

Consolidated Case Nos. 18-15068, 18-15069, 18-15070, 18-15071, 18-15072, 18-15128

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

TABLE OF AUTHORITIES

Cases

Jie Zong et al., Migration Policy Inst., *A Profile of Current DACA Recipients*

I. INTRODUCTION

Since its inception in 2012, the Deferred Action for Childhood Arrivals (DACA) program has yielded immeasurable benefits for our nation's students and educators. For young people who, prior to DACA, had only a limited pathway to college and almost no realistic expectation of long-term employment, the program created new hope and a reason to strive for academic excellence. Since the program began, many DACA recipients have completed high school and entered four-year colleges and universities. Almost 9,000 DACA recipients have joined the education profession. DACA teachers have helped alleviate the shortage of qualified educators, particularly in high needs schools and communities, and they serve as role models for the next generation of students, one that is increasingly diverse.

Following the September 5, 2017 decision by the Trump administration to rescind DACA,¹ the Department of Homeland Security (DHS) immediately stopped accepting DACA applications and attempted to cut off renewal applications 30 days later. On September 8, 2017, Plaintiffs filed this action. The district court granted Plaintiffs' request for provisional relief on January 9, 2018 by

¹ Memorandum from Elaine C. Duke, Acting Sec'y, DHS, to James W. McCament, Acting Dir., USCIS, et al., *Rescission of Deferred Action for Childhood Arrivals (DACA)* (Sept. 5, 2017), <https://www.dhs.gov/news/2017/09/05/memorandum-rescission-daca>.

issuing the preliminary injunction now before this Court. The injunction re-opened the door to DACA renewal applications.

well the contributions made by DACA recipients and the harm that will befall their education communities if the preliminary injunction is lifted. *Amici* are:

AASA, The School Superintendents Association represents more than

Los Angeles County Board of Education works with the Los Angeles County Superintendent of Schools at the Los Angeles County Office of Education (LACOE) to provide certain services, and to promote inclusive policies protecting the educational rights of all students, including DACA recipients. Los Angeles County boundaries substantially overlap with the metro area that has the most DACA recipients in the country, close to 90,000.

Los Angeles County Superintendent of Schools oversees LACOE and the 80 public school districts and two million students it supports in the nation's most populous county. Among the responsibilities of the Superintendent is the provision of services to educate teachers. Los Angeles County boundaries substantially overlap with the metro area that has the most DACA recipients in the country, close to 90,000.

Los Angeles Unified School District (LAUSD) is the second-largest public school district in the nation, enrolling more than 640,000 K-12 students. LAUSD boundaries substantially overlap with the metro area that has the most DACA recipients in the country, close to 90,000.

Moreno Valley Unified School District enrolls over 34,000 K-12 students in 41 schools. Moreno Valley immediately neighbors the metro area of Riverside, San Bernardino, and Ontario, California, which has the sixth-most DACA recipients in the nation, over 22,000.

National Education Association represents more than three million education employees, including teachers, counselors, nurses, and support

“I could finally serve my community.” This was the reaction of Angelica Reyes upon learning of DACA.⁴ As a public school student in L.A., Reyes dreamed of becoming an educator, but felt that advanced academic and professional opportunities were out of reach because she was undocumented. During that time Reyes recalls, “I had done more than 1,000 hours of community service. It was heartbreaking that I couldn’t be part of the system I had tried to enrich.” With DACA, “it felt like an opportunity. I could finally serve my community. And I could be an educator. DACA gave me a clear path to obtain the career I had been working towards.” Once Reyes obtained the work authorization conferred by her DACA status, she was able to get a job to pay for her tuition. While earning her teaching credential at UCLA, she also worked for several non-profit advocacy organizations that assist K-12 students with college preparedness, financial aid, health and nutrition, immigrant and racial justice, and recovery from domestic violence. Reyes is now a valued member of the teaching corps in the district where she herself was a student, LAUSD. Reyes teaches Advanced Placement U.S. and World History.

⁴ To provide the Court with an expanded understanding of how DACA has impacted public education, *amici* have interviewed numerous students, graduates, educators, school administrators, and board members. Where names are used, it is with interviewees’ permission. Others asked not to be named or identifiably described

“The basic sense of human dignity.” Kateri Simpson teaches at a public school in Oakland, California. Undocumented students and DACA recipients are part of the school’s student body. Simpson has seen first-hand how DACA has motivated students to fully engage in school and work toward graduation because higher education opportunities were now within reach. The students “all of a sudden . . . had agency and advocacy They were able to work for themselves and that was such a powerful thing.” Her students could afford to stay in school and, with DACA work authorization, hold jobs that paid at least minimum wage. As Simpson says, “The basic sense of human dignity to be able to work for what you want—I don’t think can be underestimated.”

“A doorway to college.” A student who received DACA while still in high school recalls teachers encouraging her to prepare for college. She was a good student but felt higher education was out of reach because she was undocumented. For her, DACA opened “a doorway to college.” The student renewed her efforts at school and was admitted to the University of California. She is now

“A vehicle to better opportunities.” As a public school student in Texas,

school districts, producing effects that reverberate throughout communities.

Without DACA renewals, the status of thousands of educators will expire on different dates throughout the school year. Teachers and staff will abruptly vanish from classrooms to the distress of their students and to the measurable detriment of educational outcomes. The loss of these DACA educators will worsen already-serious teacher shortages, deprive students of mentors and role models, and strip the teaching corps of much-needed diversity.

1. Threats to End DACA Destabilize the Classroom.

Public school administrators report that the attempts by DHS to terminate DACA create an atmosphere of anxiety that makes it more difficult for students to focus on their studies. This anxiety is not limited to students with DACA or those taught by DACA educators. Children often misunderstand whether they or their families have legal immigration status. Even those with legal status often believe “immigrant” is synonymous with unauthorized presence in the U.S. Randy Capps et al., Migration Policy Inst., *Implications of Immigration Enforcement Activities for the Well-Being of Children in Immigrant Families: A Review of the Literature* 6 (2015). As a result, students fear that they or their authorized relatives are in danger of being deported, which escalates their anxiety—and that of the classmates around them.

them,” says Superintendent Marten. While non-immigrant students are, in Superintendent Marten’s words, “not afraid of being deported, they’re afraid about their best friend or their best friend’s mother. Every single student is affected.” She observes that “as soon as you destabilize your school, you’re not delivering the quality of education that children deserve.” Marten emphasized that “the educational outcomes for our students are going to be compromised.”

“Students are unable to focus.” Sacramento City Unified School District Superintendent Jorge Aguilar reports that the September announcement threatening to end DACA already has caused considerable student anxiety. Aguilar observes that this anxiety is “taking a toll on our ability to be able to provide the academic intervention necessary. Students are unable to focus on their academic achievement when they are experiencing the kind of trauma, anxiety, and anguish that comes as a result of the ending of DACA.” Matt Charlton, the superintendent of the Manson School District in Washington State, echoes these observations, noting that in his rural, majority-Hispanic district, there is now an overall “feeling of angst . . . that translates from families down to the kids . . . which impacts the classroom” and harms children’s ability to learn. And the accompanying anti-immigrant statements made by President Trump, especially those targeting DACA, have made the students of Renata Hewlette, a Long Island English Language

Learning teacher, extremely scared. As a result, her students are distracted and preoccupied in class and less able to focus on their studies.

“Conditions where educating students is harder.” Superintendent Matt Utterback, of the North Clackamas School District in the suburbs of Portland, Oregon says “s

Developing Child found that such persistent anxiety can change a child's brain and negatively affect their physical, cognitive, and emotional development, which in turn impacts their ability to learn effectively in school. Nat'l Scientific Council on the Developing Child, *Persistent Fear and Anxiety Can Affect Young Children's Learning and Development* 5 (Harvard Univ. Ctr. on the Developing Child, Working Paper No. 9, 2010), <http://developingchild.harvard.edu/wp-content/uploads/2010/05/Persistent-Fear-and-Anxiety-Can-Affect-Young-Childrens-Learning-and-Development.pdf>.

education] if it does not do any good.” Superintendent Charlton speaks of how DACA gave students “that hope and inspiration to reach higher; to rescind that now is not fair” to his students. Superintendent Schutte expresses his concern that the termination of DACA will lead to a “greater challenge to encourage kids to finish school, a greater challenge to reduce the achievement gap and drop-out rate . . . there is not a light at the end of the tunnel for these kids.”

Kids who “have done everything asked of them.” Laura Secory, Director of English Language Learning in the Des Moines School District, speaks of her many DACA students whose plans will be irreparably harmed absent court intervention. One of her DACA students was planning to attend a specialized school for disabled students for his post-secondary education. With DACA now threatened, the student has put aside those plans. In Superintendent Utterback’s district, “high school counselors and administrators are having conversations with kids who thought they had an avenue for post-secondary education” and now do not know how to plan for the future. “These are really bright kids who have been in the school system for 13 years and have done everything asked of them and now they do not have the same opportunities as their classmates.”

The loss of DACA would also mean that our nation’s schools would lose almost 9,000 valued education employees. Jie Zong et al., Migration Policy Inst., *A Profile of Current DACA Recipients by Education, Industry, and Occupation* 8

(2017). Given the individual DACA expiration dates of these educators, no district, school, or classroom can adequately

remaining teachers, and diverts

School leaders throughout the country report significant teacher shortages. In Oregon, Superintendent Sipe noted that her district posts positions for three to six months without receiving a single application. And Superintendent Utterback stated that his district has not been fully staffed for 18 months. In Sacramento, Superintendent Jorge Aguilar reports that his district is heavily impacted by the teacher shortage that is felt throughout California. He knows of employees who receive DACA and he fears the end of DACA would exacerbate the district's already-critical need for qualified staff.

K.R. is a Texas educator with DACA who teaches special education to hearing-impaired pre-K children. A course she took on deaf education was her "light at the end of the tunnel" and she knew she wanted to dedicate her life to teaching children with limited communication abilities. Absent the preliminary injunction, K.R.'s DACA and work authorization will expire, ending her career and very likely leaving her students without a specialized teacher due to a shortage of teachers for hearing-impaired students.

R.A. teaches history in a Bronx, New York high school. Receiving DACA "completely changed [his] life" and enabled him to pursue his dreams. R.A. has been able to extern in the U.S. Congress. Through his studies at UCLA, he became inspired to become an educator, in order to give something back. R.A.'s students are concerned he will no longer be able to teach them and have told him that "we

want

(July 2016), <https://www2.ed.gov/rschstat/eval/highered/racial>

It is therefore critical for schools to hire teachers from minority backgrounds to keep pace with the growing immigrant population. Yet districts have had

recruited DACA recipients. *See, e.g.*

Similarly, Jaime Ballesteros, a California DACA educator, said that he became a teacher because he knew he could reach immigrant students: “I wanted to amplify the voices of students and families who shared both my story and values. I wanted to ensure that there would be even just one less child who felt isolated and helpless because of his or her immigration status.” Ginette Magaña, *DACAmented Teachers: Educating and Enriching Their Communities*, Obama White House: Blog (Aug. 4, 2015), <https://obamawhitehouse.archives.gov/blog/2015/08/04/dacamented-teachers-educating-and-enriching-their-communities>.

DACA recipient Karina Alvarez speaks to her second-graders, many of whom are Hispanic and some undocumented, about her own experience as an undocumented immigrant. Alvarez believes that her students “need to have a role model that has walked in their shoes . . . they need to see that college is in their reach, that it is possible for them to be a teacher or whatever they want to be.”

A.Z. teaches Spanish in Texas. She attended public schools and graduated second in her class, playing sports and musical instruments, and participating on student council. Growing up, she did not have many Hispanic teachers and decided to become a teacher so she could help her students feel that they could go to college. In addition to teaching Spanish, she mentors students in a college preparation program that she herself participated in as a student. A.Z. connects with and motivates her students as a result of their shared background. She enjoys

building relationships with her students and inspiring them to work harder. Absent the preliminary injunction allowing for renewal applications, she will have to stop working with her mentees during their critical senior year as her DACA expires.

Administrators recognize the need for a diverse teaching staff.

Superintendent Charlton said that “students benefit when they have role models and people teaching them who come from their background.” As a result, his district is trying to promote Hispanic para-professionals to teaching positions because “schools need to reflect our community.” Tom Ahart, the superintendent of the Des Moines School District in Iowa, which serves approximately 33,000 students, has witnessed the importance of a “diversity of points of view and different perspectives informing what happens in our classrooms,

Respectfully submitted,

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By: /s/ Jason Walta
Jason Walta

Alice O'Brien
Emma Leheny
Jason Walta
Lubna A. Alam
Sean Goldhammer
National Education Association
1201 16th Street, N.W.
Washington, D.C. 20036
Tel: (202) 822-7035
Fax: (202) 822-7033
aobrien@nea.org
eleheny@nea.org

*Attorneys for National Education
Association*

Abhas Hajela
Capitol Advisors Group, LLC
925 L Street, Suite 1200
Sacramento, CA 95814
Tel: (916) 719-9438
Fax: (916) 443-7468
abe@capitoladvisors.org

*Attorney for Association of California
School Administrators*

Andra M. Donovan
San Diego Unified School District
4100 Normal Street, Room 2148
San Diego, CA 92103
Tel: (619) 725-5630
Fax: (619) 725-5639
adonovan@sandi.net

*Attorney for Berkeley Unified School
District, Moreno Valley Unified
School District, San Diego Unified
School District, and West Contra
Costa Unified School District*

Eric E. Stevens
Girard, Edwards, Stevens & Tucker,
LLP
8801 Folsom Blvd., Suite 285
Sacramento, CA 95826
Tel: (916) 706-1255
Fax: (916) 706-2672
Stevens@girardedwards.com

*Attorney for Butte County Office of
Education*

Kathryn M. Sheffield

Francisco Negrón
Sonja H. Trainor
National School Boards Association
1680 Duke St.
Alexandria, VA 22314
Tel: (703) 838-6209
Fax: (703) 548-5613
fnegron@nsba.org
strainor@nsba.org

*Attorneys for National School Boards
Association*

Michael L. Smith
Oakland Unified School District
1000 Broadway, Suite 680

CERTIFICATE OF COMPLIANCE

Form 8. Certificate of Compliance Pursuant to 9th Circuit Rules 28.1-1(f), 29-2(c)(2) and (3), 32-1, 32-2 or 32-4 for Case Number 18-15068, 18-156

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Signature of Attorney or
Unrepresented Litigant

/s/ Jason Walta

Date

Mar 20, 2018

("s/" plus typed name is acceptable for electronically-filed documents)