

**Amici in U.S. v. Texas Explain How All Americans Benefit From DAPA and Expanded DACA, And That The Programs Rest On Settled Legal Principles Endorsed By Republicans and Democrats**

The *amicus* briefs explain the severe adverse consequences of upholding the injunction against the DAPA and Expanded DACA programs set forth in the DHS guidance, the significant benefits that those programs will provide to our entire society, and the legal flaws in the lower courts' analysis.

First, numerous *amici* explain to the Court the benefits that will result from overturning the lower court's injunction and permitting the programs to go into effect:

- **Law enforcement organizations and individual sheriffs and police chiefs**, including the **Major Cities Chiefs Association, Police Executive Research Forum, National Organization of Black Law Enforcement Executives, and 51 current and retired sheriffs and police chiefs from 23 States**, [explain](#) that these programs “will advance public safety by encouraging cooperation and trust-building between immigrant communities and police, and mitigate the serious vulnerabilities to crime these communities face.”
  - “Extensive evidence shows that undocumented immigrants – and their lawfully present family and neighbors – fear that turning to the police will bring adverse immigration consequences. As a result immigrant communities are less willing to report crime or cooperate with police investigations.” “When individuals reside in a community without documentation and in constant fear of deportation, there is a fundamental breakdown in trust that impedes the police from doing their jobs. That “leaves undocumented individuals vulnerable to crime and exploitation, ultimately making communities less safe for everyone.”
  - “By eliminating an important reason for fear of law enforcement and building trust between police and immigrants with longstanding ties to the United States,” these programs will “make deferred action recipients less vulnerable to crime and exploitation. “ That means that “the police will be better able to fight crime and serve everyone they are charged with protecting.”
- **16 States and the District of Columbia** [rebut](#) Texas's argument that the guidance will injure States; they state that “the Guidance will actually benefit States and further the public interest.”
  - The Guidance will allow millions of hard-working immigrants to work legally, dramatically increasing their incomes and state tax revenues.
    - The State of WA's tax revenues estimated to grow by \$57 million in 5 years if programs implemented
    - The State of TX's tax revenues estimated to grow by \$338 million in 5 years if programs implemented
  - The Guidance will also protect many law-abiding immigrants from deportation, avoiding heartbreaking situations in which undocumented parents are deported away from their U.S. citizen children, who are often then left in state child welfare systems, imposing hardships on the children and great (and unnecessary) expense on States.

- Finally, the Guidance will enhance public safety by reducing immigrants’ fear of reporting crimes, serving as witnesses, and otherwise cooperating with state law enforcement efforts.”
- **118 cities and counties from 35 States, representing 55 million people—joined by the U.S. Conference of Mayors, a nonpartisan group representing more than 1,400 cities, and the National League of Cities, which represents more than 19,000 municipal governments—[state](#) that “the enjoined deferred action programs protect vital local interests”:**
  - “Without the guidance, millions of families in our cities and counties face the threat of deportation, destabilizing our communities and jeopardizing the welfare of families and children. The nationwide injunction also undermines the ability of amici’s police departments to protect and serve all of our residents.”
  - The injunction preventing the guidance from taking effect “imposes extensive economic harm on amici...The deferred action programs will contribute over \$800 million in additional economic benefits to state and local governments annually.”
- **Faith-based organizations, including the U.S. Conference of Catholic Bishops, the Church World Service, the leader of General Assembly of the Presbyterian Church (U.S.A.), the General Synod of the United Church of Christ, Disciples Home Missions, the Mennonite Central Committee U.S., and 17 other religious organizations and individual religious institutions, [agree](#) with the federal government that the guidance “represents a valid exercise of the Secretary [of Health and Human Services’] prosecutorial discretion the review of which is not justiciable” in court. Their brief explains the substantial humanitarian reasons that support the Immigration Guidance and confirm that it represents a valid exercise of the Secretary’s discretion.”**
  - It describes the “severe adverse effects” on families of the threat of deportation, as well as deportation—including family dissolution, loss of income, psychological and emotional distress—as well as adverse effects on cognitive and physical development—for children. Also, “[f]acing the possibility of deportation, immigrants have shied away from public places, houses of worship, schools and health services, and social service staff confirm declines in client participation. . . . Such fear inhibits immigrants and their families from patronizing local businesses and other public establishments and from regularly frequenting their places of worship. The Immigration Guidance would dissipate this aura of fear that prevents immigrants from fully participating in American communities.”
  - The brief explains that the faith organizations’ “interest in this matter derives from, among other sources, both the Hebrew and Christian Bibles. Jews and Christians alike are taught that, ‘When a stranger resides with you in your land, you shall not do him wrong. The stranger who resides with you shall be to you as the native among you, and you shall love him as yourself; for you were aliens in the land of Egypt.’ Leviticus 19:33-34. While [the organizations] may disagree deeply on many serious issues of social policy and religious belief, they each support the vital interests of immigrants and refugees who are so seriously disserved by the preliminary injunction that is the subject of” the Supreme Court’s review.
- **42 California business, civic, educational, and religious leaders and institutions—including the California Hotel and Lodging Association, California Restaurant Association, several Chambers**

**of Commerce, and 11 other business leaders; Stanford University, the leaders of the University of California, and 13 other distinguished civic leaders and civic institutions; and several religious leaders—[explain](#)** that “[m]ore than any other State, California has grappled with the practical realities of the issues that DACA and DAPA address. California has long been home to the largest population of undocumented immigrants in the Nation and in the vanguard of the national debate about undocumented immigrants. California’s experience shows that expanded DACA and DAPA serve the public interest in stronger, safer, and more prosperous communities.” It is estimated that the Guidance will:

- Generate 130,000 jobs in California
  - Increase the wages of undocumented immigrants in California by more than \$5.5 billion a year
  - Provide \$3.8 billion in California taxes annually
  - Lift 40,000 California children out of poverty
- **More than 60 business leaders, companies, and organizations—including Mark Zuckerberg, Reid Hoffman, Max Levchin, and Don Graham, [state](#):**
    - “[T]he United States has long benefited from the entrepreneurship and innovation of immigrants— including undocumented immigrants. Immigrants are almost twice as likely as the rest of the population to start their own businesses and were responsible for launching twenty-five percent of the high-tech companies founded in the United States during the past decade.”
    - “Undocumented individuals also often contribute specialized skills, including foreign language skills, that U.S. businesses need, and may fill positions in such fields as manufacturing, construction, or health services, where the United States faces major skills gaps.”
    - “[T]he continuing threat of removal and other uncertainties facing undocumented individuals weaken our economy. The existence of a large class of unauthorized workers allows unscrupulous employers to take advantage of undocumented workers’ fear of deportation—for example, by refusing to pay them the minimum wage or by failing to comply with safety standards. These practices drive down wages and create more dangerous working conditions for all American workers; they also expose law-abiding businesses to unfair competition. Failure to address the status of undocumented immigrants and their families also erodes the long-term skills base of our workforce.”
    - “The projected benefits” of the guidance are “are appreciable, potentially increasing the U.S. GDP by \$230 billion over 10 years”; upholding the lower courts invalidation of the guidance “would perpetuate an untenable status quo on immigration enforcement policy that injures workers and businesses, and that holds back U.S. economic growth.”
  - **76 education and children’s advocacy organizations [explain](#)** that “children whose parents face removal from the United States are more likely to suffer a host of harms, particularly to their development, educational opportunities, economic stability, and psychosocial well-being. The DAPA

program directly addresses these serious harms to U.S. citizen and [legal permanent resident (LPR)] children by alleviating the risk of removal temporarily”:

- “The lower courts failed to consider that the government’s decision to adopt these programs was in the best interests of these U.S. citizen and LPR children. The courts also failed to adequately account for the benefits of work authorization for the eligible population and the enhanced educational opportunities that expanded DACA would facilitate.
- “[L]ifting the injunction would benefit millions of U.S. citizen and LPR children by providing them with the family stability and security that is essential in supporting their healthy development, educational attainment, emotional well-being, and economic stability. It would also advance important educational opportunities for the DACA-eligible population.”
- A brief on behalf of **the Dreamers—the hundreds of thousands of beneficiaries of the DACA program instituted in 2012**—[explaining](#) that DACA has enabled “individuals with longstanding ties to the United States greater opportunity to make valuable contributions to their families and their communities at large”:
  - “Among other things, DACA has allowed its recipients to put their talents to use through lawful employment; to pursue new opportunities in higher education; to obtain driver’s licenses, bank accounts, and other staples of modern life; and to continue supporting their families, including their U.S. citizen family members. In the aggregate, the beneficial impact of these developments is clear: Hundreds of thousands of individuals have used DACA to help improve their lives and the lives of those around them, as the stories of various representative individuals illustrate.”
  - The brief urges the Court to “take into account the demonstrated positive effects produced by DACA” in evaluating the case before it: “[i]f the district court’s erroneous preliminary injunction is overturned, the expanded DACA and DAPA initiatives would produce even greater positive effects throughout the country.”
- **Economists and other scholars** [explaining](#) that conferring eligibility for work authorization on individuals who receive deferred action status provides benefits not just to those individuals, but also to society at large:
  - “These benefits include increasing the ability of workers, immigrant and native alike, to access worker protections; leveling the playing field for law-abiding businesses that are now at a competitive disadvantage to businesses that do not abide by the law; ensuring that authorized workers are not undercut by competing against a population uniquely at risk of being exploited; and increasing Social Security revenue and tax revenue, as well as gross domestic product (GDP).”
  - By contrast,” permitting people (especially those likely to be serving as the principal breadwinners for their families) to remain in the country for a period of time without also granting them the ability to request lawful work authorization would necessarily presume either that unauthorized work will occur or that such individuals will be wholly unable to work, not only harming these individuals but also imposing burdens on their families and communities who would be forced to support them.”

- A [brief](#) filed on behalf of **more than 330 immigrants’ rights, civil rights, and labor organizations** describes the personal situations of twenty “individuals who, with their families and communities, stand to benefit from deferred action and who have long made the United States their home and contributed in a multitude of ways.”
  - The brief also explains, through the stories of five individuals, that “when undocumented immigrants are given the opportunity to come out of the shadows, their talents and capacities . . . enrich [] their communities and the United States as a whole.”
  - A brief filed by a number of LGBT organizations [explains](#) the impacts on that community. They describe the benefits of the DAPA and DACA+ initiatives to LGBT individuals and families in the Asian and Pacific Islander communities in particular, including the benefits flowing from a more secure family unit and greater ability to provide family support.

Second, a [brief](#) by **former INS and DHS officials** explains the decades-long history of administrative grants of deferred action and eligibility for work authorization:

- “For more than half of a century, the Executive Branch has developed and implemented policies designed to delay—in many cases indefinitely—the enforcement of deportation and other aspects of federal immigration law. Administrations of both Republican and Democratic Presidents have relied on these policies to enforce federal immigration laws in a manner that is efficient, rational, and humane manner.
- “Throughout this period, the Executive Branch has ordinarily allowed aliens with deferred action to apply for authorization to work while they remain in this country. This policy . . . was the subject of extensive deliberation in the 1970s and 1980s, including several rounds of notice and comment rulemaking by INS. These executive deliberations were recognized and ratified by Congress through a series of enactments during and after the same period.”

Third, several *amicus* briefs focus on the legal issues presented for review:

- **186 Members of the U.S. House of Representatives and 39 Members of the U.S. Senate** [explain](#) that “where Congress has chosen to vest in the Executive discretionary authority to determine how a law should be enforced and the Executive has acted pursuant to that authority—as is the case here,” the courts should “honor Congress’s deliberate choice by sustaining the Executive’s action”:
  - “That the Secretary’s guidance is within his statutory authority should not be open to doubt. For half a century, the Executive has used deferred action and other forms of discretionary relief in a variety of circumstances, even when not specifically authorized by statute. Congress has approved of those practices, repeatedly amending the immigration laws without foreclosing the Executive’s broad discretion to use them— and even enacting provisions that presume the Executive will continue its discretionary practice of deferred action.”
  - “Similarly, Congress has explicitly recognized the Executive’s broad discretion to determine which removable individuals qualify for work authorization and has never disturbed the Executive’s decades-long practice of providing work authorization to those granted deferred action.”

- A group of **18 bipartisan former members of Congress** [explaining](#) that the immigration laws “confer substantial discretion on the executive branch to determine how best to enforce the nation’s immigration laws, and that the effectiveness of the statutory scheme Congress put in place critically depends on the executive branch to exercise that discretion.”
  - Also, “the directives at issue in this litigation reflect priorities that were developed by Administrations representing both political parties and have been consistently endorsed by Congresses on a bipartisan basis. Likewise, these directives implement these policies through a long-established, well-defined, and circumscribed means of enforcement prioritization—deferred action on removal—that has been consistently employed by Administrations of both parties and repeatedly endorsed by Congress.”
- **Two former INS Commissioners—one from a Republican Administration and one from a Democratic Administration**—[state](#) that the guidance is lawful under longstanding legal principles:
  - The Executive Branch has long exercised the broad grants of statutory authority in the immigration laws “to establish priorities for the removal of certain aliens, including through the granting of deferred action to identified individuals or classes of aliens. It also has long exercised the concomitant power to authorize employment for those same aliens who are granted deferred removal. These twin powers of deferring removal and granting employment authorization are essential to the rational, effective, and coherent administration of the immigration system.”
  - The challengers’ contention that the Executive Branch lacks the power to confer eligibility for work authorization is inconsistent with “decades of Executive practice, predicated on an understanding of the Executive’s statutory authority that has been recognized repeatedly by Congress. It also would severely undermine the removal discretion that is at the heart of the immigration system; the Executive would be able to decline to remove certain aliens, but would be unable to give those aliens the ability to support themselves. That might lead recipients of deferred action to become public charges, contrary to immigration statute strictures.”
- **Professor Walter Dellinger’s** [brief](#) explaining in detail why the lawsuit fails the basic requirements of standing and justifiability and therefore must be dismissed. (Recall that Professor Dellinger’s *amicus* brief in the Proposition 8 case in the Supreme Court in 2013 (*Hollingsworth v. Perry*) provided the arguments adopted by the Court’s in ruling that the proponents of the proposition lacked standing to sue.) The **AFL-CIO** also [discusses](#) Texas’ lack of standing.
- **Administrative Law Scholars** [explain](#) that the guidance qualifies as a “general statement of policy,” that is “exempt from notice-and-comment requirements”; “[t]he Fifth Circuit adopted an erroneous legal standard in reaching the conclusion that the DAPA Memo was not a general statement of policy.”