recipients by Education, Industry, and Occupation.* (2017), https://www.migrationpolicy.org/research/profile-current-daca-recipients-education-industry-and-occupation. Another 15% of DACA recipients had completed some college, and 4% had earned a bachelor's degree or higher. *Id*. In total, some 37% had attended at least some college, and those numbers have undoubtedly risen in the last five years, as DACA recipients have relied on deferred action to access higher education. *Id*. Moreover, DACA recipients have become more deeply settled in the U.S., increasingly forming their own families. USCIS data from April 30, 2019 show that 20.6% of DACA recipients are now married (up from 15% on initial application). U.S. Citizenship and Immigration Servs., Approximate Active DACA Recipients Demographics—Apr. 30, 2019 (2019), https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/Approximate_Active_DACA_Recipients_Demographics_-_Apr_30_2019.pdf.

B. Effect of obtaining legal status and work authorization.

The impact of attaining legal status or work authorization is broad and far-reaching, has dramatic

effects on entire families, and extends through multiple generations.

Immigrant legal status is a central axis of stratification in contemporary U.S. society and is linked to a range of inequities for youth. Joanna Dreby, *Everyday Illegal*, (2015); Roberto G. Gonzales, *Lives in Limbo: Undocumented and Coming of Age in America* (2016); Elizabeth Aranda et al., *Personal and Cultural Trauma and the Ambivalent National Identities of Undocumented Young Adults in the U.S.*, 36 J. Intercultural Stud. 600, 603–04 (2015); Cecilia Menjívar, *Liminal Legality: Salvadoran and Guatemalan Immigrants' Lives in the United States*, 111 Am. J. Soc. 999, 1000 (2006). Undocumented status promotes "membership exclusion" and inhibits integration by, for example, preventing access to key American institutions, such as schools, jobs, healthcare, and childcare institutions. Frank D. Bean et al., *Parents Without Papers: The Progress and Pitfalls of Mexican American Integration*, 6–9 (2015). A key example of how these effects are transmitted through a generation is that having undocumented parents decreases second-generation children's educational attainment by 1.24 years, compared to those whose parents were citizens or entered the U.S. with authorization. *Id.* at 86. Having parents who came to the U.S. without authorization but later obtained permanent legal status did *not* have the same negative effect as having parents who remained undocumented. Rather, children whose parents obtained permanent legal status displayed educational outcomes similar to their counterparts whose parents had

always had legal status. Similarly, second-generation adult male children of unauthorized parents had decreased earnings compared to those whose parents had always had legal status. *Id*. at 108–119.

Membership exclusion becomes particularly acute in adolescence, when undocumented youth start to become excluded from key institutions, rituals, and identity documents—for example, getting a driver's license or an internship, attending school trips, or obtaining financial aid for college. Simultaneously, many increasingly feel a duty to help their parents financially and begin to work in the informal economy. Roberto G. Gonzales, *Learning to be Illegal: Undocumented Youth and Shifting Legal Contexts in the Transition to Adulthood*, 76 Am. Soc. Rev. 602, 612–13 (2011); Cecilia Menjívar & Daniel Kanstroom, *Constructing Immigrant "Illegality": Critiques, Experiences, and Responses* (2014); Robert Courtney Smith, *Horatio Alger Lives in Brooklyn, But Check His Papers*, Published Materials, https://www.baruch.cuny.edu/mspia/faculty-and-staff/full-time-faculty/amicusbrief.html. The end result is that college and the better life prospects it leads to become false promises. This pushes many, as early adults, to relinquish their dreams of college and accept a life where they work for low wages, in hard jobs with little chance for advancement, where injury and wage theft are common. *Id*. Later, as early adults, undocumented people feel they must conceal the shameful secret of their lack of legal status from others. Gonzales, *Learning to be Illegal*, *supra*, at 610–11; *see also* Perreira, K. M., Fuligni, A., & Potochnick, S., *Fitting In: The Roles of Social Acceptance and Discrimination in Shaping the Academic*

Motivations of Latino Youth in the U.S. Southeast, 66 J. Soc. Issues 173, 185–188 (2010). They fear the police, as a routine traffic stop could lead to removal. Amada Armenta, *Protect, Serve, and Deport: The Rise of Policing as Immigration Enforcement* (2017). As a result, many experience depression and anxiety. *See* Gonzales, *Learning to be Illegal*, *supra*, at 610–15; Hirokazu Yoshikawa et al., *Unauthorized Status and Youth Development in the United States: Consensus Statement of the Society for Research on Adolescence*, 27 J. Res. Adolescence 4 (2016); Hirokazu Yoshikawa, Carola Suárez-Orozco & Roberto Gonzales, *Unauthorized Status and Youth Development in the United States: Consensus Statement of the Society for Research on Adolescence*, 27 J. Res. Adolescence 4 (2016); Caitlin Patler & Whitney Laster Pirtle, *From undocumented to lawfully present: Do changes in legal status impact psychological wellbeing among Latino immigrant young adults?*, Soc. Sci. & Med. (2017), www.sciencedirect.com/science/article/pii/S027795361730148X?np=y&npKey=cd0a5382554ee22e26ffd1accf5c9a82cdd84c6a794d2bab0323cb930f528107.

Even high-achieving undocumented youth face these negative effects. By their early twenties, the lives of these high achievers (in terms of jobs, income, and opportunity) converge with similarly situated youth who dropped out of high school. Gonzales, *Lives in Limbo, supra*. While their U.S.-citizen peers can get driver's licenses, jobs, internships, or student loans to help them go to college, undocumented status becomes a "master status" that excludes even the most

academically successful undocumented youth from pursuing educational and professional opportunities. *Id*.; Leisy Abrego, *Renewed Optimism and Spatial Mobility: Legal Consciousness of Latino Deferred Action for Childhood Arrivals Recipients and their Families in Los Angeles*, *Ethnicities*, 18 Ethnicities 192–207 (2018); *cf*. Patler & Pirtle, *supra*, at 39–48, www.sciencedirect.com/science/article/pii/S027795361730148X?np=y&npKey=cd0a5382554ee22e26ffd1accf5c9a82cdd84c6a794d2bab0323cb930f528107. The end result is that the opportunities these youth have are greatly limited, even if they are able to attend college despite their status. *Id*.

Perhaps unsurprisingly given this research, having or gaining legal status and work authorization has a strong positive effect on intra-family mechanisms that promote upward mobility among immigrant families. For example, one study followed a set of children of Mexican immigrants for over a decade as they moved from later adolescence into early adulthood (ages 18–25) and middle adulthood (late-20s to mid-30s) found that families who had or obtained legal immigration status achieved higher levels of yearly income compared to families who did not. Robert Courtney Smith, *Horatio Alger Lives in Brooklyn, But Check His Papers, Published Materials*, https://www.baruch.cuny.edu/mspia/faculty-and-staff/full-time-faculty/amicusbrief.html; *see also* Robert Courtney Smith, *Horatio Alger Lives in Brooklyn: Extra-Family Support, Intra-Family Dynamics, and Socially Neutral Operating Identities in Exceptional Mobility Among Children of Mexican Immigrants*, 620 Annals of Am. Acad. of Pol.

& Soc. Sci. 270 (2008); Philip Kasinitz, John H. Mollenkopf, Mary C. Waters, Jennifer Holdaway, *Inheriting the City: The Children of Immigrants Come of Age* (2009). For "always documented families" (where parents and older children always had formal legal immigration status or were U.S. citizens) and "legal status category changer" families (where parents or older children had been undocumented, but later gained formal status), family income rose more as the older children began to work than it did in "always undocumented" families (where parents and older children remained undocumented). This difference was dramatic: at the start of the study, the difference in yearly income between "always undocumented" families and the other families was less than $4,000 per person, but this number rose to $15,000–20,000 per person by the time the study was complete.

These exclusions have large, negative, intergenerational consequences on the children of immigrants (including U.S.-citizen children). Due to these membership exclusions, the poverty rate of children with undocumented parents is twice the rate of children of U.S.-born parents, and undocumented youth are far less likely to graduate high school and attend college than documented immigrants and native-born youth. Emily Greenman & Matthew Hall, *Legal Status and Educational Transitions for Mexican and Central American Immigrant Youth*, 91 Social Forces 1475, 1475–98, 1486 (2013). Jefferey Passel & D'vera Cohn, *A Portrait of Unauthorized Immigrants in the United States* (2009), https://www.pewresearch.org/hispanic/

2009/04/14/a-portrait-of-unauthorized-immigrants-in-the-united-states; *see also* Randy Capps et al., *A Profile of U.S. Children with Unauthorized Immigrant Parents*, Migration Policy Inst., at 2 (2016), https://www.migrationpolicy.org/research/profile-us-children-unauthorized-immigrant-parents. Although poverty levels decreased for all children in older age groups within the U.S. population, they decreased less for those with undocumented parents. Capps et al., *supra*, at 6. Thus, children of undocumented parents are more likely to grow up in poverty, and suffer its ill effects.

While DACA, as deferred action, only gives temporary access to work authorization and reprieve from removal, and to work authorization enables recipients to convert educational effort into better future life chances for oneself and one's family. It also gives access to "gateway identity documents" such as a driver's license. Gonzales et al., *supra*, at 612–13. Hence, while DACA does not confer the full protections of institutional inclusion that permanent legal immigration status does, individuals' ability under DACA to obtain temporary reprieve from removal, access to the labor market, and documents, such as a driver's license, promote financially stronger families that would facilitate intergenerational upward mobility in ways that ending DACA would inhibit. Moreover, DACA also helps its recipients and their families by decreasing other negative effects of lacking legal status, such as children's increased anxiety due to the fear their parents will be removed.

II. DACA has positive effects on the lives of its recipients and their families, including U.S.-citizen children.

DACA has improved the lives of recipients and their families, including their U.S.-citizen children and family members, in various ways. These improvements include increased earnings and better jobs, increased motivation in school and ability to attend college, and decreased anxiety and related mental health problems for themselves and their U.S.-citizen children.

Various studies find that DACA is associated with improved socioeconomic outcomes. Analyses of data from the federal American Community Survey using advanced regression techniques show that DACA increased the probability of being employed and being in the labor force, reduced the likelihood of unemployment, and increased the hours worked per week for likely-eligible noncitizens, compared to noncitizens ineligible for DACA. Nolan G. Pope, *The Effects of DACAmentation: The Impact of Deferred Action for Childhood Arrivals on Unauthorized Immigrants*, 143 J. Pub. Econ. 98, 99 (2016). These findings are supported and developed by studies that have directly surveyed DACA recipients. For example, one study found that 84% of DACA recipients were working, versus 68% of undocumented respondents, that 79% of DACA recipients reported getting a better job, and 64% reported earning more money. Caitlin Patler et al., *From Undocumented to DACAmented: Impacts of the Deferred Action for Childhood Arrivals (DACA) Program*, Inst. for Research Lab. & Emp. 6, 19, 20 (2015),

https://escholarship.org/uc/item/3060d4z3. Some 77% of DACA recipients reported it was easier to cover bills after obtaining DACA, while 78% reported it was easier to contribute to household expenses. *Id.* at 6. Another study found that 59% of DACA recipients had obtained a new job, 21% had obtained internships, 57% had obtained driver's licenses, and 45% had increased their earnings after gaining DACA. Gonzales et al., *Becoming DACAmented*, *supra*, at 1861. These higher earnings increase DACA recipients' incomes and, in turn, their families' incomes, helping their siblings, especially younger siblings, many of whom are likely to be U.S.-citizens. Such increased earnings also help the American economy. Professors Francesc Ortega, Ryan Edwards, and Amy Hsin estimate that DACA increased GDP by about $3.5 billion, or $7,454 per legalized worker. Francesc Ortega et al., *The Economic Effects of Providing Legal Status to DREAMers* 2–3 (2018), http://ftp.iza.org/dp11281.pdf.

In addition to its financial effects, DACA positively affected educational attainment for many recipients. Some scholars have found that obtaining DACA was linked to increases in high school attendance and graduation; Elira Kuka et al., *Do Human Capital Decisions Respond to the Returns to Education? Evidence from DACA*, (2018), https://www.nber.org/papers/w24315.pdf. Others found it increased the number of Latinos taking the GED (General Educational Development certificate; Pope, *supra*, at 99; or that it made it easier to attend college. Patler et al., *supra*. Some research detects a drop in college attendance. Amy Hsin &

Francesc Ortega, *The Effects of Deferred Action for Childhood Arrivals on Educational Outcomes of Undocumented Students*, 55 Demography 1487, 1487–1506 (2018). But Hsin and Ortega do not posit a general tendency towards dropping out of college permanently, but rather theorize there may be a more zero-sum trade-off between going to four-year college and working. *Id.* Once DACA recipients acquire work permits, they are able to work legally and earn more money, making work more attractive than school. That same study's finding that those who remain enrolled in four-year colleges continue to attend full time is consistent with the more positive reports of the survey- and case-based research. *See, e.g.*, Patler et al., *supra*. Similarly, the lack of an increase in dropout rates for community college students, but a decrease in full-time enrollment, likely reflects an increase in the number of hours these DACA recipients in community college worked. *Id*. at 8. This would signal more of a "stop-out" (leaving school to work, when earnings are higher) than a drop out (leaving school permanently.). This is true for at least two reasons. One, DACA permits recipients to benefit from their current hard work in school with better jobs in the formal economy in the future (which would be harder to get without work authorization). Gonzales et al., *Becoming DACAmented*, *supra*, at 1867; Smith, *supra* note 14; Patler et al., *supra*, at 20. Moreover, the potential to earn more money makes it easier for some students to stay in college. Ortega et al., *supra*; *see also* Patler et al., *supra*, at 5. For example, one study found that DACA increased high school attendance and graduation rates and closed the

citizen/noncitizen graduation gap by 40%. Elira Kuka et al., *Do Human Capital Decisions Respond to the Returns to Education? Evidence from DACA* (2018), https://www.nber.org/papers/w24315.pdf. That DACA encourages school persistence in high school is especially important because high school is a life turning point—dropping out of high school closes many educational and professional doors, while graduating keeps them open. This is consistent with research finding that obtaining deferred action at a younger age promotes stronger educational engagement and continuation. Roberto G. Gonzales et al., *(Un)Authorized Transitions: Illegality, DACA, and the Life Course*, 15 Res. Hum. Dev. 345, 346–58 (2018).

Case-oriented research further shows that the earnings of many DACA recipients increased substantially within a few years after obtaining work authorization through DACA. This improvement occurs along two separate paths: those who began working without work authorization had access to better paying jobs, and those who obtained their first job after receiving a work authorization entered the workforce with higher starting incomes.

For example, an ongoing study conducted by Professor Robert Courtney Smith tracks students like the following, all of whom illustrate the many ways in which recipients have relied on DACA to shape their life paths:

- Lionel[4] had been working as a self-employed consultant after getting his B.A. since his lack of work authorization made it harder to get work in larger organizations with more institutionalized hiring processes. After getting DACA, he applied for jobs at larger organizations, and landed one making $60,000/year, up from the $24,000 he had made before. Within a few years, he was asked to apply for, and received, a job with more leadership opportunities and a salary of $77,000 at another organization that liked his work.
- Laxmi, a college student, was able to get her first full-time job working in youth services making $46,000/year at a nonprofit, rather than working in a restaurant or other job where work authorization would less likely be an issue. This meant she could pay for her tuition for college, which her parents would have found difficult.
- Orestes had started cutting high school, and was in danger of failing, when his mother brought him to get DACA. After getting DACA, he made up the credits he had missed the prior year, and graduated from high school, and was working and planned to attend community college. DACA dramatically increased his effort at school, because he saw the chance to get a better job and go to college.

[4] Names have been changed for confidentiality.

- Magda had been a high-performing, undocumented high school student, but feared that she would not be able to go to college. Getting DACA made it possible for her to go to college, after which she wants to become a pediatric nurse.
- Armando enrolled in and then took a break from college because his work authorization enabled him to work more, for better pay. Getting DACA, Armando reported, enabled him to make concrete plans about his future, and act on them, and to help his family.

Robert Courtney Smith, *Horatio Alger Lives in Brooklyn, But Check His Papers, Published Materials*, https://www.baruch.cuny.edu/mspia/faculty-and-staff/full-time-faculty/amicusbrief.html.

For young people like Lionel, Laxmi, Orestes, Magda, and Armando, getting DACA and employment authorization brought their earnings more in line with where we would otherwise expect them to be.

DACA also decreases psychological stress on its recipients. *Id.*; *see also* Patler & Pirtle, *supra*, at 42–46. The stressors that DACA may lessen include removal fear, lack of ontological security (i.e., one's sense of reliance on material surroundings and trust of what one knows to be true), and economic precariousness. Patler & Pirtle, *supra*, at 42–46. Elizabeth Vaquera, Elizabeth Aranda & Isabel Sousa-Rodriguez, *Emotional Challenges of Undocumented Young Adults: Ontological Security, Emotional Capital, and Well-Being*, 64 Social Problems 298–314 (2017). Gonzales, et al., *Becoming*

DACAmented, supra, at 1852–1872; Patler, et al., *From Undocumented to DACAmented, supra*. For example, undocumented respondents are four times more likely to fear removal than DACA recipients (40% versus 9%). *Id.*; *see also* Patler & Pirtle *From Undocumented to Lawfully Present, supra* at 44 ("Receiving DACA reduced the odds of distress, negative emotions, and worry about self-deportation by 76–87%, compared to respondents without DACA."). Drawing from 100 in-depth interviews with DACA recipients and their family members in Los Angeles, a 2018 study found that DACA led to many more opportunities for entire families to "achieve their goals [and] experience spatial mobility," and "shifted entire families' legal consciousness toward a stronger sense of pride and belonging in the United States." Abrego, *supra*, at 192–207.

Beyond the positive effects of DACA on recipients themselves, the children of DACA recipients (many of whom are U.S. citizens) have a strong reliance interest in their parents retaining DACA. Children's health and well-being are sensitive to family stress, and prior studies have shown that children are aware of and affected by removal threats their parents face. Landale, et al., *Behavioral Functioning Among Mexican-Origin Children: Does Parental Legal Status Matter?*, 56 J. Health & Soc. Behav. 2, 2–18 (2015); Edward Vargas & Vickie Ybarra, *U.S.-Citizen Children of Undocumented Parents: the Link Between State Immigration Policy and the Health of Latino Children*, 19 J. Immigrant & Minority Health 913, 918–20 (2017) https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5236009;

Mapp & Hornung, *Irregular Immigration Status Impacts for Children in the USA*, 1 J. Hum. Rights & Soc. Work 61, 61–70 (2016) https://link.springer.com/content/pdf/10.1007%2Fs41134-016-0012-1.pdf; Alexander Ortega, Sarah Horwitz, Hai Fang, Alice Kuo, Stevan Wallace & Maira Inkela, *Documentation Status and Parental Concerns About Development in Young U.S. Children of Mexican Origin*, 9 Acad. Pediatrics 278–82 (2009); R.S. Oropesa, et al., *Family Legal Status and Health: Measurement Dilemmas in Studies of Mexican-Origin Children*, 138 Soc. Sci. Med. 57, 57–67 (2015) https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4498967; Enriquez, *Multigenerational Punishment: Shared Experiences of Undocumented Immigration Status Within Mixed-Status Families*, 77 J. Marriage & Fam. 939–53 (2015); R.S. Oropesa, et al., *How Does Legal Status Matter for Oral Health Care Among Mexican-Origin Children in California?* 3 SSM Population Health 730, 730–39 (2017) https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5607870; R.S. Oropesa, et al., *Legal Status and Health Care: Mexican-Origin Children in California, 2001–2014*, 35 Population Research & Policy Rev. 651, 651–84 (2016) https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5114005. One study of Medicaid data in Oregon, published in *Science* in 2017, showed that, among children of DACA-eligible parents, diagnoses of adjustment and anxiety disorders decreased significantly after 2012 compared with the ten-year period before the initiative was put in place. Jens Hainmueller et al., *Protecting Unauthorized Immigrant Mothers Improves Their Children's Mental Health*, 357 Science 1041, 1041–44 (2017) https://science.sciencemag.org/

content/357/6355/1041. Another study that drew from representative statewide survey data from the California Health Interview Survey found that mothers' DACA eligibility significantly increased reports of "good," "great," or "excellent" health among children, compared to reports of "fair" or "poor" health. Caitlin Patler et al., *Uncertainty About DACA May Undermine Its Positive Impact on Health for Recipients and Their Children*, 38 Health Affairs 738, 738–45 (2019) https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2018.05495. While 79% of children of DACA-eligible mothers were reported to have good health during the period prior to DACA, this percentage rose to 99% from 2012–15. *Id*. The average age of the affected children in the California study was 4.9 years old. *Id*.

III. DACA protects against the harms experienced by U.S.-citizen children when a parent or relative is undocumented or removed.

While DACA promotes *positive* outcomes for its recipients, such as helping their U.S.-citizen children or siblings have better life chances, it also protects against the *negative* effects of having a parent (or sibling, or other immediate family member) who is undocumented, or has been removed. This is because:

> Policies designed to block the integration of undocumented immigrants or individuals with a temporary status can have the unintended effect of halting or hindering the integration of U.S. citizens and lawful permanent residents in mixed status families. Laws are

> often designed to apply to individuals, but their effects ripple through households, families, and communities, with measurable long-term, negative impacts on children who are lawful U.S.-citizens. Nat'l Acads. of Scis., Eng'g & Med., Comm. on Population, Div. of Behavioral & Soc. Sci. & Educ., *The Integration of Immigrants into American Society* 10 (Mary C. Waters & Marisha Gerstein Pineau eds., 2015), www.nap.edu/catalog/21746/the-integration-of-immigrants-into-american-society).

The family members of DACA recipients therefore have a strong reliance interest in the continuation of DACA.

The numbers of U.S. citizens and legal permanent residents potentially affected by ending DACA are enormous. As of 2017, there were 5.8 million U.S.-born children who lived with an undocumented family member in the same household, including 1 million in Texas alone.[5] Silva Mathema, *Keeping Families Together: Why All Americans Should Care What Happens to Unauthorized Immigrants, Center for American Progress* (2017), https://www.americanprogress.org/issues/immigration/reports/2017/03/16/428335/keeping-families-together/; Manuel Pastor, Jared Sanchez & Vanessa Carter, *The Kids Aren't Alright – But They Could Be* (2015), https://dornsife.usc.edu/csii/dapa-impacts-children. In 2013, there were about 4.1 million children living with an undocumented parent, an estimated 4% of whom had parents who would have immediately

[5] Mathema, *supra*, at Table 3.

qualified for DACA in 2013, including 9% of 0–2 year old children and 7% of 3–4 year old children. Randy Capps, Michael Fix, & Jie Zong, *A Profile of U.S. Children with Unauthorized Immigrant Parents*, Migration Policy Inst. 1 (2016) https://www.migrationpolicy.org/research/profile-us-children-unauthorized-immigrant-parents (hereinafter Capps, Fix & Zong). This yields some 202,000 children whose parents were immediately eligible for DACA. *Id*. at 10. This number will have increased since 2013 because DACA recipients, who were of or entering childbearing age when DACA began, are now all six years older. One study found that 44% of DACA-eligible people reported having children; 95% of these children were U.S. citizens, while only 3.7% were undocumented. Of 1,707 screened persons in *amicus curiae* Professor Robert Smith's DACA Access Project, some 367 persons met the conditions required for DACA. Of these 367 persons, 161 (44%) told us they had children. The study has formal immigrant status data on 135 of those children. Of these 135, 128 (95%) were U.S.-citizens; 2 (1.5%) had other immigration status (e.g. TPS); and 5 (3.7%) were undocumented. Some 126 of these children were born in the United States, while 7 were born in Mexico, and 1 was born in Guatemala.

The potential negative impacts of DACA rescission upon U.S.-citizen or lawful permanent resident family members may occur along several dimensions. First, because DACA offers protection against removal, it also protects the U.S.-citizen children of DACA recipient parents from the loss in family income that

removal causes. Several studies of families of people in removal proceedings or who have been removed report extremely negative effects. For example, families where a father is removed experienced a dramatic drop in family income—an average of 70% in one study of 85 families with a parent in immigration detention or removal proceedings. Ajay Chaudry et al., *Facing Our Future: Children in the Aftermath of Immigration Enforcement*, Urb. Inst. (2010), https://www.urban.org/sites/default/files/publication/28331/412020-Facing-Our-Future.PDF.

Second, DACA protects the U.S.-citizen children of DACA recipients from the emotional impact caused by the removal or possible removal of an undocumented parent. Children with undocumented parents live in constant fear that their parents will be removed, and they will be permanently separated, with negative educational and psychological consequences. Children whose parents are in removal proceedings or have been removed experience similarly profound harms. These include trauma, post-traumatic stress syndrome; self-harm; and difficulty forming strong emotional attachments, and adapting to significant changes in family structure, (reporting a case of a family where the main breadwinner had an immediate order of removal that resulted in his daughter harming herself by cutting her hands). Lisseth Rojas-Flores, Mari Clements, J. Hwang Koo & Judy London, *Trauma and Psychological Distress in Latino Citizen Children Following Parental Detention and Deportation*, 9 Psychol. Trauma 352, 352–361 (2016), https://www.researchgate.net/

profile/Lisseth_Rojas-Flores/publication/306025305_Trauma_and_Psychological_Distress_in_Latino_Citizen_Children_Following_Parental_Detention_and_Deportation/links/599483b7458515c0ce65300a/Trauma-and-Psychological-Distress-in-Latino-Citizen-Children-Following-Parental-Detention-and-Deportation.pdf; Jorge Delva, et al., *Mental Health Problems of Children of Undocumented Parents in the United States: A Hidden Crisis*, 13 J. Community Positive Prac. 25, 25–35; Luis Zayas, Sergio Aguilar-Gaxiola, Hyunwoo Yoon & Guillermina Natera Rey, *The Distress of Citizen-Children with Detained and Deported Parents*, 24 J. Child & Fam. Stud. 3213, 3213–3223 (2015), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4667551; Chaudry et al., *supra*, at 71; Enchautegui & Cecilia Menjívar, *Paradoxes of Family Immigration Policy: Separation, Reorganization, and Reunification of Families under Current Immigration Laws*, 37 Law & Pol'y 32–60 (2015); Cecilia Menjívar & Andrea Gómez Cervantes, Am. Psychol. Ass'n. *The Effects of Parental Undocumented Status on Families and Children: Influence of Parental Undocumented Status on the Development of U.S.-Born Children in Mixed-Status Families* (2016), https://www.apa.org/pi/families/resources/newsletter/2016/11/undocumented-status; Brian Allen, Erica Cisneros & Alexandra Tellez, *The Children Left Behind: The Impact of Parental Deportation on Mental Health*, 24 J. Child & Fam. Stud. 386, 386–392 (2013); *see also* Venkataramani et al., *Health Consequences of the US Deferred Action for Childhood Arrivals (DACA) Immigration Programme: A Quasi-Experimental Study*, 2 Lancet Pub. Health 175 (2017), https://www.thelancet.com/journals/lanpub/

article/PIIS2468-2667(17)30047-6/fulltext. Elizabeth Aranda & Elizabeth Vaquera, *Immigrant Family Separation, Fear, and the U.S. Deportation Regime*, 5 Monitoring Pub. Opinion: Econ. & Soc. Changes 204–212 (2018).

Finally, "[p]arents' unauthorized status is . . . a substantial barrier to normal child development and perpetuates health inequalities through the intergenerational transmission of disadvantage." Jens Hainmueller et al., *Protecting Unauthorized Immigrant Mothers Improves Their Children's Mental Health*, 357:6355 Science 1041–1044 (Sept. 8, 2017), https://science.sciencemag.org/content/357/6355/1041.long; *see* Patler & Pirtle, *supra*, at 39–48. Abrego, *supra*, at 192–207; Patler et al., *Uncertainty About DACA, supra*, at 738–45. DACA allows the children of DACA recipients to take advantage of education and health programs that will affect their well-being. Undocumented parents are less likely to make use of services or institutions for which their U.S.-citizen children are eligible, because they fear exposing themselves as undocumented persons, which might impair their chances to legalize their status in the future. Hirokazu Yoshikawa & Ariel Kalil, *The Effects of Parental Undocumented Status on the Developmental Contexts of Young Children in Immigrant Families*, Child Development Perspectives 291–297 (2011); Hirokazu Yoshikawa, *Immigrants Raising Citizens: Undocumented Parents and Their Children* (2011); Menjívar & Cervantes, Am. Psychol. Ass'n, *The Effects of Parental Undocumented Status on Families and Children: Influence of Parental*

Undocumented Status on the Development of U.S.-Born Children in Mixed-Status Families (2016), https://www.apa.org/pi/families/resources/newsletter/2016/11/undocumented-status; Cecilia Menjívar, *The Power of the Law: Central Americans' Legality and Everyday Life in Phoenix, Arizona*, 9 Latino Stud. 377–395 (2011). Children with undocumented parents are less likely to see the doctor or dentist, or be enrolled in preschool, Head Start programs, or other child nutritional programs. Kalina Brabeck, Erin Sibley, M. Brinton Lykes, *Authorized and Unauthorized Immigrant Parents: The Impact of Legal Vulnerability on Family Contexts*, Hisp. J. Behav. Sci. 3–30 (2015); Yoshikawa, *Immigrants Raising Citizens: Undocumented Parents and Their Children* (2011); Hirokazu Yoshikawa et al., *Unauthorized Status and Youth Development in the United States: Consensus Statement of the Society for Research on Adolescence*, 27 J. Res. Adolesc. 4–19 (2016); Menjívar, *The Power of the Law, supra*; Huang Yu & Ledsky, 2006; Zhihuan Jennifer Zhihuan, Stella Yu & Rebecca Ledsky, *Health Status and Health Service Access and Use Among Children in U.S. Immigrant Families*, 96(4) Am. J. Pub. Health 634–640 (2006), https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2004.049791; Joanna Dreby, *Everyday Illegal* (University of California Press 2015); Shawn Malia Kanaiaupuni, *Child Well-Being and the Intergenerational Effects of Undocumented Immigrant Status*, USDA Economic Research Service Small Grants Program Conference (Oct. 14–15, 1999), https://www.academia.edu/5923999/Child_Well-Being_and_the_Intergenerational_Effects_of_Undocumented_Immigrant_Status.

In fact, the negative effects of a potential rescission are already being felt. One recent study found that improvements to health during the first three years of DACA disappeared for both DACA-eligible immigrants and the children of DACA-eligible mothers after the first formal threats were made to the initiative during the lead-up to the 2016 election. Patler et al., *Uncertainty About Daca May Undermine Its Positive Impact on Health for Recipients and Their Children*, 38(5) Health Affairs 738–45, 743. This study posited that "the observed declines in health after mid-2015 were a response to the stressful and painful experiences of fearing the termination of DACA, not knowing what the future held, and imagining a return to undocumented status." *Id*. Other studies have drawn similar conclusions, finding that the September 2017 attempt to rescind DACA may have led to worsening health outcomes for DACA recipients. Marie Mallet and Lisa García Bedolla, *Transitory Legality: The Health Implication of Ending DACA*, 11(2) Cal. J. Pol. & Pol'y, https://escholarship.org/uc/item/84f6g2qj. These studies suggest that revoking DACA will likely be linked with severe threats to the health of both DACA recipients and their family members.

CONCLUSION

Empirical research demonstrates that DACA has had very positive effects on the lives both of its recipients, and, intergenerationally, on the lives of their U.S.-citizen children and family members. DACA helps its

recipients earn more money and continue their educations, it also helps reduce anxiety and other mental health challenges for its recipients, their children, and their family members, including U.S.-citizen family members. DACA also protects both its recipients and their U.S.-citizen children and family members from the dramatic and negative consequences of having a family member, especially a parent, removed. Our research shows that such benefits can have long lasting, intergenerational effects. For these reasons, the judgments below should be affirmed.

Respectfully submitted,

OSSAI MIAZAD
MICHAEL N. LITROWNIK
CHAUNIQUA D. YOUNG
OUTTEN & GOLDEN LLP
685 Third Avenue, 25th Floor
New York, NY 10017

RACHEL WILLIAMS DEMPSEY
OUTTEN & GOLDEN LLP
One California Street,
12th Floor
San Francisco, CA 94111

NIKOLAS BOWIE
Counsel of Record
OREN NIMNI
IVAN ESPINOZA-MADRIGAL
OREN SELLSTROM
LAWYERS FOR CIVIL RIGHTS
61 Batterymarch Street,
5th Floor
Boston, MA 02110