

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

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**In the Supreme Court of the United States**

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DEPARTMENT OF HOMELAND SECURITY, ET AL.,  
*Petitioners,*

v.

REGENTS OF THE UNIVERSITY OF CALIFORNIA, ET AL.,  
*Respondents.*

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*ON WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT*

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**BRIEF OF THE UNITED STATES  
CONFERENCE OF CATHOLIC BISHOPS  
AND OTHER CHRISTIAN ORGANIZATIONS  
IN SUPPORT OF RESPONDENTS**

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CHRISTOPHER J. WRIGHT  
STEPHEN W. MILLER  
*Counsel of Record*  
HARRIS, WILTSHIRE &  
GRANNIS LLP  
1919 M Street NW, Fl. 8  
Washington, DC 20036  
(202) 730-1300  
smiller@hwglaw.com

October 4, 2019

*Counsel for Amici Curiae*

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Additional Captions Listed on Inside Cover

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DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES,  
ET AL.,

*Petitioners,*

V.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF  
COLORED PEOPLE, ET AL.,

*Respondents.*

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*ON WRIT OF CERTIORARI BEFORE JUDGMENT  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT*

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KEVIN K. MCALEENAN, ACTING SECRETARY OF  
HOMELAND SECURITY, ET AL.,

*Petitioners,*

V.

MARTIN JONATHAN BATALLA VIDAL, ET AL.,

*Respondents.*

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*ON WRIT OF CERTIORARI BEFORE JUDGMENT  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT*

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**STATEMENT OF INTEREST<sup>1</sup>**

*Amici curiae* are the Association of Catholic Colleges and Universities (ACCU), Catholic Charities USA (CCUSA), Catholic Health Association (CHA), Catholic Legal Immigration Network, Inc. (CLINIC), the Center for Migration Studies (CMS), the Council for Christian Colleges and Universities (CCCCU), the United States Conference of Catholic Bishops (USCCB), and World Relief. A full statement of interest for each organization is provided as an Appendix to this brief.

*Amici* have long watched with pride and admiration as recipients of Deferred Action for Childhood Arrivals (DACA) live out their daily lives with hope and a determination to flourish and contribute to society: continuing to work and provide for their families, serve in the military, and receive an education.<sup>2</sup> *Amici* have long supported and defended DACA recipients, a position grounded in its interest in promoting the defense of human dignity in the country's immigration laws, particularly as applied to youth and families. And this interest is not abstract; indeed, the most recent data from the Catholic Legal

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<sup>1</sup> All parties have provided blanket consent to the filing of *amicus curiae* briefs. No counsel for any party authored this brief in whole or in part, and no person or entity, other than *amici* or their counsel, made a monetary contribution intended to fund the preparation or submission of this brief.

<sup>2</sup> See Irma Becerra, *Note to Congress — it's time to step up and protect DREAMers*, Wash. Bus. J. (Sept. 6, 2019), <https://www.bizjournals.com/washington/news/2019/09/06/viewpoint-note-to-congress-it-s-time-to-step-up.html>. Dr. Becerra is the president of Marymount University, a member of ACCU.

Immigration Network Surveys indicates that over the last five years:

- 85–90% of Catholic and community immigration legal programs (“Programs”) offered legal services for DACA renewals or applications, accounting for 7,000–14,000 such submissions per year;
- 41% of Programs conducted at least one DACA renewal info session as community outreach in the last year;
- DACA applications made up 18–20% of the total caseload for the Programs.

*Amici* are mindful of the effect DACA’s rescission would have on religious education. For example, over seventy leaders of Catholic educational institutions have explained that their schools share a long history of welcoming students from diverse backgrounds and stressed their hope that “the students in our communities who have qualified for DACA are able to continue their studies without interruption and that many more students in their situation will be welcome to contribute their talents to our campuses.”<sup>3</sup>

Rescinding DACA will also have a significant effect on health care provision in this country. For instance, Catholic health care provides more than 15 percent of hospital services in America. As employers of millions of dedicated health care professionals, Catholic health care has seen firsthand how DACA recipients have

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<sup>3</sup> Carol Zimmermann, *Catholic College Presidents Pledge Support for Students with DACA Status*, Nat’l Catholic Reporter (Dec. 1, 2016), <https://www.ncronline.org/news/politics/catholic-college-presidents-pledge-support-students-daca-status>.

benefitted its organizations and patients as nurses, physicians, aides, dietary workers and facility professionals, and know how much they contribute to their communities and to the economy. An estimated 27,000 health care workers and support staff depend on DACA for their authorization to work in the United States. Rescinding DACA will cause them to lose their authorization to work. This will further contribute to the growing shortage of health care professionals in the United States, thereby reducing access to care across the country and the ability of hospitals and other health care facilities to maintain critical staffing levels.

*Amici* are also familiar with and thankful for the contributions that DACA recipients have made to the pastoral mission of the Catholic Church in the United States. Take, for instance, the story of Father Pineda. Fr. Pineda is a DACA recipient from Mexico who has been living in the United States since he was only two years old. While Fr. Pineda was initially told that he could not be ordained due to his unlawful status in the country, creation of the DACA program provided him with both protection and a path to fulfill his calling. Termination would harm Fr. Pineda and other DACA recipients serving our Church and faith. It would also mean parishes and communities across the country would be at risk of losing their trusted spiritual leaders.<sup>4</sup>

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<sup>4</sup> Julie Zauzmer, *'If They Come for You, They Come for Me,'* Wash. Post (Jan. 19, 2018), <https://www.washingtonpost.com/news/acts-of-faith/wp/2018/01/19/if-they-come-for-you-they-come-for-me-if-congress-fails-to-save-daca-this-priest-could-be-deported/>.

## SUMMARY OF ARGUMENT

This brief addresses the second question presented: whether the rescission of DACA was lawful. It concludes that rescinding DACA without considering crucial facts underlying the program—chief among them that rescinding the program would irreparably harm hundreds of thousands of families by placing them at imminent risk of separation—violates the Administrative Procedure Act (APA) and is thus unlawful.

Relatedly, this brief also addresses the preliminary injunction affirmed by the Ninth Circuit. Respondents have brought claims, including one grounded in the Equal Protection clause, that have survived motions to dismiss but have not yet been developed. Should the Court decide that the Department of Homeland Security's (DHS) decision to rescind DACA did not run afoul of the APA, the cases should return to the lower courts for factual development and trial on the merits of the constitutional claims. In the interim, the preliminary injunction currently in place should continue. While this brief does not address the likelihood of success of the Equal Protection argument, the severe and irreparable personal and social harms of family separation weigh heavily in favor of retaining that injunction.

**ARGUMENT<sup>5</sup>**

This case has a direct impact on the nearly 700,000 current DACA recipients,<sup>6</sup> as well as their families and communities. These individuals, who arrived in this country unlawfully through no fault of their own, contribute significantly to the country's culture and economy.<sup>7</sup> The fundamental promise of DACA is that, for individuals like these, the United States Government will deprioritize prying apart their families and forcing them to leave the only country

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<sup>5</sup> To aid the Court's assessment of the issues presented here, *amici* limit their arguments to areas in which they have particular knowledge, interest, and expertise. They express no opinion as to, among other arguments, the reviewability question, nor the likelihood of success of the Equal Protection claim.

<sup>6</sup> U.S. Citizenship and Immigration Services, *Approximate DACA Receipts as of June 30, 2019* (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](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); see also *Deferred Action for Childhood Arrivals (DACA) Data Tools*, Migration Policy Inst. (Aug. 31, 2018), <https://www.migrationpolicy.org/programs/data-hub/deferred-action-childhood-arrivals-daca-profiles>.

<sup>7</sup> *Overcoming the Odds: The Contributions of DACA-Eligible Immigrants and TPS Holders to the U.S. Economy*, New Am. Econ., (June 3, 2019), [https://www.newamericaneconomy.org/wp-content/uploads/2019/05/DACA-TPS\\_Brief.pdf](https://www.newamericaneconomy.org/wp-content/uploads/2019/05/DACA-TPS_Brief.pdf). (“Our analysis of the most recent data finds that the DACA-eligible population earned \$23.4 billion in 2017 alone, up from almost \$19.9 billion in 2015. And despite rhetoric claiming they are a drain on the economy, 93.3 percent of DACA-eligible individuals were actively employed in 2017 . . . . In 2017, we estimate that DACA-eligible individuals paid more than \$2.2 billion in federal taxes, contributions that helped sustain troubled entitlement programs like Social Security and Medicare.”).

they have known so long as they contribute and follow the rules.

As a product of agency action, of course, DACA is subject to being changed by subsequent agency action. But any change, up to and including rescission, must be accomplished lawfully. The APA requires an agency to engage in reasoned decisionmaking, consider the consequences of a change in policy, and explain its decision in a manner that appropriately accounts for the costs as compared to the benefits of the new policy. Here, the only justification provided for rescinding DACA was a new belief that the program was unlawful. DHS failed utterly to consider and address the drastic consequences of rescission—among them the mass-scale separation of families. This failure to consider the facts underlying the program violates the APA, and therefore the rescission is unlawful.

Should the Court agree with Petitioners and find that the rescission did not violate the APA, Respondents have brought various other claims regarding the illegality of rescission. Due to the accelerated nature of this case before the Court, however, the lower courts have not had the opportunity to develop these claims, including a constitutional challenge. The Court should not disturb the preliminary injunction while these claims remain outstanding. Permitting families to be torn apart while these claims progress through the lower courts is precisely the kind of irreparable harm a preliminary injunction is designed to prevent. Moreover, a future victory by Respondents would be pyrrhic if any of the DACA recipients would have by then been deported and separated from their families.



Maintaining the status quo is in the public interest and works no harm to Petitioners who, under the injunction, remain free to make individualized enforcement decisions against recipients.

**I. THE DECISION TO RESCIND DACA IS ARBITRARY AND CAPRICIOUS BECAUSE DHS FAILED TO CONSIDER THE SEVERE INDIVIDUAL AND SOCIAL HARM OF FAMILY SEPARATION.**

To comply with the Administrative Procedure Act, 5 U.S.C. §§ 551–559, before taking action an agency must first “examine the relevant data and articulate a satisfactory explanation for its action.” *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 513 (2009) (citation omitted); 5 U.S.C. § 706(2)(A) (courts “shall” set aside agency action that is “not in accordance with law”). The basis for its action must be “set forth with such clarity as to be understandable.” *Sec. and Exch. Comm’n v. Chenery Corp.*, 332 U.S. 194, 196 (1947). The standard is the same for “blank slate” agency action as it is for changes in prior policy. *Encino Motorcars, LLC v. Navarro*, 136 S. Ct. 2117, 2125 (2016) (“Agencies are free to change their existing policies as long as they provide a reasoned explanation for the change.”); *Nat’l Cable & Telecomms. Ass’n v. Brand X Internet Servs.*, 545 U.S. 967, 981 (2005) (“For if the agency adequately explains the reasons for a reversal of policy, change is not invalidating, since the whole point of *Chevron* is to leave the discretion provided by the ambiguities of a statute with the implementing agency.” (internal quotation marks and citation omitted)).

Importantly, however, when an agency changes a prior policy, particularly one that has “engendered serious reliance interests,” *Fox Television Stations*, 556 U.S. at 515 (citing *Smiley v. Citibank (South Dakota), N.A.*, 517 U.S. 735, 742 (1996)), “a reasoned explanation is needed for disregarding facts and circumstances that underlay or were engendered by the prior policy,” *id.* at 516. Agency action without adequate explanation is arbitrary and capricious, and therefore unlawful.

The agency explanation for DACA’s rescission is exceptionally brief and bare. The reasoning section in the September 5, 2017 memorandum from Acting Secretary of the Department of Homeland Security, Elaine Duke, supplying the justification for rescinding DACA, states:

Taking into consideration the Supreme Court’s and the Fifth Circuit’s rulings in the ongoing litigation, and the September 4, 2017 letter from the Attorney General, it is clear that the June 15, 2012 DACA program should be terminated. In the exercise of my authority in establishing national immigration policies and priorities . . . I hereby rescind the June 15, 2012 memorandum. *Regents* Pet. App. 116a–117a.

Thus, the reason actually given for ending the program was DACA’s purported illegality. The memorandum did not acknowledge, let alone weigh, the profound reliance interests and the devastating consequences of the rescission on hundreds of thousands of DACA recipients and the countless other stakeholders who have come to rely on the program.

This fundamental failure by DHS to engage in reasoned decisionmaking, and the paucity of its explanation for its change of position, run afoul of the APA. Similar to *Encino Motorcars*, here, DHS “gave almost no reasons at all” for its decision. 136 S. Ct. at 2127. The Court there continued, holding that given “the serious reliance interests at stake, the Department’s conclusory statements do not suffice to explain its decision. This lack of reasoned explication for a regulation that is inconsistent with the Department’s longstanding earlier position results in a rule that cannot carry the force of law.” *Id.* (citing *Fox Television Stations*, 556 U.S. at 515–516). The same is true here.

Making the failure more egregious is the substantial body of ignored and widely available evidence dealing with the serious harms of rescission to DACA recipients, their families, and their communities. Families are the building blocks of American society,<sup>8</sup> and the “integrity of the family unit has found protection in” our founding document, the Constitution itself. *Stanley v. Illinois*, 405 U.S. 645, 651 (1972). Federal legislation, such as the Family and Medical Leave Act, designed to promote “the stability and economic security of families,” 29 U.S.C. § 2601(b)(1), underscores this reality. And federal immigration law has long underscored the

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<sup>8</sup> See, e.g., John DeFrain et al., *Why are Families So Important?*, NebGuide (Sept. 23, 2008), <http://extensionpubs.unl.edu/publication/9000016366318/creating-a-strong-family/> (“Families, in all the diverse patterns, sizes, creeds, and colors they come in, are, indeed, the heart and soul of human society.”); Pope John Paul II, *Familiaris Consortio* 42 (1981) (“The family has vital organic links with society, since it is its foundation and nourishes it continually.”).

“intention . . . regarding the preservation of the family unit.” H.R. Rep. No. 101-723(I), at 40 (1990), *reprinted in* 1990 U.S.C.C.A.N. 6710, 6717 (referring to “family reunification” as “the cornerstone of U.S. immigration policy”); S. Rep. No. 89-748, at 13 (1965), *reprinted in* 1965 U.S.C.C.A.N. 3328, 3332 (describing “[r]eunification of families” as “the foremost consideration”).<sup>9</sup> Inflicting harm on families ripples out to all areas of society, as explained below.

The devastating impacts on families of harsh immigration enforcement have been documented by the Applied Research Center in its report, *Shattered Families: The Perilous Intersection of Immigration Enforcement and the Child Welfare System*.<sup>10</sup> Most DACA recipients have a mixed-status family situation, where the loss of deferred action threatens to tear families apart. Studies show that 20% of DACA recipients are married,<sup>11</sup> 25% are parents of US-citizen children,<sup>12</sup> and 70% have family members who

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<sup>9</sup> See also Msgr. Agostino Marchetto, *Address in Brussels, Belgium*, The Holy See (July 10, 2007), [http://www.vatican.va/roman\\_curia/secretariat\\_state/2007/documents/rc\\_seg-st\\_20070710\\_migrazione-sviluppo\\_en.html](http://www.vatican.va/roman_curia/secretariat_state/2007/documents/rc_seg-st_20070710_migrazione-sviluppo_en.html). (immigrants “are even more in need of their own family, since for those who are far from home family support is indispensable”).

<sup>10</sup> Seth Freed Wessler, *Shattered Families: The Perilous Intersection of Immigration Enforcement and the Child Welfare System*, Applied Research Ctr. (Nov. 2, 2011), <https://www.raceforward.org/research/reports/shattered-families?arc=1>.

<sup>11</sup> U.S. Citizenship and Immigration Services, *supra* note 6.

<sup>12</sup> Omolara T. Uwemedimo et al., *A Dream Deferred: Ending DACA Threatens Children, Families, and Communities*, 140 *Pediatrics* 1 (Dec. 2017), <https://pediatrics.aappublications.org/content/pediatrics/140/6/e20173089.full.pdf>.

are US citizens.<sup>13</sup> A 2018 report from the Kaiser Family Foundation, which interviewed families “that recently [i.e., since the beginning of 2017] had a family member detained or deported,” along with legal service providers, found that “nearly all respondents appeared to be experiencing symptoms of depression, with the majority having a positive score on the clinical depression-screening tool. . . . Several said that chronic conditions like diabetes and hypertension have gotten worse . . . .”<sup>14</sup> And while perhaps obvious, these studies also show that “parents’ unauthorized status creates stress for children that can threaten their health, development, and general well-being.”<sup>15</sup>

Indeed, there is significant literature dealing with the unique and trying experiences and needs of separated children and their families. One study from the Center on the Developing Child at Harvard University shows that “persistent stress can change the brain architecture by damaging neurons in the prefrontal cortex and hippo-campus. These are centers of executive function and short-term memory and regulate thoughts, emotions, and actions.”<sup>16</sup> Another recent study shows that children separated

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<sup>13</sup> *Id.*

<sup>14</sup> Samantha Artiga and Barbara Lyons, *Family Consequences of Detention/Deportation: Effects on Finances, Health, and Well-Being*, Kaiser Family Found., 1–2 (Sept. 18, 2018), <https://www.kff.org/disparities-policy/issue-brief/family-consequences-of-detention-deportation-effects-on-finances-health-and-well-being/>.

<sup>15</sup> Uwemedimo, *supra* note 12, at 2.

<sup>16</sup> See Shruti Simha, *The Impact of Family Separation on Immigrant and Refugee Families* 80 N.C. MEDICAL J. 95 (2019), <http://www.ncmedicaljournal.com/content/80/2/95.full>.

from family members following immigration enforcement had “increased mental health issues and behavioral changes that . . . will have long-term negative impacts on their health.”<sup>17</sup>

The trauma of separation has both short- and long-term consequences. In the short term, children experiencing trauma often have problems dealing with such basic functions as sleeping, toileting, and eating.<sup>18</sup> They also often have issues with “temper tantrums, detachment, anxiety, aggression, or heightened response to situations.”<sup>19</sup> In the long-term, trauma affects “development and learning in young children, cause[s] limitations of working memory, disrupt[s] organizational skills, and affect[s] IQ.”<sup>20</sup> “Children exposed to toxic stress have higher chances of adopting health risk behaviors in the future, leading to disease, disability, and social problems.”<sup>21</sup> And the impact of trauma can be “compounded and that children can experience the effects of trauma long-term, across various domains in their lives (education, physical health, mental health, relationally, etc.).”<sup>22</sup>

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<sup>17</sup> Artiga and Lyons, *supra* note 14, at 2.

<sup>18</sup> *Id.*

<sup>19</sup> Simha, *supra* note 16.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> Ashley Feasley et al., *Serving Separated and Reunited Families: Lessons Learned and the Way Forward to Promote Family Unity*, U.S. Conference of Catholic Bishops/Migration and Refugee Services and Lutheran Immigration and Refugee Serv., (Oct. 2018), [https://justiceforimmigrants.org/wp-content/uploads/2018/10/Serving-Separated-and-Reunited-Families\\_](https://justiceforimmigrants.org/wp-content/uploads/2018/10/Serving-Separated-and-Reunited-Families_)

By ignoring these harms when changing its policy, DHS's action was arbitrary and capricious in violation of the APA. DACA's rescission is unlawful.

## **II. DISTURBING THE PRELIMINARY INJUNCTION BEFORE THE COMPLETION OF LITIGATION WOULD INEQUITABLY CAUSE IRREPARABLE HARM TO DACA RECIPIENTS AND THEIR FAMILIES AND HARM THE PUBLIC INTEREST.**

To obtain a preliminary injunction, a court must find that the plaintiff “is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” *Winter v. Nat’l Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Courts “must balance the competing claims of injury and must consider the effect on each party of the granting or withholding of the requested relief.” *Amoco Prod. Co. v. Village of Gambell*, 480 U.S. 531, 542 (1987). In “exercising their sound discretion, courts of equity should pay

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Final-Report-10.16.18-updated-2.pdf uploads/2018/10/Serving-Separated-and-Reunited-Families\_Final-Report-10.16.18-updated-2.pdf; see also Colleen Kraft, *AAP Statement Opposing Separation of Children and Parents at the Border*, *Am. Acad. of Pediatrics* (May 8, 2018), <https://www.aap.org/en-us/about-the-aap/aap-press-room/Pages/StatementOpposingSeparationofChildrenandParents.aspx> (“Separating children from their parents contradicts everything we stand for as pediatricians – protecting and promoting children’s health. In fact, highly stressful experiences, like family separation, can cause irreparable harm, disrupting a child’s brain architecture and affecting his or her short- and long-term health. This type of prolonged exposure to serious stress - known as toxic stress - can carry lifelong consequences for children.”).

particular regard for the public consequences in employing the extraordinary remedy of injunction.” *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982); see also *R.R. Comm’n of Tex. v. Pullman Co.*, 312 U.S. 496, 500 (1941). And the Court may affirm a preliminary injunction on any basis supported by the record. See, e.g., *Upper Skagit Indian Tribe v. Lundgren*, 138 S. Ct. 1649, 1654 (2018) (“[W]e have discretion to affirm on any ground supported by the law and the record that will not expand the relief granted below . . .”).

Here, the Ninth Circuit affirmed the nationwide preliminary injunction temporarily halting the rescission of DACA that the district court entered upon finding Respondents were likely to succeed on their APA argument.<sup>23</sup> The Court here, presumably, will rule that DACA was unlawfully rescinded on APA grounds, that the rescission is not reviewable under the APA, or that DHS complied with the APA. Under either of the latter two scenarios, however, Respondents’ non-APA claims should survive, as they are distinct from the present case. See *Fox Television Stations*, 556 U.S. at 516 (“If the Commission’s action here was not arbitrary or capricious in the ordinary sense, it satisfies the Administrative Procedure Act’s ‘arbitrary [or] capricious’ standard; its lawfulness under the Constitution is a separate question to be

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<sup>23</sup> The Ninth Circuit panel separately noted that Respondents’ “likelihood of success on [their] equal protection claim is a second, alternative ground for affirming the entry of the injunction.” *Regents of the Univ. of Cal. v. U.S. Dep’t of Homeland Sec.*, 908 F.3d 476, 520 n. 31 (9th Cir. 2018), cert. granted sub nom. *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 139 S. Ct. 2779 (2019).



addressed in a constitutional challenge.” (footnote omitted)).

While *amici* do not address at this time the likelihood of success of Respondents’ Equal Protection argument, the remaining factors weigh sufficiently in Respondents’ favor that the Court should continue the preliminary injunction during the pendency of the outstanding constitutional claims. Indeed, in the lower courts the Government did not dispute that the likelihood of irreparable harm, the balance of hardships, and the public interest weigh in favor of Respondents. In light of the irreparable harms described above that will result from DACA’s rescission, *see supra* pp. 9–13, the public interest in maintaining the status quo while the remaining claims are litigated is high, and the Government has not taken the position that its interests will be harmed in any meaningful way. Indeed, the injunction affirmed by the Ninth Circuit does not limit the Government’s ability to remove a DACA participant who “poses a risk to national security or public safety, or otherwise deserves, in its judgment, to be removed.” *Regents* Pet. App. 67a.

As the Court has observed, “[i]f the underlying constitutional question is close, therefore, we should uphold the injunction and remand for trial on the merits.” *Ashcroft v. Am. Civil Liberties Union*, 542 U.S. 656, 664–65 (2004). That should be the result here if Petitioners succeed on the merits of their APA argument.

\* \* \*

The Court should not countenance DHS's disregard for the harm to DACA recipients and their families,<sup>24</sup> which renders the rescission of DACA arbitrary and capricious and therefore unlawful. The Court should be mindful now—as DHS failed to be when it rescinded the program—of the harm threatened and on whom it will be inflicted: individuals who faultlessly arrived in this country as children, came forward voluntarily, paid a fee, submitted to a rigorous application process, bettered themselves through education or military service, and worked and paid taxes on any wages they earned; the families from which they will be separated; and the social fabric into which those families are deeply woven. Disregarding so grave a harm would be, in

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<sup>24</sup> *Statement from USCCB President Cardinal Daniel N. DiNardo of Galveston-Houston, along with USCCB Vice President, Archbishop José H. Gomez of Los Angeles, Bishop Joe S. Vásquez of Austin, chairman, Committee on Migration, and Bishop Joseph J. Tyson of Yakima, chairman of the Subcommittee on Pastoral Care of Migrants, Refugees, and Travelers, U.S. Conference of Catholic Bishops (Sept. 5, 2017), <http://www.usccb.org/news/2017/17-157.cfm> (“The cancellation of the DACA program is reprehensible. It causes unnecessary fear for DACA youth and their families. . . . The Church has recognized and proclaimed the need to welcome young people: ‘Whoever welcomes one of these children in my name welcomes me; and whoever welcomes me does not welcome me but the one who sent me’ (Mark 9:37). Today, our nation has done the opposite of how Scripture calls us to respond. It is a step back from the progress that we need to make as a country. Today’s actions represent a heartbreaking moment in our history that shows the absence of mercy and good will, and a short-sighted vision for the future. DACA youth are woven into the fabric of our country and of our Church, and are, by every social and human measure, American youth.”).*

*amicus's* estimation, not only unlawful, but inhumane, inequitable, and contrary to the dignity of the human person and to the common good.<sup>25</sup>

### CONCLUSION

The judgments of the Ninth Circuit and the District Court for the District of Columbia, as well as the orders of the Eastern District of New York, should be affirmed.

Respectfully submitted,

Christopher J. Wright

Stephen W. Miller

*Counsel of Record*

HARRIS, WILTSHIRE &

GRANNIS LLP

1919 M Street NW, Fl. 8

Washington, DC 20036

(202) 730-1300

smiller@hwglaw.com

*Counsel for Amici Curiae*

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<sup>25</sup> *Quotes from Church Teachings on the Rights of Migrants and Refugees*, U.S. Conference of Catholic Bishops, [http:// www.usccb.org/issues-and-action/human-life-and-dignity/migrants-refugees-and-travelers/quotes-rights-migrants-refugees.cfm](http://www.usccb.org/issues-and-action/human-life-and-dignity/migrants-refugees-and-travelers/quotes-rights-migrants-refugees.cfm) (“The reality is that our current system is immoral. While many may condemn the presence of the undocumented in our land, we willingly accept their hard labor, their contributions to our economy, and their cultural and religious spirit which enriches our local communities. While we accept these contributions, we do so at the expense of the human beings who come here not to harm us but to help us. They are often ridiculed, exploited, and abused. This must stop, and this immoral system must be changed.”).

**LIST OF *AMICI CURIAE***

The **Association of Catholic Colleges and Universities (ACCU)**, founded in 1899, serves as the collective voice of U.S. Catholic higher education. Through programs and services, the association strengthens and promotes the Catholic identity and mission of its member institutions so that all associated with Catholic higher education can contribute to the greater good of the world and the Church.

**Catholic Charities USA (CCUSA)** is a national membership organization representing more than 167 diocesan Catholic Charities member agencies. These member agencies operate more than 2,600 service locations across the 50 states, the District of Columbia, and five U.S. territories. Their diverse array of social services reached more than 10 million individuals in need last year. These services include immigration and refugee services. In 2017, nearly 100 Catholic Charities agencies served over 25,000 immigrants and refugees through 217 programs. Our Catholic heritage includes a scriptural call to provide hospitality to newcomers as if welcoming Christ Himself. The Catholic Church, like our nation as a whole, finds its identity and roots in various immigrant communities. We affirm the inherent dignity bestowed by God on every human person, including immigrants and refugees, no matter the circumstances that compel a person to begin a new life in our community.

The **Catholic Health Association of the United States (CHA)** is the national leadership organization of the Catholic health ministry, representing the largest not-for-profit provider of health care services

in the nation. The Catholic health ministry includes more than 2,300 hospitals, nursing homes, long-term care facilities, health care systems, sponsors, and related organizations serving the full continuum of health care across our nation. CHA's *Vision for U.S. Health Care* calls for health care to be available, affordable and accessible to everyone, regardless of immigration status and paying special attention to poor and vulnerable individuals. CHA works to advance the Catholic ministry's commitment to a just, compassionate health care system that protects life from conception to natural death.

As an organization guided by the social teachings of the Catholic Church, CHA affirms that each person is created in the image of God, and that each human life is sacred and possesses inalienable worth. While we call on our fellow Americans to respect that dignity within every single immigrant, we also should be particularly mindful of those who were brought to this country as children and have known no other home. They have become a part of the fabric of our nation, and deserve our support and respect.

**The Catholic Legal Immigration Network, Inc. ("CLINIC")**, a national religious organization created in 1988 by the United States Conference of Catholic Bishops, embraces the Gospel value of welcoming the stranger and promotes the dignity and protects the rights of immigrants in partnership with a dedicated network of Catholic and community legal immigration programs. CLINIC's network includes over 380 faith and community-based immigration legal programs in more than 400 cities, and employs over 2,300 legal representatives, including attorneys, Department of Justice-accredited representatives and

paralegals who serve hundreds of thousands of citizens and immigrants each year. CLINIC has a substantial interest in the Court's resolution of this case because the issues this Court will decide have a direct impact on the work of CLINIC's network and the immigrants it serves. Within CLINIC's network, the majority of legal immigration programs provide DACA and related immigration services and have seen the positive benefits of this program on their clients. Further, for many of the programs, DACA services represent a significant amount of program revenue. Consequently, CLINIC has a substantial interest in ensuring that DACA recipients are able to safely remain with their families, in their schools and communities, and employed.

The **Center for Migration Studies of New York (CMS)** is a think tank and an educational institute devoted to the study of international migration, to the promotion of understanding between immigrants and receiving communities, and to public policies that safeguard the dignity and rights of migrants, refugees and newcomers. CMS was established in 1964 by the Congregation of the Missionaries of St. Charles, Scalabrinians, a community of Catholic priests, nuns and lay people dedicated to serving migrants and refugees throughout the world. CMS produces rigorous, evidence-based research and public policy ideas. CMS conducted a nationwide study on implementation of the Deferred Action for Childhood Arrivals (DACA) program, produced an extensive profile and estimates of those eligible for DACA, and has offered technical support to organizations seeking to serve DACA beneficiaries. CMS's study on DACA's implementation found that community-based and

non-governmental organizations successfully expanded their capacity to meet the increased demand for their services by DACA applicants. CMS's estimates show that the DACA-eligible population has deep and longstanding ties to the United States. CMS estimates indicate that 85 percent of the DACA-eligible have lived in the country for 10 years or more, 89 percent of those in the labor force are employed, 93 percent have at least a high school degree, and 91 percent speak English well, very well, or exclusively. Other studies have shown that DACA allowed thousands of undocumented immigrants to pursue higher education, better-paying jobs, careers on par with their fields of study, and homeownership.

CMS's research points to individuals who are American in every aspect, except on paper. It believes that DACA recipients have become part of the American fabric, and that allowing them to remain in status will significantly benefit our nation.

**The Council for Christian Colleges & Universities (CCCU)** is a higher education association of more than 180 Christian institutions around the world, including more than 150 in the U.S. and Canada and more than 30 from an additional 18 countries. The CCCU's mission is to advance the cause of Christ-centered higher education and to help our institutions transform lives by faithfully relating scholarship and service to biblical truth.

**The United States Conference of Catholic Bishops (USCCB)** is a nonprofit corporation, the members of which are the active Catholic Bishops in the United States. The Conference advocates and promotes the pastoral teachings of the U.S. Catholic Bishops in such diverse areas of the nation's life as the

free expression of ideas, the rights of religious organizations and their adherents, fair employment and equal opportunity for the underprivileged, protection of the rights of parents and children, the value of human life from conception to natural death, and care for immigrants and refugees. It is the position of the Catholic Church that pastoral, educational, medical, and social services provided by the Church are never conditioned on legal status—all persons are invited to participate in our parishes, attend our schools, and receive other services offered by our institutions and programs.<sup>26</sup> When lawsuits have touched upon central Roman Catholic tenets like these, the Conference has filed *amicus curiae* briefs to make its view clear, particularly in this Court.

**World Relief** is the international relief and development arm of the National Association of Evangelicals. Based in Baltimore, Maryland World Relief stands with the vulnerable and partners with local churches to end the cycle of suffering, transform lives and build sustainable communities. With over 70 years of experience, World Relief works in 20 countries worldwide through disaster response, health and child development, economic development and peacebuilding and has 23 offices in the United States that specialize in refugee and immigration services. In 15 offices across the country World Relief provides immigration legal services, including representation to asylum seekers, and technical legal

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<sup>26</sup> *Catholic Social Teaching on Immigration and the Movement of Peoples*, U.S. Conference of Catholic Bishops, <http://www.usccb.org/issues-and-action/human-life-and-dignity/immigration/catholic-teaching-on-immigration-and-the-movement-of-peoples.cfm>.



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support to more than 40 churches recognized by the Department of Justice.