

**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 Court of Appeals
for District of Columbia, Ninth and Second Circuits**

**BRIEF OF AMICUS CURIAE
GOVERNMENT OF THE UNITED MEXICAN STATES
IN SUPPORT OF RESPONDENTS**

ADELA ELVIA RUTH MCCHESENEY

COUNSEL OF RECORD

FAYE MAGDALENA KOLLY

DE MOTT, MCCHESENEY, CURTRIGHT & ARMENDARIZ, LLP

8023 VANTAGE DRIVE, SUITE 800

SAN ANTONIO, TX 78230

(210) 590-1844

RUTH@DMCAUSA.COM

TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	ii
INTEREST OF AMICUS CURIAE	1
ARGUMENT	4
I. PROTECTION OF DACA RECIPIENTS’ WELL- BEING IS AN INTEGRAL PART OF MEXICO’S FOREIGN POLICY.....	4
II. BENEFICIARIES OF THE DEFERRED ACTION FOR CHILDHOOD ARRIVALS PROGRAM CONTRIBUTE SIGNIFICANTLY TO THE U.S. ECONOMY	7
III. MILLIONS OF UNITED STATES CITIZENS AND LAWFUL PERMANENT RESIDENTS ARE POSITIVELY IMPACTED BY DACA.....	14
A. The DACA Program Strengthens Cultural Ties between Mexico and the United States	18
B. The DACA Program Strengthens Educational Ties between Mexico and the United States.....	21
IV. DACA HAS STRENGTHENED CROSS BORDER EXCHANGES IN MULTIPLE AREAS	24
V. THE U.S. HAS UNDERTAKEN TO PROTECT DACA RECIPIENTS AS PART OF ITS INTERNATIONAL OBLIGATIONS UNDER THE ICCPR.....	26
CONCLUSION.....	32

TABLE OF AUTHORITIES

	Page
CASES	
<i>Arizona v. United States</i> , 567 U.S. 387 (2012)	2
<i>Casa de Maryland v. U.S. Dep’t of Homeland Sec.</i> , No. 18-1521 (4th Cir. 2019) <i>cert granted</i> , No. 18-589 (docketed Nov. 5, 2019)	1
<i>Dep’t of Homeland Security v. Regents of the U. of Cal.</i> , Sup. Ct. Nos. 18-587, 18-588, and 18-589	7
<i>Hines v. Davidowitz</i> , 312 U.S. 52 (1941)	2
<i>McAleenan v. Batalla Vidal</i> , No. 18-589 (consolidated with 18-587, 18-588) (docketed Nov. 5, 2019)	4
<i>Medellin v. Texas</i> , 552 U.S. 491 (2008),	2
<i>Morrison v. Nat’l Austl. Bank</i> , 561 U.S. 247 (2010)	2
<i>Regents of the University of California v. U.S. Dep’t of Homeland Sec.</i> , No. 18-15068 (9th Cir. 2018), <i>cert granted</i> , No. 18-589 (docketed Nov. 5, 2019)	1

TABLE OF AUTHORITIES—Continued

	Page
STATUTES	
INA § 212(a)(9)(B)	24
NAFTA Implementation Act, Pub. L No: 103-182 (1993).....	26
REGULATIONS	
8 C.F.R. § 214(b)	24, 25
8 C.F.R. § 274a.12(c)(14).....	29
MEXICAN GOVERNMENT DOCUMENTS	
Press Release, Embassy of Mexico in the United States, <i>Impact of the DACA Rescission Among the Mexican Community in the United States of America</i> (Sept. 27, 2019) available at https://embamex.sre.gob.mx/eua/index. php/en/press-releases/61-press-releases- 2019	5, 6
Secretaría de Relaciones Exteriores, <i>Canciller Ruiz Massieu Se Reúne con Jóvenes Dreamers</i> , GOBIERNO DE MEXICO (JULY 4, 2016) AVAILABLE AT https://www.gob.mx/sre/prensa/canciller- ruiz-massieu-se-reune-con-jovenes- dreamers	25

TABLE OF AUTHORITIES—Continued

	Page
Secretaría de Relaciones Exteriores, <i>El Gobierno de México Lamenta Profundamente la Cancelación del Programa de Acción Diferida para los Llegados en la Infancia (DACA)</i> , GOBIERNO DE MÉXICO (Sept. 5, 2017) available at https://www.gob.mx/sre/prensa/el-gobierno-de-mexico-lamenta-profundamente-la-cancelacion-del-programa-de-accion-diferida-para-los-llegados-en-la-infancia-daca	6
Secretaría de Relaciones Exteriores, <i>El gobierno de México lamenta profundamente la cancelación del Programa de Acción Diferida para los Llegados en la Infancia (DACA)</i> , GOBIERNO DE MÉXICO (Sept. 5, 2017) available at https://www.gob.mx/sre/prensa/el-gobierno-de-mexico-lamenta-profundamente-la-cancelacion-del-programa-de-accion-diferida-para-los-llegados-en-la-infancia-daca	6

TABLE OF AUTHORITIES—Continued

	Page
INTERNATIONAL LAW AND U.N. DOCUMENTS	
North American Free Trade Agreement, Can.— Mex.—U.S., Dec. 17, 1992, 32 I.L.M. 289.	3
Rep. of the United States of Amer. Submitted to the U.N. in Accordance with paragraph 5 of the Annex to the Human Rights Council Resolution 16/21, 22nd Sess., Feb. 13, 2015, UN Doc. A/HRC/WG.6/22/USA/1 (4–15 May 2015)	30
UN General Assembly, International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171	26, 28
Universal Declaration of Human Rights, Dec. 10, 1948, G.A. Res. 217A, 3 U.N. GAOR, U.N. Doc. A/810.	26
VCCR, art. 5, Apr. 24, 1963, 21 U.S.T. 77, 596 U.N.T.S. 261.....	1

TABLE OF AUTHORITIES—Continued

	Page
U.S. GOVERNMENT DOCUMENTS	
138 Cong. Rec. S4784 (daily ed. Apr. 2, 1992)	27
Ben Harrington, <i>An Overview of Discretionary Reprieves from Removal: Deferred Action, DACA, TPS, and Others</i> , CONG. RESEARCH SERV. REP. No. 7-5700 (Apr. 10, 2018).....	28
Janet Napolitano, David Aguilar and John Morton, <i>Memorandum from Sec’y of Homeland Sec., Janet Napolitano to Acting Commissioner, U.S. Customs and Boarder Protection, David V. Aguilar, Director of U.S. Citizenship and Immigration Services, and Director of U.S. Immigration and Customs Enforcement, John Morton</i> (June 15, 2012)	7, 28
President Barack Obama, Press Release, <i>Remarks from the President on Immigration</i> (June 15, 2012).....	24

TABLE OF AUTHORITIES—Continued

	Page
U.S. Dep’t of State, <i>U.S. Relations with Mexico</i> (Apr. 1, 2019) available at https://www.state.gov/u-s-relations-with-mexico/ /	3
U.S. Senator Martin Heinrich, <i>Ending DACA Means Widespread Economic Harm</i> , JOINT ECON. COMM. DEMOCRATS (Sept. 6, 2017) available at https://www.jec.senate.gov/public/index.cfm/democrats/2017/9/ending-daca-means-widespread-economic-harm	13
United States Citizenship and Immigration Services, <i>Data Set: Form I-821D Deferred Action for Childhood Arrivals</i> (June 30, 2019) https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Static_files/DACA_Population_Receipts_since_Injunction_Jun_30_2019.pdf (last visited Sept. 25, 2019)	2

TABLE OF AUTHORITIES—Continued

Page

OTHER AUTHORITIES

- Aliyya Swaby,
Texas School Districts Struggle to Recruit Bilingual Certified Teachers,
 THE TEXAS TRIBUNE, (Feb. 21, 2017),
<https://www.texastribune.org/2017/02/21/texas-school-districts-struggle-bilingual-certified-teachers/> 23
- Amy Hsin & Francesc Ortega, IZA Institute of Labor Econ., *The Effects of Deferred Acton for Childhood Arrivals on the Educational Outcomes of Undocumented Students* (Oct. 2017) 16
- Ann M. Simmons,
The End of DACA Would Be ‘a Big Win for Mexico,’ Foreign Secretary Says, L.A. TIMES (Sept. 14, 2017, 11:15 AM)
 available at <https://www.latimes.com/world/mexico-americas/la-fg-global-mexico-foreign-secy-qa-20170909-story.html> 6
- Caitlin Patler & Whitney Laster Pirtle,
From Undocumented to Lawfully Present: Do Changes to Legal Status Impact Psychological Well being Among Latino Immigrant Young Adults?,
 199 SOC. SCI. & MED. (Feb. 2018) 18
- Fernanda Uriegas,
Undocumented Entrepreneurs Rise Above Policy Making,

TABLE OF AUTHORITIES—Continued

	Page
Forbes (May 12, 2018, 2:31 PM) available at https://www.forbes.com/sites/fernandafabian/2018/05/12/undocumented-entrepreneurs-rise-above-policy-making/#49389b4b4ee4	11
<i>Financial Implications for the Social Security Trust Funds of the President’s Executive Actions on Immigration, Announced November 20, 2014:</i> Hearing before S. Comm on Homeland Sec. and Gov. Affairs, (Feb. 4, 2015)	10
Gardenia Mendoza, <i>22 “Dreamers,” Invitados de Honor en México</i> , THE CALIFORNIA-MEXICO STUDIES CENTER, INC. (July 16, 2015, 5:10 PM) available at https://www.california-mexicocenter.org/22-dreamers-invitados-de-honor-en-mexico/	25
Grace Tatter, <i>Why DACA Works</i> , Harvard Ed. (Winter 2019), available at https://www.gse.harvard.edu/news/ed/19/01/why-daca-works	19
Greg Toppo, <i>20,000 DACA Teachers at Risk—and Your Kids Could Feel the Fallout, Too</i> , USA TODAY, (Oct. 11, 2017), https://www.usatoday.com/story/news/2017/10/11/thousands-daca-teachers-risk/752082001/	23

TABLE OF AUTHORITIES—Continued

	Page
<p>Jens Hainmueller et al., <i>Protecting Unauthorized Immigrant Mothers Improves Their Children’s Mental Health</i>, 357 SCIENCE 955, 1043 (Sept. 8, 2017).....</p>	15
<p>Jie Zong, Ariel G. Ruiz Soto, Jeanne Batalova, Julia Gelatt, Randy Capps, <i>A Profile of Current DACA Recipients by Education, Industry, and Occupation</i>, MIGRATION POLICY INSTITUTE, (Nov. 2017), https://www.migrationpolicy.org/research/profile-current-daca-recipients-education-industry-and-occupation</p>	8, 16, 23
<p>Johns Hopkins, <i>WIC Participation Better Among Vulnerable, U.S. Citizen Children Whose Mothers are Eligible for DACA</i>, (May 29, 2018)</p>	17
<p>Jose Magaña-Salgado & Tom K. Wong, <i>Draining the Trust Funds: Ending DACA and the Consequences to Social Security and Medicare</i>, IMMIGRANT LEGAL RESOURCE CTR., at 9 (Oct. 2017), https://www.ilrc.org/sites/default/files/resources/2017-09-29_draining_the_trust_funds_final.pdf.....</p>	10
<p>Joseph Hincks, <i>CEOs From More Than 400 Leading U.S. Companies Urge Trump to Keep DACA</i>,</p>	

TABLE OF AUTHORITIES—Continued

	Page
(Sep. 5, 2017), https://fortune.com/2017/09/05/daca-trump-dreamers-business-leaders/ /	13
Julia Cusick, <i>New Data Highlight DACA Recipients’ Contributions to Families and Communities</i> , CTR. FOR AMER. PROGRESS (Sept. 5, 2019) available at https://www.americanprogress.org/press/release/2019/09/05/474185/release-new-data-highlight-daca-recipients-contributions-families-communities/	14
Julia Horowitz, <i>These Dreamers Started Businesses. Will They Have to Leave Them Behind?</i> , CNN (Oct. 5, 2017, 12:07 PM) available at https://money.cnn.com/2017/10/04/news/daca-dreamers-entrepreneurs/index.html	11
Mary Ellen Flannery, <i>Fear and Longing: Life for Students with Undocumented Parents</i> , NAT’L EDUC. ASS’N (July 10, 2017) available at http://neatoday.org/2017/07/10/students-with-undocumented-parents/ /	15
Michel Martin, <i>DACA, A Student’s Story: ‘They Are The Types Of Immigrants You Want In Your Country’</i> (Sep. 16, 2017 7:44 PM) available at https://www.npr.org/2017/09/16/551544757/daca-a-students-story-they-	

TABLE OF AUTHORITIES—Continued

	Page
are-the-types-of-immigrants-you-want-in-your-country.	20
Nat’l Immigration Forum, <i>Deferred Action Basics</i> (Apr. 15, 2016) available at https://immigrationforum.org/ article/deferred-action-basics /	29
Nat’l Immigration Law Center, <i>Frequently Asked Questions</i> (Dec. 2014) available at https://www.nilc.org/issues/ health-care/aca_mixedstatusfams/	14
New Economy America, <i>California Student Uses DACA Status to Start a Business</i> (Sept. 17, 2017)	9
Nicole Prchal Svajlenka, <i>What We Know About DACA Recipients in the United States</i> , CTR. FOR AMER. PROGRESS (Sept. 5, 2019, 9:00 AM) available at https://www. americanprogress.org/issues/immigration/ news/2019/09/05/474177/know-daca- recipients-united-states /	passim
Omolara T. Uwemedimo, Ana C. Monterrey, Julie M. Linton, <i>A Dream Deferred: Ending DACA Threatens Children, Families, and Communities</i> , 140 AM. ACAD. OF PEDIATRICS, No. 6 (Dec. 2017), available at https://pediatrics.aappublications.org/cont ent/140/6/e20173089	15

TABLE OF AUTHORITIES—Continued

	Page
Patrick Oakford, <i>Administrative Action on Immigration Reform, The Fiscal Benefits of Temporary Work Permits</i> , CTR. FOR AMER. PROGRESS at 6 (2014) https://ampr.gs/1vw27HZ	8
Rebecka Rosenquist, <i>The ‘Warming Effect’ of DACA on American Children</i> , PENN LEONARD DAVIS INSTITUTE OF HEALTH ECONOMICS (June 4, 2018)	17
Rep. of the United States of Amer. Submitted to the U.N. in Accordance with paragraph 5 of the Annex to the Human Rights Council Resolution 16/21, 22nd Sess., Feb. 13, 2015, UN Doc. A/HRC/WG.6/22/USA/1 (4–15 May 2015)	31
Report submitted by the United States of America under art. 40 of the ICCPR, U.N. Doc. CCPR/C/81/Add 4(1994),	27
Roberto G. Gonzales, <i>Investing in the American Dream</i> , IMMIGRATION POL’Y CTR. (Dec. 2010) https://exchange. americanimmigrationcouncil.org/sites/ default/files/research/Gonzales_- Investing_in_the_American_DREAM_ 120210.pdf	20, 21
Rodrigo Dominguez-Villegas, <i>Protection and Reintegration: Mexico Reforms Migration Agenda in an</i>	

TABLE OF AUTHORITIES—Continued

	Page
<p><i>Increasingly Complex Era</i>, MIGRATION POLICY INSTITUTE (Mar. 7, 2019) available at https://www.migrationpolicy.org/article/protection-and-reintegration-mexico-reforms-migration-agenda.</p>	4, 5
<p>Tom K. Wong, Greisa Martinez Rosas, Adam Luna, Henry Manning, Adrian Reyna, Patrick O’Shea, Tom Jawetz, and Philip E. Wolgin, <i>DACA Recipients’ Economic and Educational Gains Continue to Grow</i>, CTR. FOR AMER. PROGRESS, (Aug. 28, 2017, 9:01 AM) available at https://www.americanprogress.org/issues/immigration/news/2017/08/28/437956/daca-recipients-economic-educational-gains-continue-grow/</p>	9, 11, 12
<p>Tom K. Wong, Sanaa Abrar, Claudia Flores, Tom Jawetz, Ignacia Rodriguez Kmec, Greisa Martinez Rosas, Holly Straut-Eppsteiner, and Philip E. Wolgin, <i>DACA Recipients’ Livelihoods, Families, and Sense of Security Are at Stake This November</i>, CTR. FOR AMER. PROGRESS (Sept. 19, 2019, 5:00 AM) available at https://www.americanprogress.org/issues/immigration/news/2019/09/19/474636/daca-recipients-livelihoods-families-sense-security-stake-november/</p>	22
<p>U.S. Dep’t of Educ., RESOURCE GUIDE: SUPPORTING</p>	

TABLE OF AUTHORITIES—Continued

	Page
UNDOCUMENTED YOUTH (Oct. 20, 2015).....	7
<i>U.S.-Mexico Higher Education Engagement: Current Activities, Future Directions,</i> CIGE INSIGHTS: AMERICAN COUNCIL ON EDUCATION, 5 (2017) available at https:// www.acenet.edu/Documents/US-Mexico- Higher-Education-Engagement.pdf)	21



INTEREST OF AMICUS CURIAE¹

The Government of the United Mexican States (“Mexico”) has a vital interest in the treatment of its nationals by other countries and is entitled to protect their rights in foreign states within the limits of international law and under the Vienna Convention on Consular Relations (“VCCR”), to which both Mexico and the United States are signatories. VCCR, art. 5, Apr. 24, 1963, 21 U.S.T. 77, 596 U.N.T.S. 261.

Mexico acknowledges the sovereign right of the United States to decide on the public policies that should apply in its territory. However, Mexico is gravely concerned that, as the lower courts have ruled in these cases, the decision to rescind the DACA program was “arbitrary and capricious,”² as it did not take into account the well-being and contributions of DACA recipients and their families to the U.S. Mexico is equally concerned that if DACA is ultimately rescinded, the resources of Mexico’s consular network in the U.S. will be strained due to the projected increased demand for consular services. At 80 percent,

¹ It is hereby certified that counsel for the parties have consented to the filing of this brief; that no counsel for a party authored this brief in whole or in part; and that no person other than this amicus curiae, their members, or their counsel made a monetary contribution to its preparation.

² See *Regents of the University of California v. U.S. Dep’t of Homeland Sec.*, No. 18-15068 (9th Cir. 2018), *cert granted*, No. 18-589 (docketed Nov. 5, 2019); *Casa de Maryland v. U.S. Dep’t of Homeland Sec.*, No. 18-1521 (4th Cir. 2019) *cert granted*, No. 18-589 (docketed Nov. 5, 2019).

Mexico has the largest population of active DACA recipients.³ In that regard, Mexico respectfully asserts its legitimate, substantial and compelling interest to protect the rights of its citizens. Mexican nationals have relied upon the commitments made by the U.S. government in relationship to DACA for work and travel authorization, and relief from deportation. DACA recipients would be forced to return to the shadows and subjected to increased vulnerability as a result of the termination of a program that allows them to live, work, contribute and thrive in a country they have known since their young age.

This Court has routinely considered the interests of foreign governments as amici curiae to protect the rights of their citizens. *E.g.*, *Morrison v. Nat'l Austl. Bank*, 561 U.S. 247, 267–271 (2010); *Medellin v. Texas*, 552 U.S. 491 (2008), and has reaffirmed that “[o]ne of the most important and delicate of all international relationships . . . has to do with the protection of the just rights of a country’s own nationals when those nationals are in another country.” *Arizona v. United States*, 567 U.S. 387, 395 (2012) citing *Hines v. Davidowitz*, 312 U.S. 52, 64 (1941).

The economic, cultural and political ties between Mexico and the United States are deeply rooted in

³ See United States Citizenship and Immigration Services, *Data Set: Form I-821D Deferred Action for Childhood Arrivals* (June 30, 2019) https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Static_files/DACA_Population_Receipts_since_Injunction_Jun_30_2019.pdf (last visited Sept. 25, 2019) (Approximate Active DACA Recipients chart reflects that as of June 30, 2019, those with an approved DACA application, 529,760 of the total 660,880 DACA recipients are nationals of Mexico)

the proximity of the two nations and the sharing of a common border. Immigration is a priority for both countries, but it is by no means the only critical foreign policy concern. The roots of cooperation between Mexico and the United States run deep, and manifest in multiple areas including economic trade, tourism, law enforcement and security, use of natural resources, emergency management, and global and regional issues.⁴ This productive relationship between Mexico and the U.S. has flourished throughout many decades and has covered matters of national and international interests, including treatment of nationals residing in each other's respective countries.⁵

In that regard, the fate of the DACA program is no exception. DACA has had a wide range of positive direct impacts, not only for its recipients and their families, but it has also benefited the U.S. economy and society, which in turn strengthens the economic, educational, security, and cultural ties between our two countries. Allowing DACA to continue will serve our mutual national interests.⁶

⁴ U.S. Dep't of State, *U.S. Relations with Mexico* (Apr. 1, 2019) <https://www.state.gov/u-s-relations-with-mexico/>.

⁵ See e.g., UN General Assembly, International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171 (ratified by the United States on 8 June 1992 with entry into force 8 September 1992); see also North American Free Trade Agreement, Can.–Mex.–U.S., Dec. 17, 1992, 32 I.L.M. 289.

⁶ Nicole Prchal Svajlenka, *What We Know About DACA Recipients in the United States*, CTR. FOR AMER. PROGRESS (Sept. 5, 2019, 9:00 AM) available at <https://www.americanprogress.org/issues/immigration/news/2019/09/05/474177/know-daca-recipients-united-states/> (discussing the positive impact the social and economic contributions of DACA recipients on their own lives as well

The Government of Mexico has submitted a prior amicus curiae in the consolidated case of *McAleenan v. Batalla Vidal*, No. 18-589.⁷



ARGUMENT

I. PROTECTION OF DACA RECIPIENTS' WELL-BEING IS AN INTEGRAL PART OF MEXICO'S FOREIGN POLICY

The protection of the rights of Mexican nationals abroad has been one of the core principles of Mexico's foreign policy and an essential part of the work its consulates perform. That is reflected in the largest consular network any country has in the U.S., with 50 consulates located across the continental U.S. and its territories.⁸ As a result, Mexico is committed to a focused policy, which includes the interests of Mexican nationals living in the United States and, indeed, the well-being of DACA recipients, of which an approximate 80% were born in Mexico.⁹ In fact,

as the country).

⁷ *McAleenan v. Batalla Vidal*, No. 18-589 (consolidated with 18-587, 18-588) (docketed Nov. 5, 2019).

⁸ Rodrigo Dominguez-Villegas, *Protection and Reintegration: Mexico Reforms Migration Agenda in an Increasingly Complex Era*, MIGRATION POLICY INSTITUTE (Mar. 7, 2019) available at <https://www.migrationpolicy.org/article/protection-and-reintegration-mexico-reforms-migration-agenda>.

⁹ See U.S. CITIZENSHIP AND IMMIGRATION SERVICES, *Data Set: Form I-821D Deferred Action for Childhood Arrivals* (June 30, 2019) <https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/>

the current President of Mexico has called on Mexican consulates to strengthen their efforts by referring to the consulates as “migrant legal defense agencies” (*procuradurias de defensa para los migrantes*).¹⁰ It is the position of the Mexican government that DACA recipients embody bicultural, bilingual and binational values our countries share. Mexico continued protection of DACA beneficiaries will elevate the mutual understanding between our countries and benefit our shared economic prosperity.

To this end, Mexico’s government has supported DACA beneficiaries and Mexican nationals living in the United States by holding clinics, providing funding and access to competent legal counsel in connection to the application process under DACA.¹¹ Since the program’s inception Mexico has held 17,978 informative workshops and benefited 1,035,890 people.¹² Among the attendees of workshops, the consular network has identified 28,526 cases meriting consular protection, for which the consulates have assisted in obtaining the necessary documents and, in some cases, providing

Static_files/DACA_Population_Receipts_since_Injunction_Jun_30_2019.pdf) (last visited Sept. 25, 2019) (providing statistics indicating approximately 80% of DACA recipients are nationals of Mexico).

¹⁰ Dominguez-Villegas, *supra* note 8.

¹¹ See Press Release, Embassy of Mexico in the United States, *Impact of the DACA Rescission Among the Mexican Community in the United States of America* (Sept. 27, 2019) available at <https://embamex.sre.gob.mx/eua/index.php/en/press-releases/61-press-releases-2019> (describing Mexico’s allocation of “significant financial and human resources in helping Dreamers”).

¹² *Id.*

economic assistance to apply for DACA.¹³ From June 2012 to August 2019, the Government of Mexico has invested \$2.175 million dollars for Mexican DACA recipients.¹⁴

When the cancellation of the program was announced in 2017, the Government of Mexico increased its consular services and reinforced its commitment to provide information and assistance to DACA recipients. Additionally, the Government of Mexico displayed important diplomatic efforts to convey to members of Congress the value and contributions of Mexican DACA beneficiaries to the U.S., stressing the importance of a permanent solution that provides legal certainty.¹⁵ The interest of the Government of Mexico in providing this assistance is to better protect the rights of a young population whose nationality is Mexican, but who were raised and live in the U.S.¹⁶ Mexico has invested in supporting the continued

¹³ *Id.*

¹⁴ *Id.*

¹⁵ See Secretaría de Relaciones Exteriores, *El Gobierno de México Lamenta Profundamente la Cancelación del Programa de Acción Diferida para los Llegados en la Infancia (DACA)*, GOBIERNO DE MÉXICO (Sept. 5, 2017) available at <https://www.gob.mx/sre/prensa/el-gobierno-de-mexico-lamenta-profundamente-la-cancelacion-del-programa-de-accion-diferida-para-los-llegados-en-la-infancia-daca>. (stating Mexico's continued support for the DACA program and recognizing the positive social, economic, and cultural impact of Dreamers).

¹⁶ Ann M. Simmons, *the End of DACA Would Be 'A Big Win for Mexico,' Foreign Secretary Says*, L.A. TIMES (Sept. 14, 2017, 11:15 AM) available at <https://www.latimes.com/world/mexico-americas/la-fg-global-mexico-foreign-secy-qa-20170909-story.html>.

positive and impactful contributions that this same group makes to the U.S. economy, education and culture.

II. BENEFICIARIES OF THE DEFERRED ACTION FOR CHILDHOOD ARRIVALS PROGRAM CONTRIBUTE SIGNIFICANTLY TO THE U.S. ECONOMY

Individuals eligible under the DACA program are temporarily allowed to stay in the United States and receive employment authorization for a period commensurate with their DACA grant, which is typically two years. It should be noted that DACA does not permanently protect a beneficiary from the possibility of removal. Rather, as a matter of prosecutorial discretion, it merely temporarily defers deportation for any DACA recipient who has been vetted by the government and met its strict requirements.¹⁷ As a direct consequence of the DACA program and the government's pointed efforts,¹⁸ recipients are thoroughly vetted and documented. The process effectively

¹⁷ See 2 J.A., *Dep't of Homeland Security v. Regents of the U. of Cal.*, Nos. 18-587, 18-588, and 18-589 at 594–596 (detailing the inspection process for the government before an individual may become a DACA recipient); See also Memorandum from Sec'y of Homeland Sec., Janet Napolitano to Acting Commissioner, U.S. Customs and Border Protection, David V. Aguilar, Director of U.S. Citizenship and Immigration Services, and Director of U.S. Immigration and Customs Enforcement, John Morton (June 15, 2012) (establishing the eligibility criteria and discretionary guidelines for DACA).

¹⁸ See, e.g., U.S. Dep't of Educ., RESOURCE GUIDE: SUPPORTING UNDOCUMENTED YOUTH (Oct. 20, 2015) (“[DACA] allows youth who were brought to the United States as children and who meet certain criteria to requires consideration for deferred action, which constitutes a case-by-case determination by DHS.”).

brought DACA recipients out of the shadows of the U.S. society, allowing them to fully participate and contribute to the country's communities, educational system and the economy.¹⁹

Under the DACA program, nearly 800,000 eligible individuals have applied for and been granted work authorization since the program was announced in 2012.²⁰ From those, currently 660,880 youth have an active DACA status.²¹ An estimated 55% of DACA recipients are currently employed.²² As a result of the ability of DACA recipients to work with authorization in the United States, the beneficiaries have been able

¹⁹ See Patrick Oakford, *Administrative Action on Immigration Reform, The Fiscal Benefits of Temporary Work Permits*, CTR. FOR AMER. PROGRESS at 6 (2014) available at <https://ampr.gs/1vw27HZ> (exploring the fiscal benefits of allowing “low-priority individuals” to contribute to the economy through educational and professional opportunity).

²⁰ Nicole Prchal Svajlenka, *What We Know About DACA Recipients in the United States*, CTR. FOR AMER. PROGRESS (Sept. 5, 2019, 9:00 AM), <https://www.americanprogress.org/issues/immigration/news/2019/09/05/474177/know-daca-recipients-united-states/>.

²¹ United States Citizenship and Immigration Services, *Data Set: Form I-821D Deferred Action for Childhood Arrivals* (June 30, 2019) available at https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Static_files/DACA_Population_Receipts_since_Injunction_Jun_30_2019.pdf. (last visited Sept. 25, 2019)

²² Jie Zong, Ariel G. Ruiz Soto, Jeanne Batalova, Julia Gelatt, Randy Capps, *A Profile of Current DACA Recipients by Education, Industry, and Occupation*, MIGRATION POLICY INSTITUTE, Nov. 2017, <https://www.migrationpolicy.org/research/profile-current-daca-recipients-education-industry-and-occupation>.

to make positive and significant contributions to the U.S. economy through the ability to earn wages and pay taxes.²³ DACA recipients pay state and local taxes, are able to purchase homes, cars, and be employed in some of the most successful businesses in the United States. DACA recipient, Ovier Alvarez explained that after he was able to receive DACA, acquire a social security number, obtain a driver's license, and open a bank account he started a sole proprietorship as a professional photographer.²⁴ "Now I'm able to do business and pay business taxes to the state." DACA recipients are entrepreneurs and create businesses that employ U.S. citizens.²⁵ Combined, 97% of DACA recipients are currently employed or attending high school or higher levels of education.²⁶

It is estimated that DACA recipients make major financial contributions to the U.S. economy via payment of \$5.7 billion in federal taxes and \$3.1 billion in state and local taxes annually. Additionally, DACA recipients pay into Social Security and Medicare through payroll taxes. These young immigrants and

²³ Svajlenka, *supra* note 20.

²⁴ New Economy America, *California Student Uses DACA Status to Start a Business* (Sept. 17, 2017).

²⁵ *Id.*

²⁶ Tom K. Wong, Greisa Martinez Rosas, Adam Luna, Henry Manning, Adrian Reyna, Patrick O'Shea, Tom Jawetz, and Philip E. Wolgin, *DACA Recipients' Economic and Educational Gains Continue to Grow*, CTR. FOR AMER. PROGRESS (Aug. 28, 2017, 9:01 AM) available at <https://www.americanprogress.org/issues/immigration/news/2017/08/28/437956/daca-recipients-economic-educational-gains-continue-grow/>.

their households have a combined \$24.1 billion of income remaining after taxes.²⁷

The Chief Actuary of the Social Security Administration (SSA), Stephen C. Goss, has testified as to the positive impact the DACA program will have on the SSA Trust Funds. He reported to the Senate Committee on Homeland Security and Governmental Affairs that as the U.S. population ages combined with lower birth rates, immigration in general has a net positive impact on funds set for the retirement of millions of individuals.²⁸ It is estimated that eliminating DACA will reduce funding for Social Security and Medicare by \$39.3 billion over a ten-year period.²⁹

²⁷ Svajlenka, *supra* note 20.

²⁸ See *Financial Implications for the Social Security Trust Funds of the President's Executive Actions on Immigration, Announced November 20, 2014: Hearing Before S. Comm on Homeland Sec. and Gov. Affairs*, Feb. 4, 2015 (testimony of Stephen C. Goss, Chief Actuary, SSA) (“Immigration has played a fundamental role in the growth and evolution of the U.S. population and will continue to do so in the future Without . . . net immigration, the effects of the drop in birth rates after 1965 would be much more severe for the finances of Social Security, Medicare, and for retirement plans in general. Because immigrants into the U.S. are generally young, they increase the ration of working age population to retirement age population in much the same way as do births.”).

²⁹ See Jose Magaña-Salgado & Tom K. Wong, *Draining the Trust Funds: Ending DACA and the Consequences to Social Security and Medicare*, IMMIGRANT LEGAL RESOURCE CTR., at 9 (Oct. 2017) available at https://www.ilrc.org/sites/default/files/resources/2017-09-29_draining_the_trust_funds_final.pdf. (last visited Sept. 27, 2019)

DACA recipients outpace the population of native-born Americans in terms of starting their own businesses. DACA has allowed the entrepreneurial drive of the recipients to add to the local economies through job creation and revenue building.³⁰ Recipients are able to pursue the education and professional experiences necessary to fulfill not only their own entrepreneurial potential but provide opportunities for others to join the entrepreneurial community as well. For example, Dr. Iliana G. Perez—a Mexican DACA recipient, author, and academic who was able to conduct research as she completed her Ph.D.—ultimately published a comprehensive guide to entrepreneurship for immigrants, supporting further economic achievement within the immigrant community.³¹ Dr. Perez’s story is one of many. Another Mexican Dreamer, Juan Martinez, he is building an artificial intelligence company.³² “In the tech space,

³⁰ Wong et. al., *supra* note 26.

³¹ Fernanda Uriegas, *Undocumented Entrepreneurs Rise Above Policy Making*, Forbes (May 12, 2018, 2:31 PM) available at <https://www.forbes.com/sites/fernandafabian/2018/05/12/undocumented-entrepreneurs-rise-above-policy-making/#49389b4b4ee4>. This article also details the story of Cris Mercado, who migrated from the Philippines and became a social entrepreneur. After high school, Cris was unable to accept NYU’s offer to join its engineering program when he was unable to receive sufficient financial aid due to his undocumented status. After having an offer to complete a Ph.D. fellowship revoked due to his undocumented status, Cris started his own business that “focuses on college and scholarship access and careers.” *Id.*

³² Julia Horowitz, *These Dreamers Started Businesses. Will They Have to Leave Them Behind?*, CNN (Oct. 5, 2017, 12:07 PM) available at <https://money.cnn.com/2017/10/04/news/daca-dreamers-entrepreneurs/index.html>.

[the resources DACA provides, like the ability to get a social security number] is a must.” Without his status as a DACA recipient, he will not be able to fund his developing company.

In addition to the economic entrepreneurial contributions that DACA recipients make to the U.S. economy, entry to the authorized workforce into the United States has allowed recipients to obtain jobs with better pay with long term career possibilities across various labor sectors. After receiving DACA, many recipients moved to a job with better working conditions and aligned with their education and career goals.³³ The professional growth allowed through DACA is not only beneficial for the recipient, but also for the community. Plaintiff Saul Jimenez Suarez is a DACA recipient who was raised in the United States and eventually earned his college degree at Oklahoma Panhandle State University where he played football.³⁴ After college he took low-paying jobs to support his parents and himself. Once DACA became available, Mr. Jimenez was able to apply and receive DACA benefits. Like many DACA recipients, he was able to use his degree to obtain a professional position. He has embraced his newfound career as a special education teacher, coach and mentor, and has positively affected the lives of young people and the community in which he lives.

U.S. business owners and other employees have benefited greatly from hiring young immigrants who

³³ Wong, et. al., *supra* note 26.

³⁴ 2 J.A., *Dep't of Homeland Security v. Regents of the U. of Cal.*, Nos. 18-587, 18-588, and 18-589 at 447–449.

have benefited under DACA. Apple CEO Tim Cook joined over 400 leading U.S. companies to write a letter to Congress explaining that DACA recipients are “vital” to their businesses and “are part of why we will continue to have a global competitive advantage.”³⁵ The repeal of the DACA program would result in a hardship to employers and the local and national economy. An end to the DACA program would result in an estimated loss of \$60.3 billion from the national GDP of the United States over the next decade. Additionally, an estimated 685,000 workers would be removed from the formal economy of the United States. It is expected to cost employers upwards of \$3.4 billion in turnover costs.³⁶

DACA recipients stimulate the U.S. economy through the direct provision of labor, payment of taxes, creation of jobs for U.S. workers, and participation as consumers of goods and services. If DACA were rescinded or struck down, the economic contributions of its recipients to the United States would cease or be greatly diminished.

³⁵ Joseph Hincks, *CEOs From More Than 400 Leading U.S. Companies Urge Trump to Keep DACA*, Sep. 5, 2017, <https://fortune.com/2017/09/05/daca-trump-dreamers-business-leaders/>.

³⁶ U.S. Senator Martin Heinrich, *Ending DACA Means Widespread Economic Harm*, JOINT ECON. COMM. DEMOCRATS (Sept. 6, 2017) available at <https://www.jec.senate.gov/public/index.cfm/democrats/2017/9/ending-daca-means-widespread-economic-harm>.

III. MILLIONS OF UNITED STATES CITIZENS AND LAWFUL PERMANENT RESIDENTS ARE POSITIVELY IMPACTED BY DACA

It is estimated that over a quarter of a million U.S. citizen children have at least one parent that is part of the DACA program.³⁷ Across the country, 1.5 million individuals live with a person who is a DACA recipient.³⁸ These individuals include parents, siblings, spouses, and children living in mixed status households.³⁹ It is important to consider the broader impact of DACA recipients in their communities.

Dr. Omolara T. Uwemedimo and her colleagues found that, “[i]mmigration status, including DACA, is a social determinant of health that intersects with other determinants, including access to care, mental health, educational attainment, and poverty.”⁴⁰ The

³⁷ Julia Cusick, *New Data Highlight DACA Recipients’ Contributions to Families and Communities*, CTR. FOR AMER. PROGRESS (Sept. 5, 2019) available at <https://www.americanprogress.org/press/release/2019/09/05/474185/release-new-data-highlight-daca-recipients-contributions-families-communities/>.

³⁸ Nicole Prchal Svajlenka, *What We Know About DACA Recipients in the United States*, CTR. FOR AMER. PROGRESS (Sept. 5, 2019, 9:00 AM) available at <https://www.americanprogress.org/issues/immigration/news/2019/09/05/474177/know-daca-recipients-united-states/>.

³⁹ See Nat’l Immigration Law Center, *Frequently Asked Questions* (Dec. 2014) available at https://www.nilc.org/issues/health-care/aca_mixedstatusfams/ (“A ‘mixed-status family’ is a family whose members include people with different citizenship or immigration statuses.”).

⁴⁰ Omolara T. Uwemedimo, Ana C. Monterrey, Julie M. Linton, *A Dream Deferred: Ending DACA Threatens Children, Families, and Communities*, 140 AM. ACAD. OF PEDIATRICS, No. 6 (Dec.

lack of legal status of parents in the United States impacts the physical and mental health of young children.⁴¹ Educators provide insight into the trauma of even their youngest students. Amie Baca-Oehlert, Colorado Education Association Vice President, recounted the devastating example of one kindergartener who, when asked why he was bringing a suitcase to school, responded, “I want to make sure I have my special things when they come to get me.”⁴² The DACA program has provided the ability for its recipients to become economically stable and contribute to their families’ well-being. The economic stability and deferment from deportation decreases familial stress, which in turn lessens the chances of impairment due to early childhood adversity that is present for many children of undocumented parents.

In a study published by Science Magazine, researchers found adverse consequences to U.S. citizen children whose parent(s) may be stripped of DACA benefits as: one that goes beyond the impacts for recipients alone and takes into account the inter-generational consequences of deferred action for the health of unauthorized immigrants’ children, most of whom are U.S. citizens. Early childhood exposure to

2017), available at <https://pediatrics.aappublications.org/content/140/6/e20173089>.

⁴¹ Jens Hainmueller et al., *Protecting Unauthorized Immigrant Mothers Improves Their Children’s Mental Health*, 357 SCIENCE 955, 1043 (Sept. 8, 2017).

⁴² Mary Ellen Flannery, *Fear and Longing: Life for Students with Undocumented Parents*, NAT’L EDUC. ASS’N (July 10, 2017) available at <http://neatoday.org/2017/07/10/students-with-undocumented-parents/>.

stress and adversity does not only cause poor health and impaired development in the short term; the issues can also persist into adulthood. Anxiety and psychosocial stress are identified as risk factors for depression, substance abuse, cardiovascular diseases, and obesity.⁴³

It is estimated that the nearly 382,000 beneficiaries of DACA who are currently employed and contributing to the U.S. workforce and providing for the livelihood of their families would be stripped of their ability to work lawfully in the U.S. should the program be terminated.⁴⁴ The ability of DACA recipients to work and complete their secondary education and higher education has been demonstrated to have a positive impact on first generation U.S. citizen children.⁴⁵ Parents who are DACA recipients are more willing to access critical social services to which their U.S. citizen children are entitled by law. They are also more likely to live in more stable circumstances diminishing the external stresses caused by the uncertainty related to lack of immigration status and an unstable income and private health insurance.⁴⁶ For example,

⁴³ Hainmueller, *supra* note 41.

⁴⁴ Jie Zong, Ariel G. Ruiz Soto, Jeanne Batalova, Julia Gelatt, Randy Capps, *A Profile of Current DACA Recipients by Education, Industry, and Occupation*, MIGRATION POLICY INSTITUTE, Nov. 2017, <https://www.migrationpolicy.org/research/profile-current-daca-recipients-education-industry-and-occupation>.

⁴⁵ Amy Hsin & Francesc Ortega, IZA Institute of Labor Econ., *The Effects of Deferred Action for Childhood Arrivals on the Educational Outcomes of Undocumented Students* (Oct. 2017).

⁴⁶ Rebecka Rosenquist, *The 'Warming Effect' of DACA on American Children*, PENN LEONARD DAVIS INSTITUTE OF HEALTH

it is important to note that DACA recipients are over 12% more likely to ensure that their U.S. citizen children access resources to which U.S. citizens are entitled, such as the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), than parents without DACA protections.⁴⁷ WIC is considered one of the most successful anti-poverty programs for children in the United States.⁴⁸ Treatment of the mental disorders caused by the external stressors of having an undocumented parent result in high health care expenditures and long-term outcomes including diminished school performance and welfare reliance.⁴⁹ In the long run these issues can continue into adulthood.⁵⁰ Ultimately, the DACA program has been associated with the mental health and well-being of its recipients and has ultimately acted as a

ECONOMICS (June 4, 2018) (quoting study author Atheendar Venkataramani who stated, “Our findings demonstrate that favorable immigration policies can have a ‘warming effect’ on vulnerable children’s access of critical social services. The results suggest that rolling back DACA or instituting policies which raise the threat of deportation could result in a ‘chilling effect’ that could adversely affect child health.”).

⁴⁷ Johns Hopkins, *WIC Participation Better Among Vulnerable, U.S. Citizen Children Whose Mothers are Eligible for DACA* (May 29, 2018).

⁴⁸ Rosenquist, *supra*, note 46.

⁴⁹ Jens Hainmueller et al., *Protecting Unauthorized Immigrant Mothers Improves Their Children’s Mental Health*, 357 SCIENCE 955, 1043 (Sept. 8, 2017).

⁵⁰ *Id.*

“multiplier” improving the educational and health future of their U.S. citizen children and families.⁵¹

In a study conducted on the impact of people with protection under DACA and those immigrants without the same benefits, the researchers concluded, “We know that a lack of legal status impacts multiple aspects of immigrants’ lives, including health and well-being, and we also know that communities do not benefit when individuals are unhealthy. We have shown that changes to immigrant legal status can directly improve psychological well-being.”⁵² The individual well-being of DACA recipients is linked to increased community health and the lack of any immigration status is linked to poorer outcomes for individual immigrants reflecting on a decrease of health within communities. The preservation of DACA for its recipients will lead to more positive outcomes for families and communities within the U.S., including increased prosperity of U.S. citizen children and a decrease in the costs associated with the adverse physical repercussions of living a life as an immigrant without protected status.

A. The DACA Program Strengthens Cultural Ties between Mexico and the United States

Beneficiaries of DACA, while citizens of other countries, including Mexico, are in effect vital members

⁵¹ *Id.*

⁵² Caitlin Patler & Whitney Laster Pirtle, *From Undocumented to Lawfully Present: Do Changes to Legal Status Impact Psychological Well being Among Latino Immigrant Young Adults?*, 199 SOC. SCI. & MED. at 39-48 (Feb. 2018).

of U.S. society. The average age that most DACA recipients arrived in the U.S. is seven years old.⁵³ These young people have attended elementary and secondary schools in the United States. They work and contribute to the U.S. economy and their communities. DACA has allowed its beneficiaries to be lawfully employed, obtain driver's licenses, open bank accounts, purchase homes and vehicles, and ultimately integrate their lives into the U.S. society.⁵⁴ DACA recipients comprise an important part of the population, with eighty-six metropolitan areas home to at least 1,000 DACA recipients.⁵⁵

The citizenship of Mexican DACA recipients often belies their cultural identity as Mexican and American as they have been educated and raised in the United States. The uncertainties that possible rescission has created for DACA recipients puts the cultural, educational, and entrepreneurial gains of these young immigrants at a crossroads. The ending of the program will lead to a lack of incentive and disenfranchisement from the gained economic and

⁵³ Nicole Prchal Svajlenka, *What We Know About DACA Recipients in the United States*, CTR. FOR AMER. PROGRESS (Sept. 5, 2019, 9:00 AM) available at <https://www.americanprogress.org/issues/immigration/news/2019/09/05/474177/know-daca-recipients-united-states/>.

⁵⁴ Grace Tatter, *Why DACA Works*, Harvard Ed. (Winter 2019), available at <https://www.gse.harvard.edu/news/ed/19/01/why-daca-works>.

⁵⁵ Nicole Prchal Svajlenka, *What We Know About DACA Recipients, by Metropolitan Area*, CTR. FOR AMER. PROGRESS (Sept. 23, 2019, 9:00 AM), <https://www.americanprogress.org/issues/immigration/news/2019/09/23/474653/know-daca-recipients-metropolitan-area/>.

cultural ties, with which DACA recipients identify. This will adversely affect the continued productivity, education and entrepreneurship of DACA recipients.⁵⁶ As one DACA student at American University explained, “[I]t’s like feeling that perpetual falling feeling. I just want to be able to know if I’m going to be able to keep what I built here.”⁵⁷ Continuance of the DACA program will more permanently align the values of DACA recipients to the culture and society with which they most closely identify.

DACA recipients have had a unique opportunity to contribute their bi-cultural and multilingual abilities in order to bridge the shared cultures and strengthen cultural ties between Mexico and the United States and the many countries from which DACA recipients hail.⁵⁸ The failure to extend the program will deprive

⁵⁶ See generally Roberto G. Gonzales, *Investing in the American Dream*, IMMIGRATION POL’Y CTR. (Dec. 2010) available at https://exchange.americanimmigrationcouncil.org/sites/default/files/research/Gonzales_-_Investing_in_the_American_DREAM_120210.pdf (discussing the professional potential of DACA recipients who have been educated in the U.S. and now seek to continue into higher education and the American labor market) (last visited Sept. 25, 2019).

⁵⁷ Michel Martin, *DACA, A Student’s Story: ‘They Are the Types of Immigrants You Want in Your Country’* (Sep. 16, 2017 7:44 PM) available at <https://www.npr.org/2017/09/16/551544757/daca-a-students-story-they-are-the-types-of-immigrants-you-want-in-your-country>.

⁵⁸ See United States Citizenship and Immigration Services, *Data Set: Form I-821D Deferred Action for Childhood Arrivals* (June 30, 2019) available at https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Static_files/DACA_Population_Receipts_since_Injunction_Jun_30_2019.pdf (providing the birth countries of

a population of immigrant youth the ability to contribute and fully participate in a society that has given them an opportunity to demonstrate their intrinsic value as members of U.S. society.⁵⁹

B. The DACA Program Strengthens Educational Ties between Mexico and the United States

Academic ties and exchanges have been an important part of U.S.-Mexico diplomatic relations.⁶⁰ There have been several policies and initiatives in order to focus resources and collaborations to enhance cross-border educational engagement.⁶¹ A concerted and bi-national effort has been made via the *100,000 Strong in the Americas* supported by the U.S. government and *Proyecto 100,000* with the aim of having 100,000 students from each country studying in each respective country. These projects have established relationships between government entities, institutions of higher learning, industry and non-profit organizations.⁶² As part of the concerted bi-national effort, U.S. and Mexican Universities have administered the Dreamers Without Borders program, which brings

DACA recipients and approximate number of recipients from each) (last visited Sept. 25, 2019).

⁵⁹ Gonzales, *supra* note 56.

⁶⁰ *U.S.-Mexico Higher Education Engagement: Current Activities, Future Directions*, CIGE INSIGHTS: AMERICAN COUNCIL ON EDUCATION, 5 (2017) available at <https://www.acenet.edu/Documents/US-Mexico-Higher-Education-Engagement.pdf> (last visited Sept. 25, 2019).

⁶¹ *Id.* at 7.

⁶² *Id.*

groups of Deferred Action for Childhood Arrivals (DACA) recipients living in the U.S. to Mexico for short-term study and networking visits.⁶³ Continuation of the DACA program is an important facet to preserve the bilateral educational collaboration established between our two countries, both through established programs and the continued effort to educate youth in Mexico and the United States.

The DACA program has also served to buttress the U.S. education system. Over 40 percent of current DACA recipients are enrolled in school with 83% pursuing a bachelor's degree or higher.⁶⁴ "The majors and specializations that respondents report include accounting, biochemistry, business administration, chemical engineering, civil engineering, computer science, early childhood education, economics, environmental science, history, law, mathematics, mechanical

⁶³ *Id.* at 34 ("USMF is partnering with UCLA, Tec de Monterrey, Instituto de los Mexicanos en el Exterior (IME), and the governments of a number of Mexican states to administer the Dreamers Without Borders program, which brings groups of Deferred Action for Childhood Arrivals (DACA) recipients living in the U.S. to Mexico for short-term study and networking visits.")

⁶⁴ Tom K. Wong, Sanaa Abrar, Claudia Flores, Tom Jawetz, Ignacia Rodriguez Kmec, Greisa Martinez Rosas, Holly Straut-Eppsteiner, and Philip E. Wolgin, *DACA Recipients' Livelihoods, Families, and Sense of Security Are at Stake This November*, CTR. FOR AMER. PROGRESS (Sept. 19, 2019, 5:00 AM) available at <https://www.americanprogress.org/issues/immigration/news/2019/09/19/474636/daca-recipients-livelihoods-families-sense-security-stake-november/>.

engineering, neuroscience, physics, psychology, and social work, to name a few.”⁶⁵

A sizeable number of DACA recipients have dedicated themselves to the profession of teaching. Nationwide there are an estimated 20,000 teachers who are work-authorized under the DACA program.⁶⁶ Many of these teachers possess the ability to speak a foreign language and the bi-cultural skills that are in high demand within their profession.⁶⁷ The removal of teachers from the classroom who are DACA recipients would undercut the bi-cultural diversity that DACA teachers bring to their schools and lead to a further shortage of teachers.⁶⁸

⁶⁵ Tom K. Wong, Greisa Martinez Rosas, Adam Luna, Henry Manning, Adrian Reyna, Patrick O’Shea, Tom Jawetz, and Philip E. Wolgin, *DACA Recipients’ Economic and Educational Gains Continue to Grow*, CTR. FOR AMER. PROGRESS (Aug. 28, 2017, 9:01 AM) available at <https://www.americanprogress.org/issues/immigration/news/2017/08/28/437956/daca-recipients-economic-educational-gains-continue-grow/>.

⁶⁶ Greg Toppo, *20,000 DACA Teachers at Risk—and Your Kids Could Feel the Fallout, Too*, USA TODAY, Oct. 11, 2017, <https://www.usatoday.com/story/news/2017/10/11/thousands-daca-teachers-risk/752082001/>.

⁶⁷ See Aliyya Swaby, *Texas School Districts Struggle to Recruit Bilingual Certified Teachers*, THE TEXAS TRIBUNE, Feb. 21, 2017, <https://www.texastribune.org/2017/02/21/texas-school-districts-struggle-bilingual-certified-teachers/> (reporting on Texas school districts that are struggling to recruit bilingual educators).

⁶⁸ See Jie Zong, Ariel G. Ruiz Soto, Jeanne Batalova, Julia Gelatt, Randy Capps, *A Profile of Current DACA Recipients by Education, Industry, and Occupation*, MIGRATION POLICY INSTITUTE, Nov. 2017, <https://www.migrationpolicy.org/research/profile-current-daca-recipients-education-industry-and-occupation>

IV. DACA HAS STRENGTHENED CROSS BORDER EXCHANGES IN MULTIPLE AREAS

The U.S. and Mexico have historically engaged in reciprocal and beneficial treaties that strengthen cross border exchanges. These agreements have promoted increased investment, trade and the ability of well-trained and educated foreign nationals to contribute talent, skills and education to the economies of both countries.⁶⁹ DACA recipients possess many of the same talents, skills, education and experience that these treaties promote and envision.

Through no fault of their own, DACA recipients are generally barred under U.S. immigration law from either changing status to a nonimmigrant visa or adjusting status to that of a lawful permanent resident of the United States.⁷⁰ Many have accumulated over 1 year of unlawful presence, and are subject to a “10 year bar of inadmissibility”.⁷¹ They cannot obtain a visa or return to the U.S. for a 10 year period or otherwise meet the non-immigrant intent requirements.⁷² These visa requirements render DACA recipients ineligible to obtain a student visa or

(“There are about 9,000 DACA recipients employed as teachers or similar education professionals [in the United States] . . .”).

⁶⁹ *See e.g.*, North American Free Trade Agreement, Can.-Mex.-U.S., Dec. 17, 1992, 32 I.L.M. 289.

⁷⁰ Press Release, President Barack Obama, Remarks from the President on Immigration (June 15, 2012) (“This is not a path to citizenship. It’s not a permanent fix. This is a temporary stopgap measure . . .”).

⁷¹ INA Sec. 212(a)(9)(B).

⁷² 8 C.F.R. § 214(b)

other temporary work visa in order to attend school, work, and lawfully reside in the United States.⁷³ For this otherwise vulnerable group, DACA has provided an avenue of relief, albeit temporarily, from this situation. Like their foreign national counterparts who obtain visas, DACA recipients are able to fulfill the promise of international agreements and are able to invest, study, and contribute their expertise to the U.S. economy.

In furtherance of our bi-lateral effort, many Mexican DACA holders were permitted to attend academic and cultural exchange programs in Mexico.⁷⁴ In partnership with prestigious Mexican academic and cultural institutions, the Government of Mexico has supported these exchanges as part of its foreign policy priorities to engage Mexicans abroad.⁷⁵ These cross border exchanges have forged bicultural leaders for both Mexico and the U.S.

While DACA recipients are not eligible for temporary work visas as a matter of law, their ability to

⁷³ *Id.* Based on the discussed requirements, DACA recipients are ineligible because they do not maintain a residence in their “home country” and do not commit to return there.

⁷⁴ See e.g., Gardenia Mendoza, 22 “*Dreamers*,” *Invitados de Honor en México*, THE CALIFORNIA-MEXICO STUDIES CENTER, INC. (July 16, 2015, 5:10 PM), <https://www.california-mexico-center.org/22-dreamers-invitados-de-honor-en-mexico/> (describing exchange program hosted in Mexico emphasizing and cultivating the strength and achievements of Dreamers).

⁷⁵ Secretaría de Relaciones Exteriores, *Canciller Ruiz Massieu Se Reúne con Jóvenes Dreamers*, GOBIERNO DE MEXICO (JULY 4, 2016), <https://www.gob.mx/sre/prensa/canciller-ruiz-massieu-se-reune-con-jovenes-dreamers>.

work in the United States strengthens the binational and multinational commitment to foster stronger economic ties, ensure border security and protect employment and labor standards in conformity with our bi-lateral and international agreements.⁷⁶

V. THE U.S. HAS UNDERTAKEN TO PROTECT DACA RECIPIENTS AS PART OF ITS INTERNATIONAL OBLIGATIONS UNDER THE ICCPR

Central to the modern human rights framework is the International Covenant on Civil and Political rights (“ICCPR”).⁷⁷ This treaty embodies the fundamental civil and political rights contained in the Universal Declaration of Human Rights (“Universal Declaration”),⁷⁸ agreed upon at the United Nations General Assembly on December 10, 1948. With over 150 State Parties, the ICCPR is the most widely accepted human rights treaty in existence. Among other protections, the ICCPR guarantees that family is “entitled to protection by society and the State (art. 23).”⁷⁹ The United States ratified the ICCPR on September 8, 1992 and is therefore bound by its terms.

⁷⁶ NAFTA Implementation Act, Pub. L No: 103-182 (1993).

⁷⁷ UN General Assembly, International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171 (“The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.”)

⁷⁸ Universal Declaration of Human Rights, Dec. 10, 1948, G.A. Res. 217A, 3 U.N. GAOR, U.N. Doc. A/810.

⁷⁹ UN General Assembly, International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171 (“The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.”)

When ratifying the ICCPR, the United States appended a “declaration” to the effect that the operative provisions of the Covenant are “not self-executing”.⁸⁰ The basis for this declaration (the effect of which is that the ICCPR does not, of itself, create private rights directly enforceable in U.S. courts) was that “the fundamental rights and freedoms protected by the Covenant are already *guaranteed as a matter of U.S. law*, either by virtue of constitutional protections or enacted statutes, and can be effectively asserted and enforced by individuals in the judicial system on those bases.”⁸¹

This declaration does not relieve the United States of its obligations on the international legal plane. Rather, it operates as a representation to the international community that the United States’ international legal obligation to confer the fundamental rights and protections enshrined in the ICCPR will be discharged through the medium of U.S. domestic law, including the U.S. Constitution, because individuals whose human rights may be infringed are entitled to effective equivalent remedies under that law. The declaration amounts to an undertaking to the other States Parties to the ICCPR that the United States will secure the protections set forth in the ICCPR through domestic law as applicable to “all individuals within its territory and subject to its jurisdiction”.⁸²

⁸⁰ 138 Cong. Rec. S4784 (daily ed. Apr. 2, 1992).

⁸¹ Report submitted by the United States of America under art. 40 of the ICCPR, U.N. Doc. CCPR/C/81/Add 4(1994), at 8 (emphasis added).

⁸² See UN General Assembly, International Covenant on Civil

The enactment of DACA by the U.S. government is a discretionary and unique protection made available to immigrant youth who are undocumented in the United States. The protection from deportation and the ability of DACA recipients to work and care for their families comports with the U.S. government's obligations under the ICCPR. The Department of Homeland Security (DHS) Secretary has announced that DACA participants will not be a deportation priority unless they commit crimes.⁸³ This directive along with the protections afforded by DACA would ensure that the international obligations that the United States has committed to with regard to the preservation of the family unit are not undermined.

The United States has a long history of granting deferred action or relief from deportation to vulnerable populations of immigrants which include recipients of Temporary Protected Status (TPS),⁸⁴ Deferred

and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171 art. 2(1).

⁸³ See 2 J.A., Dep't of Homeland Security v. Regents of the U. of Cal. Nos. 18-587, 18-588, and 18-589 at 594–596 (discussing inspection and vetting process for the government before an individual may become a DACA recipient); See also Memorandum from Sec'y of Homeland Sec., Janet Napolitano to Acting Commissioner, U.S. Customs and Border Protection, David V. Aguilar, Director of U.S. Citizenship and Immigration Services, and Director of U.S. Immigration and Customs Enforcement, John Morton (June 15, 2012) (establishing the limitations and standards for the exercise of discretion).

⁸⁴ See Ben Harrington, *An Overview of Discretionary Reprieves from Removal: Deferred Action, DACA, TPS, and Others*, CONG. RESEARCH SERV. REP. No. 7-5700 (Apr. 10, 2018) (reviewing discretionary temporary reprieves from removal granted by the U.S. in the last half century).

Enforced Departure (DED),⁸⁵ Parole,⁸⁶ Administrative Closure in removal proceedings,⁸⁷ Voluntary Departure,⁸⁸ Stays of Removal,⁸⁹ self-petitioners under the Violence Against Women Act (VAWA),⁹⁰ student visa holders who due to natural disasters were unable to return home,⁹¹ Widows and widowers of U.S. Citizens,⁹² Victims of Trafficking,⁹³ and victims of serious crimes.⁹⁴ Current regulations permit an individual beneficiary of deferred action to obtain employment authorization due to economic necessity.⁹⁵ These deferred action programs, like DACA, recognize the unique circumstances of vulnerable immigrants and give priority to ensure basic protections for vetted individuals.

⁸⁵ DED includes cases for humanitarian basis including serious mental or physical illness, primary caretaker of minor or elderly person, primary caretaker of ill person, present in the U.S. since childhood. Nat'l Immigration forum, *Deferred Action Basics* (Apr. 15, 2016) available at <https://immigrationforum.org/article/deferred-action-basics/>.

⁸⁶ *Id.*

⁸⁷ Harrington, *supra* note 84 at 18.

⁸⁸ *Id.* at 19.

⁸⁹ *Id.*

⁹⁰ Nat'l Immigration Forum, *supra* note 85.

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ 8 C.F.R. § 274a.12(c)(14).

In their 2015 report to the Human Rights Council for the United Nations, the United States reiterated their commitment to human rights,

Human rights are embedded in our Constitution, laws, and policies at every level, and governmental action is subject to review by an independent judiciary and debated by a free press and engaged civil society. Not only do individuals within the United States have effective legal means to seek policy, administrative, and judicial remedies for human violations and abuses, the government itself pursues extensive and comprehensive enforcement actions to create systematic reform. Our federal system enables our nation to test new methods and strategies for promoting human rights at the state and local levels. While recognizing that there is more work to be done, we are constantly striving to create a fairer and more just society, as reflected in the programs and policies discussed in this report.⁹⁶

Further showing their commitment to the ICCPR, the United States specifically addressed immigration policies in this report and specifically mentioned DACA as an indicator of compliance.⁹⁷ The report reiterates their enforcement policy that indicates

⁹⁶ Rep. of the United States of Amer. Submitted to the U.N. in Accordance with paragraph 5 of the Annex to the Human Rights Council Resolution 16/21, 22nd Sess., Feb. 13, 2015, UN Doc. A/HRC/WG.6/22/USA/1 (4–15 May 2015).

⁹⁷ *Id.* Sec. E. at 12–14.

DACA recipients are not an enforcement priority.⁹⁸ DACA recipients have grown up in this country—their families, friends, communities are in the United States, so it is highly improbable they would depart the country on their own if DACA was terminated. DACA recipients would return to living under the radar in a vulnerable state. In effect, they would be at risk and unable or unwilling to seek the legal protections from predatory or criminal practices, rendering the United States’ human rights protections ineffective for the very populations they seek to protect.⁹⁹

⁹⁸ *Id.* at 12 (“Consistent with these actions, we are implementing a new enforcement and removal policy that continues to place top priority on threats to national security, public safety, and border security.”).

⁹⁹ *Id.*



CONCLUSION

It is undisputed that the decision to rescind DACA by the Federal Government has placed an extraordinary level of uncertainty and anxiety on young DACA beneficiaries who greatly contribute to the prosperity and well-being of a country they embrace, respect, and honor.

If DACA protections are rescinded, this young bicultural generation will be forced to live without certain rights and protections, substantially increasing their vulnerability and hampering the opportunities to continue contributing as vital members of U.S. society. The rescission of DACA will augment uncertainty in the workplace, at school, and the daily lives for recipients, their families and the community as a whole, potentially leading to the separation of family members.

For the foregoing reasons, the Government of Mexico submits the present *amicus curiae*, acting under international law, to protect the interests and rights of its nationals in potentially vulnerable situations, and respectfully requests that this Court affirm the injunctions ordered by the courts below.

Respectfully submitted,

ADELA ELVIA RUTH MCCHESENEY

COUNSEL OF RECORD

FAYE MAGDALENA KOLLY

DE MOTT, MCCHESENEY,

CURTRIGHT & ARMENDARIZ, LLP

8023 VANTAGE DRIVE, SUITE 800

SAN ANTONIO, TX 78230

(210) 590-1844

RUTH@DMCAUSA.COM

COUNSEL FOR AMICUS CURIAE

OCTOBER 3, 2019