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7  
8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION

11  
12 THE REGENTS OF THE UNIVERSITY OF  
CALIFORNIA and JANET NAPOLITANO, *in*  
13 *her official capacity as President of the*  
*University of California,*

14 Plaintiffs,

15 v.

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

18 Defendants.  
19

Case No. 3:17-cv-05211-WHA

**MOTION OF LEGAL SERVICES  
ORGANIZATIONS FOR LEAVE TO FILE  
BRIEF AS *AMICI CURIAE* IN SUPPORT OF  
PLAINTIFFS' MOTION FOR PROVISIONAL  
RELIEF**

Date: December 20, 2017  
Time: 8:00 a.m.  
Dept. Courtroom 8  
Judge: Hon. William H. Alsup

20  
21 STATE OF CALIFORNIA, STATE OF MAINE,  
STATE OF MARYLAND, and STATE OF  
22 MINNESOTA,

23 Plaintiffs,

24 v.

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

27 Defendants.  
28

Case No. 3:17-cv-05235-WHA

1 CITY OF SAN JOSE, *a municipal corporation,*

Case No. 3:17-cv-05329-WHA

2 Plaintiff,

3 v.

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

8 Defendants.

9 DULCE GARCIA, MIRIAM GONZALEZ  
10 AVILA, SAUL JIMENEZ SUAREZ,  
11 VIRIDIANA CHABOLLA MENDOZA,  
12 NORMA RAMIREZ, and JIRAYUT  
13 LATTHIVONGSKORN,

Case No. 3:17-cv-05380-WHA

14 Plaintiffs,

15 v.

16 UNITED STATES OF AMERICA, DONALD J.  
17 TURMP, *in his official capacity as President of*  
18 *the United States,* U.S. DEPARTMENT OF  
19 HOMELAND SECURITY, and ELAINE DUKE,  
20 *in her official capacity as Acting Secretary of the*  
21 *Department of Homeland Security,*

22 Defendants.

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

Case No. 3:17-cv-05813-WHA

26 Plaintiffs,

27 v.

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

Defendants.

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE THAT pursuant to the Court’s Order on October 25, 2017 (ECF  
3 No. 24) (Order Regarding Amicus Briefing, “Order”), the legal services organizations listed below  
4 (collectively “*amici*”), respectfully move the Court for leave to file the accompanying brief of  
5 *amici curiae*. The brief supports Plaintiffs’ Motion for Provisional Relief and is appended as  
6 **Exhibit A** to this motion.

7 **I. LEGAL STANDARD**

8 District courts have discretion to permit third parties to participate in an action as *amici*  
9 *curiae*, and such discretion is generally exercised liberally, as “[t]here are no strict prerequisites  
10 that must be established prior to qualifying for amicus status.” *Woodfin Suite Hotels, LLC v. City*  
11 *of Emeryville*, No. C 06-1254 SBA, 2007 WL 81911, at \*3 (N.D. Cal. Jan. 9, 2007) (quoting *In re*  
12 *Roxford Foods Litig.*, 790 F. Supp. 987, 997 (E.D. Cal. 1991)). A third party must merely “make a  
13 showing that [its] participation is useful or otherwise desirable to the court.” *Id.*

14 In the Order, the Court set out specific guidelines for parties seeking to file an *amicus* brief  
15 in this case, which includes setting forth a concise statement of the identity of the *amici*, the  
16 movants’ interests, and the reasons why an *amicus* brief is desirable and relevant to the disposition  
17 of the issues. (Order.) The legal services organizations filing this motion offer a unique and  
18 important perspective on the issues before the Court, and for the reasons stated below, request  
19 leave to file a brief as *amici curiae*.

20 **II. IDENTITY OF PROPOSED AMICI CURIAE AND STATEMENT OF INTEREST**

21 Proposed *amici* are legal services organizations that provide a range of legal services,  
22 education, and advocacy for their communities, in immigration and other areas (such as housing  
23 and civil rights). Proposed *amici* have a substantial interest in the Court’s resolution of this case  
24 because the issues this Court will decide have a direct impact on their work and their clients. Many  
25 of their clients were eligible for the recently rescinded Deferred Action for Childhood Arrivals  
26 (“DACA”) program. Proposed *amici* provide legal counseling to these DACA-eligible individuals,  
27 and help guide them through the intricacies of the immigration system. As a result of their regular  
28

1 interaction with undocumented immigrants, including DACA-eligible individuals, proposed *amici*  
2 are well-positioned to articulate the nature of the irreparable harms at issue and the reasons an  
3 injunction serves the public interest. These legal services organizations understand the complex  
4 legal challenges now facing DACA grantees in light of the rescission of DACA and have observed  
5 the negative effects on the communities they serve.

6 Proposed *amici* include the following legal services organizations:

7 **Asian Law Alliance** is a community law office that provides individual legal assistance,  
8 community legal education, and community advocacy in the Asian Pacific Islander community and  
9 immigrant community in the County of Santa Clara. Asian Law Alliance helps individuals,  
especially those who have limited English proficiency, obtain justice in the immigration system.

10 **Canal Alliance** provides comprehensive immigration legal services in Marin County, California,  
11 and strives to eliminate barriers to legal integration for the low-income immigrant population.  
12 Canal Alliance provides legal consultations and educational programs to ensure its clients receive  
the resources and support they need while developing critical skills for long-term success.

13 **Centro Legal de la Raza** is a comprehensive legal services organization that protects and  
14 advances the rights of immigrant, low-income, and Latino communities through bilingual legal  
15 representation, education, and advocacy. Centro Legal de la Raza's immigration practice focuses  
on serving the needs of the most vulnerable community members, including undocumented  
immigrants, families, and DACA recipients.

16 **Community Legal Services in East Palo Alto (CLSEPA)** provides legal services to low-income  
17 individuals and families in East Palo Alto, California, and beyond. Its practice areas include  
18 immigration, housing, workers' rights, and records clearance. CLSEPA provides immigration  
19 services to low-income families and youth, and has focused on navigating complex petitions for  
DACA. Accordingly, CLSEPA is keenly aware of the challenges DACA recipients and their  
families face.

20 **Dolores Street Community Services** strives to improve individuals' lives and affect broader  
21 social change through advocacy and community organizing efforts. Dolores Street Community  
22 Services' Deportation Defense & Legal Advocacy Program specializes in deportation defense in  
23 complex cases, and provides legal services to other immigrant community members, including  
DACA recipients.

24 **East Bay Sanctuary Covenant** provides protection and advocacy to low-income and indigent  
25 refugees and immigrants. East Bay Sanctuary Covenant provides immigrants and refugees with a  
26 variety of legal services and representation, including DACA applications, and also provides  
educational programs to educate and assist clients to advocate for their own rights.

27 **Heartland Alliance's National Immigrant Justice Center (NIJC)** provides direct legal services  
28 to and advocates for immigrants, refugees, and asylum seekers. NIJC engages in policy reform,  
impact litigation, and public education by blending individual client advocacy with broad-based  
systemic change. NIJC attorneys provide consultation and legal representation in a wide variety of

1 immigration matters, including DACA applications.

2 **Immigrant Legal Resource Center (ILRC)** is a national nonprofit resource center that provides  
3 immigration legal trainings, technical assistance, and educational materials. ILRC attorneys  
4 conduct trainings and provide technical support to immigration practitioners assisting individuals  
5 in the DACA application process, and advocate at the federal level for a broadly inclusive DACA  
6 program.

7 **The Legal Aid Society of San Mateo County (LASSMC)** provides legal services to San Mateo  
8 County residents in areas including housing, health, public benefits, education, domestic violence,  
9 and immigration. Through the Linking Immigrants to Benefits, Resources & Education (LIBRE)  
10 project, LASSMC collaborates with community partners to educate the immigrant community  
11 about safety net services and immigration opportunities. LASSMC helps teen parent families,  
12 youth, and other low-income immigrants apply for DACA and other forms of immigration relief.

13 **Legal Services for Children (LSC)** provides free legal representation and assistance to children  
14 and youth, working to empower clients and actively involve them in critical decisions that impact  
15 their lives. LSC represents youth, including DACA recipients, in immigration cases.

16 **OneJustice** serves as an innovation lab on legal services and works with law schools and students,  
17 the private legal sector, and legal service nonprofits to provide legal assistance to those in need.  
18 OneJustice programs include pro bono projects to bring immigration legal services to immigrants,  
19 including DACA-eligible youth, living in rural communities.

20 **Services, Immigrant Rights, and Education Network (SIREN)** empowers low-income  
21 immigrants and refugees through legal services, policy advocacy, community education, and  
22 community organizing. Through its Immigration Legal Services Program (ILSP), SIREN provides  
23 consultations and application assistance in a wide range of immigration areas, including DACA  
24 renewals, family-based petitions, removal defense, and U visas.

### 25 **III. AMICI'S BRIEF IS DESIRABLE AND RELEVANT TO THE DISPOSITION OF THE ISSUES 26 BEFORE THE COURT**

27 Proposed *amici's* brief is desirable because it will assist the Court by providing important  
28 information about the harmful impact of the rescission of DACA on proposed *amici's* clients and  
the public interest. Proposed *amici* have specialized knowledge of and experience with the  
complexities of the immigration system—a system that provides no other viable option for most of  
these young DACA recipients to avoid deportation. Because most DACA recipients are not  
eligible for immigration relief, they are at risk of losing countless essential benefits once their  
DACA status expires, including their jobs, health insurance, and the ability to live a life free of fear  
and anxiety about deportation.

The brief of proposed *amici* also speaks to the harmful effects of the rescission of DACA



# **EXHIBIT A**

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7 UNITED STATES DISTRICT COURT  
8 NORTHERN DISTRICT OF CALIFORNIA  
9 SAN FRANCISCO DIVISION  
10

11 THE REGENTS OF THE UNIVERSITY OF  
12 CALIFORNIA and JANET NAPOLITANO, *in*  
13 *her official capacity as President of the*  
*University of California,*

14 Plaintiffs,

15 v.

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

18 Defendants.  
19

Case No. 3:17-cv-05211-WHA

**BRIEF OF LEGAL SERVICES  
ORGANIZATIONS AS *AMICI CURIAE* IN  
SUPPORT OF PLAINTIFFS' MOTION  
FOR PROVISIONAL RELIEF**

Date: December 20, 2017  
Time: 8:00 a.m.  
Dept. Courtroom 8  
Judge: Hon. William H. Alsup

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

22 Plaintiffs,

23 v.

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

27 Defendants.  
28

Case No. 3:17-cv-05235-WHA

1 CITY OF SAN JOSE, *a municipal corporation*,  
 2  
 3 Plaintiff,  
 4  
 5 v.  
 6 DONALD J. TRUMP, *President of the United*  
 7 *States, in his official capacity*, ELAINE C.  
 8 DUKE, *in her official capacity*, and the UNITED  
 9 STATES OF AMERICA,  
 10  
 11 Defendants.

Case No. 3:17-cv-05329-WHA

12 DULCE GARCIA, MIRIAM GONZALEZ  
 13 AVILA, SAUL JIMENEZ SUAREZ,  
 14 VIRIDIANA CHABOLLA MENDOZA,  
 15 NORMA RAMIREZ, and JIRAYUT  
 16 LATTHIVONGSKORN,  
 17  
 18 Plaintiffs,  
 19  
 20 v.  
 21 UNITED STATES OF AMERICA, DONALD J.  
 22 TRUMP, *in his official capacity as President of*  
 23 *the United States*, U.S. DEPARTMENT OF  
 24 HOMELAND SECURITY, and ELAINE DUKE,  
 25 *in her official capacity as Acting Secretary of the*  
 26 *Department of Homeland Security*,  
 27  
 28 Defendants.

Case No. 3:17-cv-05380-WHA

19 COUNTY OF SANTA CLARA and SERVICE  
 20 EMPLOYEES INTERNATIONAL UNION  
 21 LOCAL 521,  
 22  
 23 Plaintiffs,  
 24  
 25 v.  
 26 DONALD J. TRUMP, *in his official capacity as*  
 27 *President of the United States*; JEFFERSON  
 28 BEAUREGARD SESSIONS, *in his official*  
 29 *capacity as Attorney General of the United States*;  
 30 ELAINE DUKE, *in her official capacity as*  
 31 *Acting Secretary of the Department of Homeland*  
 32 *Security*; and U.S. DEPARTMENT OF  
 33 HOMELAND SECURITY,  
 34  
 35 Defendants.

Case No. 3:17-cv-05813-WHA

**TABLE OF CONTENTS**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

	<b>Page</b>
INTEREST OF <i>AMICI CURIAE</i> .....	1
SUMMARY OF ARGUMENT .....	1
ARGUMENT .....	2
I. THE RESCISSION OF DACA CAUSES SIGNIFICANT HARM TO <i>AMICI'S</i> DACA CLIENTS, MOST OF WHOM HAVE NO VIABLE OPTION TO OBTAIN LEGAL IMMIGRATION STATUS AND AVOID DEPORTATION. ....	2
A. Most DACA Recipients Are Not Eligible for Humanitarian or Family-Based Forms of Immigration Relief. ....	4
B. DACA Recipients Are Not Eligible for Relief Based on Their Length of Time in the U.S., No Matter How Well-Spent. ....	7
C. Without DACA, Most DACA Recipients Will Become Undocumented and Suffer Significant Related Harms. ....	8
II. THE RESCISSION OF DACA CAUSES FEAR IN THE COMMUNITY ABOUT ACCESSING PUBLIC SERVICES, WHICH HARMS THE PUBLIC INTEREST. ....	10
A. DACA Recipients and Other Immigrants Are Afraid to Access Health and Other Social Services, and to Attend School, Out of Fear of Deportation. ....	10
B. When Immigrants Are Afraid to Access Services, Broad Public Health, Safety, and Community Economic Interests Are Negatively Impacted. ....	14
CONCLUSION.....	15

**TABLE OF AUTHORITIES**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Page(s)**

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**FRCP 7.1 STATEMENT OF CORPORATE DISCLOSURE**

Pursuant to Federal Rule of Civil Procedure 7.1 (“FRCP”), the undersigned counsel of record for *amici* certify that *amici* are non-profit legal services organizations and therefore are not publicly held corporations that issue stock.

1 **INTEREST OF *AMICI CURIAE***

2 *Amici* are legal services organizations that provide immigration services.<sup>1</sup> *Amici* include the  
 3 following twelve organizations: Asian Law Alliance, Canal Alliance, Centro Legal de la Raza,  
 4 Community Legal Services in East Palo Alto (CLSEPA), Dolores Street Community Services, East  
 5 Bay Sanctuary Covenant, Heartland Alliance’s National Immigrant Justice Center (NIJC),  
 6 Immigrant Legal Resource Center (ILRC), Legal Aid Society of San Mateo County, Legal Services  
 7 for Children (LSC), OneJustice, and Services, Immigrant Rights, and Education Network (SIREN).  
 8 Many of *amici*’s clients are youth who were eligible for the recently rescinded Deferred Action for  
 9 Childhood Arrivals (“DACA”) program. *Amici* provide legal counseling to these youth to guide  
 10 them through the intricacies of the immigration system. As a result of their interaction with  
 11 undocumented immigrants generally and DACA-eligible individuals in particular, *amici* understand  
 12 the complex legal challenges now facing DACA grantees in light of the rescission of DACA and  
 13 have observed the negative effects on their clients. They are well-positioned to articulate the nature  
 14 of the irreparable harm at issue and the reasons an injunction serves the public interest.<sup>2</sup>

15 **SUMMARY OF ARGUMENT**

16 The rescission of the DACA program announced by the Department of Homeland Security  
 17 (“DHS”) on September 5, 2017<sup>3</sup> causes real and imminent harm to young people who were eligible  
 18 for protection from deportation under DACA. More than half of these DACA-eligible individuals  
 19 were six years old or younger when they first came to the United States; all were younger than  
 20 sixteen years old. Results from Tom K. Wong *et. al.*, *2017 National DACA Study*, CENTER FOR  
 21 AMERICAN PROGRESS at 9 (Aug. 28, 2017) (“*2017 National DACA Study*”).<sup>4</sup> These young people  
 22

23 <sup>1</sup> Descriptions of each *amicus* organization are provided in the Motion of Legal Services  
 Organizations for Leave to File Brief as *Amici Curiae*.

24 <sup>2</sup> Counsel for *amici* have interviewed and received information from the legal services organizations  
 25 that are filing this brief. Information throughout the brief that relates to these organizations’ clients  
 was obtained through these interviews and related requests for information.

26 <sup>3</sup> Memorandum from Acting Secretary Elaine C. Duke, *Memorandum on Rescission of Deferred*  
*Action For Childhood Arrivals (DACA)* (Sept. 5, 2017) (“Rescission Memorandum”),  
 27 <https://www.dhs.gov/news/2017/09/05/memorandum-rescission-daca>.

28 <sup>4</sup> Available at [https://cdn.americanprogress.org/content/uploads/2017/08/27164928/Wong-Et-Al-  
 New-DACA-Survey-2017-Codebook.pdf](https://cdn.americanprogress.org/content/uploads/2017/08/27164928/Wong-Et-Al-New-DACA-Survey-2017-Codebook.pdf).

1 now face a frightening and uncertain future in the United States, despite prior assurances by the  
2 government that by coming forward and applying for DACA, they would be protected from negative  
3 immigration enforcement action.

4 The vast majority of DACA grantees will be left without any protection from deportation  
5 when their current status expires. DACA grantees will also lose work authorization, leading them to  
6 lose their jobs, health insurance, and countless other benefits. Losing DACA will force many of  
7 them into a life of hiding and constant fear of removal from the only country they have ever known.

8 The decision to rescind DACA has intensified fear of accessing vital services in the  
9 immigrant community. As their DACA status expires, DACA recipients will join the ranks of so  
10 many immigrants who have no protection against deportation and are afraid that if they go to school  
11 or work, access medical services, or report a crime, they will become targets for deportation. This  
12 fear is not only harmful to those directly affected, but also dangerous for public health and safety.

13 A preliminary injunction prohibiting the government from enforcing the Rescission  
14 Memorandum is necessary in order to prevent irreparable harm to this community of young  
15 immigrants and is in the public interest.

## 16 ARGUMENT

### 17 **I. THE RESCISSION OF DACA CAUSES SIGNIFICANT HARM TO AMICI'S DACA CLIENTS, MOST** 18 **OF WHOM HAVE NO VIABLE OPTION TO OBTAIN LEGAL IMMIGRATION STATUS AND AVOID** 19 **DEPORTATION.**

20 The rescission of DACA will put DACA recipients at risk for deportation and strip them of  
21 their eligibility for work permits. Without DACA, most DACA recipients are ineligible for any  
22 protection from deportation under current law. Indeed, DACA was only necessary because  
23 Congress failed to pass the Development, Relief, and Education for Alien Minors Act (“DREAM  
24 Act”),<sup>5</sup> which would have created a path to citizenship for many DACA-eligible individuals,  
25 commonly referred to as “Dreamers.” The DREAM Act’s proponents sought to provide a much-  
26 needed legal solution for undocumented young people who had been present in the United States  
27 from childhood, and, in some cases were not aware until adulthood of their lack of status.

28 <sup>5</sup> H.R. 1184, 112th Cong. (2011); S. 952, 112th Cong. (2011).

1 Proponents recognized that Dreamers grew up in the U.S. but had no other option for staying legally  
 2 in the United States. *Report and analysis of immigration and nationality law*, 2 Senate Judiciary  
 3 Subcommittee Holds Hearing on the DREAM Act, 88 No. 25 Interpreter Releases 1594 (July 4,  
 4 2011). Congress attempted (but failed) to pass legislation (including the DREAM Act) protecting  
 5 this class of young immigrants approximately fourteen times since 2001, both as stand-alone  
 6 legislation and as part of comprehensive immigration reform.<sup>6</sup>

7 In response to Congress's failed attempts to provide relief to these young immigrants,  
 8 President Obama issued an Executive Order in June 2012 enacting DACA. *See Memorandum from*  
 9 *Secretary Janet Napolitano, Exercising Prosecutorial Discretion with Respect to Individuals Who*  
 10 *Came to the United States as Children* (June 15, 2012).<sup>7</sup> DACA granted a renewable two-year  
 11 period of deferred action (protection from deportation) and work authorization. *Id.* Although  
 12 DACA does not offer a path to legal status or citizenship, "it provides tangible opportunities for  
 13 young immigrants to participate more fully in our society and economy." *Deferred Action for*  
 14 *Childhood Arrivals (DACA): Funding Opportunities for Philanthropy*, Grantmakers Concerned  
 15 with Immigrants and Refugees (Oct. 29, 2017).<sup>8</sup> The DACA program allowed recipients to live  
 16 without fear of deportation and to overcome many of the hardships associated with undocumented  
 17 status.

18 When their current period of deferred action expires, DACA recipients will be cast back into  
 19 legal uncertainty, without any protection from deportation. Their loss is substantial and the  
 20 consequences are dire: they will lose the ability to remain legally in the U.S. and will have no means  
 21 of earning a living. Most DACA recipients do not qualify for any form of immigration relief, such

22 \_\_\_\_\_  
 23 <sup>6</sup> *See, e.g.*, H.R. 1918, 107th Cong. (2001); S. 1291, 107th Cong. (2001); S. 1545, 108th Cong.  
 24 (2003); S. 2075, 109th Cong. (2005); H.R. 5131, 109th Cong. (2005); S. 2205, 110th Cong. (2007);  
 25 H.R. 1275, 110th Cong. (2007); S. 729, 111th Cong. (2010); S. 3992, 111th Cong. (2010); H.R.  
 1842, 112th Cong. (2011); S. 952, 112th Cong. (2011); H.R. 1468, 115th Cong. (2017); H.R. 3591,  
 115th Cong. (2017); S. 1615, 115th Cong. (2017).

26 <sup>7</sup> *Available at* <https://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf>.

27 <sup>8</sup> *Available at*  
 28 [https://www.gcir.org/sites/default/files/resources/GCIR%20DACA%20Funding%20Opportunities\\_1.pdf](https://www.gcir.org/sites/default/files/resources/GCIR%20DACA%20Funding%20Opportunities_1.pdf).

1 as humanitarian-based forms of relief or family-based visas. And for the few who may qualify for  
 2 other relief, successfully *obtaining* relief is nearly impossible under current immigration law. Thus,  
 3 for the vast majority of DACA grantees, *there is no other option* and they will become  
 4 undocumented when their deferred status expires.

5 **A. Most DACA Recipients Are Not Eligible for Humanitarian or Family-Based**  
 6 **Forms of Immigration Relief.**

7 Very few DACA recipients are eligible for immigration relief under current law. *Amici*  
 8 routinely screened DACA-eligible individuals for humanitarian and family-based forms of relief  
 9 before providing assistance applying for DACA.<sup>9</sup> But most DACA recipients have not suffered the  
 10 requisite trauma to qualify for humanitarian forms of relief. Likewise, most DACA recipients do not  
 11 have a qualifying relative or are barred from obtaining relief through a family-based petition.<sup>10</sup> The  
 12 majority of DACA recipients do not qualify for other immigration options, such as student or work  
 13 visas, either. Indeed, a 2014 study found that only 14.3% of DACA-eligible young people  
 14 potentially qualified for other forms of relief. Tom K. Wong, *et al.*, *Paths to Lawful Immigration*  
 15 *Status: Results and Implications from the PERSON Survey*, 2 J. OF MIGRATION AND HUMAN  
 16 SECURITY 4, 287-304 (2014). The rescission of DACA therefore leaves them without any protection  
 17 from deportation.

18 Humanitarian-based options are narrowly tailored forms of relief that typically require that  
 19 applicants suffered significant trauma in their country of origin or in the U.S. For example, asylum  
 20 and its related forms of relief require that applicants suffered or will suffer extreme harm in their  
 21 countries of origin.<sup>11</sup> 8 U.S.C. § 1101(a)(42); INA § 101(a)(42)(A).<sup>12</sup> Similarly, Special Immigrant

22 <sup>9</sup> Ruling out other forms of relief was a crucial part of the DACA application process, as many other  
 23 forms of relief, unlike DACA, confer a path to legal permanent residence and citizenship.

24 <sup>10</sup> To qualify for family-based petitions, DACA recipients must be an *immediate relative*, defined as  
 25 a spouse, unmarried child under 21, or a parent (if the child is 21 years or older) of a U.S. citizen or  
 26 lawful permanent resident (“LPR”). INA § 201(b)(2)(A)(i).

27 <sup>11</sup> Asylum applicants often seek withholding of removal and relief under the Convention Against  
 28 Torture as well. INA § 241(b)(3); *Convention against Torture and Other Cruel, Inhuman or*  
*Degrading Treatment or Punishment*, 1465 United Nations Treaty Series at 85 (Dec. 10, 1984),  
[https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-9&chapter=4&lang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-9&chapter=4&lang=en).

<sup>12</sup> The Immigration and Nationality Act (“INA”) is comprised of a series of sections of Title 8 of the

1 Juvenile Status (“SIJS”) confers status on young immigrants who have been abused, abandoned or  
 2 neglected. INA § 101(a)(27); 8 C.F.R. § 204.11. “U” and “T” visas provide relief for victims of  
 3 certain qualifying crimes and human trafficking, respectively, while the Violence Against Women  
 4 Act (“VAWA”) allows certain battered spouses, children, and parents to petition for legal status  
 5 without the involvement of their abusive spouse, parent, or child. INA § 101(a)(15)(U) (U Visas);  
 6 INA § 101(a)(15)(T) (T visas); INA § 245 (VAWA).<sup>13</sup> But individuals who spent most of their lives  
 7 in the United States, attended school, worked, and have not experienced significant harm or violence  
 8 in their lives simply do not qualify for these forms of relief.

9 Similarly, most DACA grantees are not eligible for family-based immigration relief. Among  
 10 the few DACA recipients who have a qualifying relative, many are not eligible to apply to adjust  
 11 status from within the country because they last entered the country without permission.<sup>14</sup> As a  
 12 result, these DACA recipients would have to leave the country to apply for a family-based visa, and  
 13 would then face strict bars to re-entry, due to their previous “unlawful presence” in the United  
 14 States.<sup>15</sup> INA § 212(a)(9)(B)-(C). Undocumented immigrants who have accrued unlawful presence

15 \_\_\_\_\_  
 16 United States Code (“USC”). Hereinafter, federal immigration statutes are only referenced to their  
 17 INA classification.

18 <sup>13</sup> Even in the rare situation that a DACA-eligible individual qualifies for an alternative form of  
 19 relief, the waiting time for that relief can be many years. For example, the current waiting time for a  
 20 U visa is approximately five to ten years. Even an interim work permit through a U visa application  
 21 currently takes about three years to process, and individuals waiting for U visa approval have been  
 22 subjected to enforcement by Immigration and Customs Enforcement (“ICE”) during this waiting  
 23 period. *Amicus* organization Dolores Street Community Services reports a client who, despite  
 24 having a pending U visa application, was detained. *See also* Madeline Kenney, *Berwyn*  
 25 *grandmother of 10 facing deportation sues DHS over visa delay*, Chicago Sun Times (Sept. 18,  
 26 2017), <https://chicago.suntimes.com/chicago-politics/berwyn-grandmother-of-10-facing-deportation-sues-dhs-over-visa-delay/>.

27 <sup>14</sup> Family-based petitions also take years to process. Seventy-eight percent of DACA recipients are  
 28 from Mexico. The government is currently processing visa petitions filed in March 1996 for  
 unmarried Mexican sons and daughters of U.S. citizens. Visa Bulletin for October 2017, U.S. Dep’t  
 of State, Bureau of Consular Affairs (Sept. 11, 2017), <https://travel.state.gov/content/visas/en/law-and-policy/bulletin/2018/visa-bulletin-for-october-2017.html>.

<sup>15</sup> “Unlawful presence” is when an undocumented immigrant “is present in the United States after  
 the expiration of the period of stay authorized . . . or is present within the United States without  
 being admitted or paroled.” INA § 212(a)(9)(B)(ii). DACA recipients accrued “unlawful presence”  
 between the time they turn 18 and the date they received protection from deportation, *i.e.*, the date  
 their DACA application was approved. Once granted DACA, DACA recipients are not considered  
 “unlawfully present” for purposes of the legal time bars. USCIS DACA FAQs, Question 1. But  
 once their DACA status expires, they will again accrue unlawful presence.

1 are barred from re-entry for three years, ten years, or permanently, depending on their length of  
2 unlawful presence and number of entries. INA §§ 212(a)(9)(B)(i)(I)-(II) and 212(a)(9)(C). Those  
3 who entered the country more than once without inspection and have been unlawfully present for a  
4 total of more than one year are *permanently* barred. INA § 212(a)(9)(C).

5 Most DACA recipients have accrued some unlawful presence and are subject to these time  
6 bars. Because DACA was implemented in 2012 and the average age of a DACA grantee is 25, an  
7 average DACA grantee who applied for DACA as soon as it was available would have accrued two  
8 years of unlawful presence, from the time they were 18 in 2010 until they received the DACA grant  
9 in 2012. *See 2017 National DACA Study* at 13. Even the three and ten year bars, in practice, are  
10 complete barriers to relief, because applicants would need to leave their families, jobs, schools, and  
11 for most, the only country they have ever known, in order to wait out the time-bar.

12 Before September 5, 2017, DACA recipients could apply for “advance parole” to leave the  
13 country for work, education, or emergency family visits, and receive advance authorization to re-  
14 enter the U.S. (*i.e.* to be “paroled” upon return). *See* U.S. Citizenship and Immigration Services  
15 (“USCIS”) DACA FAQs at Question 57 (requirements for advance parole); USCIS Adjudicator’s  
16 Field Manual, § 54.1.<sup>16</sup> For some, this would hypothetically allow them to apply for some family-  
17 based forms of relief to adjust status from within the country if they have a qualifying relative. *See*  
18 INA § 212. However, when the administration rescinded DACA, it also abruptly ended eligibility  
19 for advance parole for *all* DACA recipients, effective immediately. The Rescission Memorandum.

20 DACA recipients could still seek a “provisional unlawful presence waiver” (INA §  
21 212(a)(9)(B)(v)) and 8 C.F.R. 212.7(e)), but the standard is demanding. To qualify, an applicant  
22 must show that refusing to allow her to re-enter the country would result in “extreme hardship” to  
23 her citizen or lawfully resident spouse or parent. INA § 212(a)(9)(B)(v); *In re Cervantes-Gonzalez*,  
24 22 I. & N. Dec. 560, 565-66 (B.I.A. 1999). Thus, even for the very few DACA recipients who  
25 might qualify for family-based adjustment of status, it is an illusory form of relief at best.

26  
27  
28 <sup>16</sup> Available at <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-20442/0-0-0-20456.html#0-0-0-687>.

1           **B.       DACA Recipients Are Not Eligible for Relief Based on Their Length of Time in**  
 2           **the U.S., No Matter How Well-Spent.**

3           Contrary to popular perception, there is no form of relief available to young immigrants on  
 4 the basis that they have lived in the United States for most of their lives, even if they have been  
 5 exemplary members of the community and excelled academically. DACA also did not create a  
 6 “loophole” by which eligible young people could “cut in line” for relief for which they would have  
 7 had to wait longer if they had stayed in their home countries. Instead, DACA provided young  
 8 people who were already here and had no viable recourse for immigration relief with temporary  
 9 work permits and protection from deportation.

10           Prior to immigration reform in 1996, immigrants in deportation proceedings could ask an  
 11 immigration judge to grant “suspension of deportation,” which took the “good moral character” of  
 12 an immigrant into account.<sup>17</sup> This form of relief was only available if an immigrant was in removal  
 13 proceedings *and* would either endure extreme hardship if deported or had a qualifying relative who  
 14 would endure extreme hardship if the applicant were deported. In 1996, Congress eliminated  
 15 “suspension of deportation,” and replaced it with a form of cancellation of removal that imposed a  
 16 higher burden on the applicant.<sup>18</sup> INA § 240A(b); *see Hernandez v. Gonzalez*, 437 F.3d 341, 346-47  
 17 (3d Cir. 2006) (noting the “practical effect . . . [is] that a far larger number of immigrants are now  
 18 removable under the new law, while a much smaller number are eligible for any form of relief from  
 19 removal”). As with “suspension of deportation,” only immigrants in removal proceedings and with a

20           <sup>17</sup> “Suspension of deportation” required: (1) continuous physical presence in the U.S. for at least  
 21 seven years; (2) good moral character during those seven years; and (3) that deportation would result  
 22 in extreme hardship to the applicant or the applicant’s citizen or lawful permanent resident spouse,  
 23 parent, or child. INA § 244(a) (1994) (repealed 1996).

24           <sup>18</sup> Most applicants are unable to avoid deportation through cancellation of removal unless they can  
 25 show that deportation would result in “exceptional and extremely unusual hardship” to a U.S. citizen  
 26 or LPR spouse, parent or child. INA § 240A. This standard is a very demanding one that generally  
 27 requires a showing that a U.S. citizen or LPR family member suffers from a severe chronic medical  
 28 condition and requires special medical attention and financial support. *See Ayeni v. Holder*, 617  
 F.3d 67, 67, 73 (1st Cir. 2010) (upholding lower court decision that even evidence of petitioner’s  
 inability to provide medical care for his children’s chronic and serious health issues, which included  
 severe asthma, migraine headaches, and attention deficit hyperactivity disorder, did not meet  
 hardship standard). Merely demonstrating the emotional harm caused by the separation of family  
 members or financial hardship is insufficient. *Tejado v. Holder*, 776 F.3d 965, 969 (8th Cir. 2015)  
 (emotional harm); *Gomez-Perez v. Holder*, 569 F.3d 370, 373 (8th Cir. 2009) (financial hardship).

1 qualifying relative (hardship to the applicant is no longer sufficient) are able to seek cancellation of  
 2 removal. Given that most young immigrants do not have a qualifying relative, this option is  
 3 inapplicable to most DACA recipients.

4 As a result, for the vast majority of DACA recipients who do not qualify for humanitarian or  
 5 family-based immigration relief, there is no procedure, other than DACA, to protect them from  
 6 deportation.

7 **C. Without DACA, Most DACA Recipients Will Become Undocumented and Suffer**  
 8 **Significant Related Harms.**

9 Given the small number of DACA recipients who actually qualify for immigration relief and  
 10 the legal hurdles faced by the small minority of those that do qualify, the reality is that most DACA  
 11 recipients will become undocumented as a result of the Rescission Memorandum. They will not be  
 12 able to work legally and will not have any protection from deportation—and will suffer numerous  
 13 harms as a result. The elimination of DACA “reverberate[s] far beyond th[e] privileges” of legally  
 14 living and working in the United States. Caitlin Dickerson, *For DACA Recipients, Losing*  
 15 *Protection and Work Permits Is Just the Start*, The New York Times (Sept. 7, 2017) (“*Losing*  
 16 *Protection*”).<sup>19</sup>

17 The positive impact of the DACA program—both to its recipients and to American society  
 18 more generally—should not be underestimated. “Since DACA began, thousands of Dreamers have  
 19 been able to enroll in colleges and universities, complete their education, start businesses that help  
 20 improve our economy, and give back to our communities as teachers, medical professionals,  
 21 engineers, and entrepreneurs—all on the books.” Letter from Secretary Jeh Johnson, U.S. Dep’t of  
 22 Homeland Sec., to Honorable Judy Chu, U.S. House of Rep. (Dec. 30, 2016).<sup>20</sup> After the  
 23 implementation of DACA, approximately 80% of DACA grantees obtained driver’s licenses for the  
 24 first time. *2017 National DACA Study* at 9. Many also obtained financial aid for higher education.  
 25 See Dickerson, *Losing Protection*. Further, after receiving DACA, approximately 65% of DACA

26 <sup>19</sup> Available at <https://www.nytimes.com/2017/09/07/us/daca-losses-immigration.html>.

27 <sup>20</sup> Available at  
 28 <https://chu.house.gov/sites/chu.house.gov/files/documents/DHS.Signed%20Response%20to%20Chu%2012.30.16.pdf>.

1 grantees age 25 and under and approximately 54% of DACA grantees over age 25 pursued  
 2 educational opportunities they previously could not pursue. *2017 National DACA Study* at 7.  
 3 Approximately 70% of DACA recipients “earn[ed] more money, which . . . helped [them] become  
 4 financially independent.” *Id.* at 3. As the result of their employment, many DACA recipients also  
 5 obtained employer-based health insurance.<sup>21</sup> See Jessica Ferger, *Rescinding DACA Could Spur a*  
 6 *Public Health Crisis, from Lost Services to Higher Rates of Depression, Substance Abuse,*  
 7 *Newsweek* (Sept. 6, 2017).<sup>22</sup> All of these benefits will disappear with the rescission of DACA.

8 Many DACA recipients will be forced to make heart-breaking decisions about the future of  
 9 their families, and in particular of their U.S. citizen children. DACA recipients who are parents must  
 10 choose whether to take their U.S. citizen children with them if they are deported, or face years and  
 11 even possibly permanent separation. Priscilla Alvarez, *Will DACA Parents Be Forced to Leave*  
 12 *Their U.S.-Citizen Children Behind?*, *The Atlantic* (Oct. 21, 2017) (because of the rescission of  
 13 DACA, an estimated 200,000 children are now at risk of losing their DACA recipient parents).<sup>23</sup> If  
 14 they decide to leave their U.S. citizen children in the U.S., they need to make legal, practical, and  
 15 financial arrangements for the care of their children. DACA recipients who may be subject to  
 16 deportation must also spend time and resources to protect their property, assets, and finances in case  
 17 they are deported. These harms are not speculative. A recent study profiled a DACA recipient who  
 18 “was born in Mexico, but came to the U.S. at the age of nine. She received DACA when she was  
 19 studying for a master’s degree at Stanford. She bought a house, married another DACA recipient,  
 20 and has two children who are U.S. citizens.” Julia Carrie Wong, *Fear and uncertainty for Dreamers*  
 21 *as DACA ends: “Where am I going to go?”*, *The Guardian* (Sept. 5, 2017). This DACA recipient is

22 \_\_\_\_\_  
 23 <sup>21</sup> Rescinding DACA will also have a significant economic effect, as employers will have to terminate  
 24 the employment of DACA grantees once their deferred status expires. This will result in a reduction  
 25 in contributions made to Social Security and Medicare, both by the employee and employer, of  
 26 approximately \$39.3 billion over 10 years. Jose Magaña-Salgado, et al., *Draining the Trust Funds:*  
 27 *Ending DACA and the Consequences to Social Security and Medicare*, Immigrant Legal Resource  
 28 Center at 2, 9 (Oct. 2017), [https://www.ilrc.org/sites/default/files/resources/2017-09-29\\_draining\\_the\\_trust\\_funds\\_final.pdf](https://www.ilrc.org/sites/default/files/resources/2017-09-29_draining_the_trust_funds_final.pdf).

<sup>22</sup> Available at <http://www.newsweek.com/daca-immigration-health-care-access-mental-health-660539>.

<sup>23</sup> Available at <https://www.theatlantic.com/politics/archive/2017/10/donald-trump-daca/543519/>.

1 not eligible for immigration relief, so she and her partner are “looking at a plan to protect [their]  
2 daughters in case [they] are deported.” *Id.* at 2. *Amici* are aware of countless similar situations  
3 among their clients.

4 The rescission of DACA creates significant turmoil for DACA recipients and their families,  
5 who have planned their futures around the promises of DACA. Now, most will once again become  
6 undocumented immigrants, with all the uncertainty and anxiety that entails, and without the ability to  
7 work legally, obtain health insurance, legally drive in many states, pay for college, purchase homes,  
8 and make plans for their lives.<sup>24</sup>

9 **II. THE RESCISSION OF DACA CAUSES FEAR IN THE COMMUNITY ABOUT ACCESSING PUBLIC**  
10 **SERVICES, WHICH HARMS THE PUBLIC INTEREST.**

11 In light of a political climate increasingly hostile to immigrants, intensified by the rescission  
12 of DACA, many in the immigrant community are understandably fearful of deportation and afraid to  
13 access services. When DACA protections expire, *amici*’s DACA clients will no longer be protected  
14 from deportation and, like other undocumented immigrants, may be afraid to access services. This  
15 situation endangers public health and safety.

16 **A. DACA Recipients and Other Immigrants Are Afraid to Access Health and Other**  
17 **Social Services, and to Attend School, Out of Fear of Deportation.**

18 In the wake of recent increasing immigration enforcement activity and the Rescission  
19 Memorandum, there is evidence that anxiety is causing undocumented immigrants, including DACA  
20 recipients, to decline utilizing health services and to refrain from reporting crimes. Some members  
21 of the immigrant community are even avoiding school and work. For example, *amicus* organization  
22 Centro de la Raza has a client whose family members stopped working because of fear of raids at

23 <sup>24</sup> DACA recipients are at even more risk than other undocumented immigrants because they  
24 provided personal and sensitive information to the government as part of the DACA application  
25 process, including addresses, employers, photos, and fingerprints. Now, the government has stated  
26 that although the personal information will not be “proactively provided” to other law enforcement  
27 entities and ICE, that may change and be “rescinded at any time without notice.” *See* USCIS DACA  
28 FAQs at Question 8; Richard Gonzales, *DACA Recipients Worry What The Government Will Do*  
*With Their Private Information*, NPR (Sept. 9, 2017),  
<http://www.npr.org/2017/09/09/549678003/daca-recipients-worry-what-the-government-will-do-with-their-private-information>.

1 their workplace. Several *amici* organizations have been providing “Know Your Rights”  
2 presentations in order to alleviate these concerns in the community.

3 Many undocumented immigrants avoid visiting hospitals or clinics for fear of deportation.  
4 See Anna North, *DACA helped some immigrants finally get health care. Now they could lose it*, Vox  
5 (Sept. 28, 2017) (“*DACA helped get health care*”).<sup>25</sup> For example, undocumented immigrant women  
6 may not access necessary prenatal health care, which can lead to a wide range of detrimental health  
7 outcomes. North, *DACA helped get health care*. Anecdotal evidence demonstrates that avoidance  
8 behavior, motivated by fear, abounds. For example, an undocumented immigrant woman in  
9 Alameda, California stopped receiving cancer treatments because she was terrified of being  
10 identified and detained if she continued using health services given reports of increased immigration  
11 enforcement. Virginia Fay, *Back Into the Shadows: Immigrants Retreat From Needed Services as*  
12 *Deportation Fears Loom*, KQED News (June 15, 2017) (“*Back Into the Shadows*”).<sup>26</sup> *Amici* have  
13 observed this phenomenon in the immigrant community, as well. Medical professionals have  
14 informed *amicus* organization ILRC that undocumented immigrants treated in emergency rooms  
15 have failed to return to the hospital for critical follow-up treatment out of fear of deportation.

16 Undocumented immigrants are also increasingly afraid to report crimes to law enforcement,  
17 fearing that any interaction with a governmental entity could lead to deportation. Local police  
18 departments worry about how the increasingly fearful climate will affect their relationships with  
19 immigrant communities and their ability to solve crime. As one police captain in Redwood City,  
20 California explained, undocumented immigrants “will see law enforcement and the justice system as  
21 something that is now less accessible . . . and potentially threatening . . . because they’re concerned  
22 that the federal government will somehow get that information and use it to deport them.” *Id.* In  
23 fact, police in Houston, Los Angeles, and San Francisco observed significantly decreased reporting  
24 of sexual and domestic violence by Latina women during the first few months of 2017, compared to  
25 the same time period in 2016. *Id.* Advocates report that many domestic violence survivors who are

26 <sup>25</sup> Available at [https://www.vox.com/identities/2017/9/28/16351866/daca-health-care-reproductive-](https://www.vox.com/identities/2017/9/28/16351866/daca-health-care-reproductive-health-undocumented-immigrants)  
27 [health-undocumented-immigrants](https://www.vox.com/identities/2017/9/28/16351866/daca-health-care-reproductive-health-undocumented-immigrants).

28 <sup>26</sup> Available at [https://www.kqed.org/news/2017/06/15/back-into-the-shadows-immigrants-retreat-](https://www.kqed.org/news/2017/06/15/back-into-the-shadows-immigrants-retreat-from-needed-services-as-deportation-fears-loom/)  
[from-needed-services-as-deportation-fears-loom/](https://www.kqed.org/news/2017/06/15/back-into-the-shadows-immigrants-retreat-from-needed-services-as-deportation-fears-loom/).

1 undocumented are too afraid of contact with police to seek life-saving restraining orders, report  
2 abuse, or seek U visas. *Id.* They further note that undocumented survivors are even afraid to stay at  
3 the shelters. *Id.* When “survivors do come in for help, they are often so scared that they won’t stay  
4 more than a few days or a week.” *Id.* Amicus organization Dolores Street Community Services  
5 reports having multiple clients who have endured horrific domestic violence that were too afraid to  
6 report the abuse due to their immigration status. Similarly, amicus organization Centro Legal de la  
7 Raza recently received a case involving a woman who fears she will be deported if she contacts the  
8 police to report abuse. Amicus organization Dolores Street Community Services spoke with a  
9 potential client who was a crime victim but did not report the crime and even refused to go to  
10 Dolores Street’s office for an assessment of potential relief due to his fear of ICE.

11 Fear in the community has led to increased absenteeism in schools among immigrant  
12 students, from elementary school through college. Carolyn Jones, *Immigration crackdown taking*  
13 *heavy toll on California students*, Mercury News (Oct. 5, 2017).<sup>27</sup> Educators have also observed that  
14 some students are having increased difficulty concentrating in the classroom as a result of recent  
15 anti-immigration policies. *Id.* Some immigrant parents have even expressed fear of sending their  
16 children to school, in case “they’re taken in an ICE raid during the day and their children have no  
17 one to return home to.” Fay, *Back Into the Shadows*.

18 Immigrant families are also reluctant to access social services due to fear of deportation.  
19 Social scientists have pointed out that “anti-immigrant sentiment and increased deportation activity  
20 has had a long history of causing eligible families to drop out and shy away” from safety net  
21 programs. Annie Lowrey, *Trump’s anti-immigrant policies are scaring families away from the*  
22 *safety net*, The Atlantic (Mar. 24, 2017) (“*Trump’s anti-immigrant policies*”).<sup>28</sup> In many cases,  
23 families eligible for these vital programs have mixed immigration status—for example,

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26 <sup>27</sup> Available at <http://www.mercurynews.com/2017/10/05/immigration-crackdown-taking-heavy-toll-on-california-students/?platform=hootsuite>.

27 <sup>28</sup> Available at [https://www.theatlantic.com/business/archive/2017/03/trump-safety-net-latino-families/520779/?utm\\_source=nl-atlantic-weekly-032417](https://www.theatlantic.com/business/archive/2017/03/trump-safety-net-latino-families/520779/?utm_source=nl-atlantic-weekly-032417).

1 “undocumented parents with children with birthright citizenship.”<sup>29</sup> *Id.* Eligible mixed-status  
2 families are declining to enroll in, or even un-enrolling from programs such as the Supplemental  
3 Nutrition Assistance Program (“SNAP”)<sup>30</sup> and Women, Infants, and Children (“WIC”), out of fear  
4 that enrollment will put undocumented family members at risk of deportation.<sup>31</sup> Lowrey, *Trump’s*  
5 *anti-immigrant policies*. Eligible families are withdrawing from other anti-poverty programs as  
6 well. *Id.* For instance, Eisner Health, a Los Angeles-based health care provider, compared monthly  
7 enrollment averages from December 2016 through February 2017 with data from 2016, and reported  
8 a 20% drop in food stamp enrollment, a 54% drop in Medicaid enrollment among children, and an  
9 82% drop in enrollment in a local health program. *Id.* Re-enrollment in these programs has declined  
10 by 40%. *Id.* The community’s avoidance of these crucial services will likely result in “long-term  
11 consequences on the health, nutrition, and school performance of the youngest members of these  
12 families,” many of whom are U.S. citizens. *Id.*

13 Even immigrants who have already received a form of relief from deportation, such as  
14 asylum, are experiencing an uptick in anxiety. *Amicus* organization Centro Legal de la Raza  
15 recently counseled an asylee who was anxious to adjust his status because of the DACA decision,  
16 even though he was not yet eligible and the rescission of DACA did not affect him at all, and another  
17 who was worried, after hearing about the DACA rescission, that her asylum grant could be  
18 rescinded. *Amicus* organization LSC similarly was contacted by an LPR client after the rescission of  
19 DACA to express concern for his own status.<sup>32</sup> And *amicus* organization Dolores Street Community  
20 Services reports that eligible individuals are afraid to apply affirmatively for relief because they  
21 worry about what will happen if relief is denied or later rescinded, like DACA.

22 <sup>29</sup> Such mixed immigration family status families are increasingly common—nearly six million citizen  
23 children live in such households. *Id.*

24 <sup>30</sup> Supplemental Nutrition Assistance Program (SNAP), United States Department of Agriculture:  
25 Food and Nutrition Service, [https://www.fns.usda.gov/snap/supplemental-nutrition-assistance-](https://www.fns.usda.gov/snap/supplemental-nutrition-assistance-program-snap)  
26 [program-snap](https://www.fns.usda.gov/snap/supplemental-nutrition-assistance-program-snap).

27 <sup>31</sup> Women, Infants, and Children (WIC), United States Department of Agriculture: Food and Nutrition  
28 Service, <https://www.fns.usda.gov/wic/women-infants-and-children-wic>.

<sup>32</sup> *Amicus* organization ILRC has even heard reports of naturalized citizens and legal permanent  
residents being hesitant or unwilling to access critical emergency services that they were eligible for,  
such as food assistance, following the recent fires in Sonoma, Napa, Lake and Mendocino counties.

1 Due to the rescission of DACA, many young people are now thrust into the precarious  
 2 position of considering whether accessing medical care, reporting crimes, going to school, or  
 3 enrolling in social services could negatively affect their ability to remain in the United States. And  
 4 for the immigrant community at large, the rescission of DACA has only worsened anxiety, in an era  
 5 already fraught with uncertainty and fear.

6 **B. When Immigrants Are Afraid to Access Services, Public Health, Safety, and**  
 7 **Community Economic Interests Are Negatively Impacted.**

8 When individuals are too scared to seek essential services for fear of deportation, the risks for  
 9 individual and public health safety increase significantly. Indeed, the “administration’s actions and  
 10 directives ostensibly target the 11 million unauthorized immigrants who live in the United States, but  
 11 they will also harm millions of American citizens all across the country who live and work beside  
 12 these immigrants every day.” Lowrey, *Trump’s anti-immigrant policies* (emphasis added).

13 Considerable risks to individual and public health are associated with the community’s  
 14 anxiety about accessing healthcare. When individuals do not seek preventive care (including  
 15 vaccines), fill vital prescriptions, or care for acute conditions until they experience an emergency,  
 16 both the risk of public health crises and the price of health care can rise. “Ultimately, keeping  
 17 undocumented immigrants from getting necessary health care is bad for everyone . . . Health care is  
 18 more expensive when people can’t get it until they’re very sick. And lack of health care increases  
 19 the risk of chronic illness, which can make people unable to work or be active in their communities.”  
 20 North, *DACA helped get health care; see also* Julianne Zuber, *Healthcare for the Undocumented:*  
 21 *Solving a Public Health Crisis in the U.S.*, 28 J. CONTEMP. HEALTH L. & POLICY 350, 370 (2012)  
 22 (“Placing barriers to accessing regular health care for undocumented immigrants threaten[s]  
 23 community resilience because those with pre-existing health conditions are more vulnerable to . . .  
 24 severe effects from a disease outbreak or public health emergency.”). Moreover, anxiety and fear of  
 25 the consequences of being undocumented, including deportation and lack of future access to health  
 26 care, could lead to acute mental health concerns. *See* David Becerra, *et al.*, *Fear vs. Facts:*  
 27 *Examining the Economic Impact of Undocumented Immigrants in the U.S.*, 39 J. SOC. & SOC.  
 28 WELFARE 111, 118 (2012); Leisy J. Abrego, *Legal Consciousness of Undocumented Latinos: Fear*

1 *and Stigma as Barriers to Claims-Making for First- and 1.5-Generation Immigrants*, 45 LAW &  
2 SOC'Y REV. 337, 370 (2011) (risk of permanent anxiety for undocumented immigrants).

3 The public's safety is also put at risk. When victims of and witnesses to crime are afraid to  
4 approach law enforcement, crime goes underreported. See Susana Martinez and Sheila Neville, *Help*  
5 *for Undocumented Victims of Crime*, 44 CLEARINGHOUSE REV. 129, 141 (2010). The reluctance to  
6 report crime is dangerous not only to undocumented immigrant victims, but to society as a whole.  
7 See Bill Ong Hing, *Immigration Sanctuary Policies: Constitutional and Representative of Good*  
8 *Policing and Good Public Policy*, 2 UC IRVINE L. REV. 247, 303 (2012) (noting that the entire  
9 community is safer when the immigrant community trusts law enforcement). "When the community  
10 and law enforcement are not engaged, we miss opportunities to interrupt current and future violence.  
11 As a result, everyone's public safety is put at risk." Debra J. Robbin, *When Undocumented*  
12 *Immigrants Don't Report Crime, We All Suffer*, WBUR (Sept. 22, 2017).<sup>33</sup>

13 The decision to rescind DACA has increased fear in the immigrant community and added  
14 thousands of young people to the group of people afraid of deportation. The resulting reduction in  
15 use of public health, safety, educational, and social services is harmful to the public interest.

16 **CONCLUSION**

17 The rescission of DACA irreparably harms DACA recipients by depriving them of their only  
18 real opportunity to pursue the American Dream. It also instills a fear among DACA recipients and  
19 all immigrants alike that is harmful to American society as a whole. On behalf of their clients and  
20 the communities they serve, *amici curiae* urge this Court to issue a declaratory judgment that the  
21 Rescission Memorandum is unlawful and unconstitutional and to grant a nationwide injunction in  
22 order to prevent further harm and damage to the public interest.

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28 <sup>33</sup> Available at <http://www.wbur.org/cognoscenti/2017/09/22/undocumented-immigrants-report-crimes-debra-j-robbin>.



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11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 SAN FRANCISCO DIVISION

14 THE REGENTS OF THE UNIVERSITY OF  
15 CALIFORNIA and JANET NAPOLITANO, *in*  
16 *her official capacity as President of the*  
17 *University of California,*

18 Plaintiffs,

19 v.

20 U.S. DEPARTMENT OF HOMELAND  
21 SECURITY and ELAINE DUKE, *in her official*  
22 *capacity as Acting Secretary of the Department of*  
23 *Homeland Security,*

24 Defendants.

Case No. 3:17-cv-05211-WHA

**[PROPOSED] ORDER GRANTING MOTION  
OF LEGAL SERVICES ORGANIZATIONS  
FOR LEAVE TO FILE BRIEF AS AMICI  
CURIAE IN SUPPORT OF PLAINTIFFS’  
MOTION FOR PROVISIONAL RELIEF**

Date: December 20, 2017  
Time: 8:00 a.m.  
Dept. Courtroom 8  
Judge: Hon. William H. Alsup

25 STATE OF CALIFORNIA, STATE OF MAINE,  
26 STATE OF MARYLAND, and STATE OF  
27 MINNESOTA,

28 Plaintiffs,

v.

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

Defendants.

Case No. 3:17-cv-05235-WHA

**[PROPOSED] ORDER GRANTING  
MTN. OF LEGAL SERVICES ORGANIZATIONS  
FOR LEAVE TO FILE BRIEF AS AMICI CURIAE  
(CASE NO.: 3:17-CV-05211-WHA)**

1 CITY OF SAN JOSE, *a municipal corporation,*

Case No. 3:17-cv-05329-WHA

2 Plaintiff,

3 v.

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

8 Defendants.

9 DULCE GARCIA, MIRIAM GONZALEZ  
10 AVILA, SAUL JIMENEZ SUAREZ,  
11 VIRIDIANA CHABOLLA MENDOZA,  
12 NORMA RAMIREZ, and JIRAYUT  
13 LATTHIVONGSKORN,

Case No. 3:17-cv-05380-WHA

14 Plaintiffs,

15 v.

16 UNITED STATES OF AMERICA, DONALD J.  
17 TURMP, *in his official capacity as President of*  
18 *the United States,* U.S. DEPARTMENT OF  
19 HOMELAND SECURITY, and ELAINE DUKE,  
20 *in her official capacity as Acting Secretary of the*  
21 *Department of Homeland Security,*

22 Defendants.

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

Case No. 3:17-cv-05813-WHA

26 Plaintiffs,

27 v.

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

Defendants.

1 The Court, having read and considered the Motion of Legal Services Organizations for Leave  
2 to File Brief as *Amici Curiae* in Support of Plaintiffs' Motion for Provisional Relief, finds that  
3 proposed *amici's* participation in the above-captioned matters is relevant and desirable to the Court's  
4 disposition of the issues.

5 Accordingly, the Court hereby GRANTS proposed *amici's* Motion of Legal Services  
6 Organizations for Leave to File Brief as *Amici Curiae* in Support of Plaintiffs' Motion for  
7 Provisional Relief.

8  
9 **IT IS SO ORDERED.**

10  
11 Dated:

\_\_\_\_\_  
HONORABLE WILLIAM H. ALSUP  
UNITED STATES DISTRICT JUDGE