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Andria Strano
Acting Chief, Office of Policy and Strategy
Division of Humanitarian Affairs
U.S. Citizenship and Immigration Services
Department of Homeland Security
5900 Capital Gateway Drive
Camp Springs, MD 20746

Re: DHS Docket No. USCIS-2021-0006, Comments in Response to Deferred Action for Childhood Arrivals

Dear Acting Chief Strano,

I am Senior Vice President and General Counsel for Arizona State University and I submit this comment letter in support of the U.S. Department of Homeland Security's (Department) proposed rule, Deferred Action for Childhood Arrivals (DHS Docket No. USCIS-2021-0006).

ASU's Commitment to DACA Students and All DREAMers is Longstanding and It's Personal.

Before providing comments specific to the proposed rule, I want to explain the importance of DACA students and all DREAMers to ASU as it informs our thinking on the importance of the proposed rule and some suggestions we have for improving it. I am also including some brief descriptions of some of the outstanding DREAMers who have honored us with their presence and who have already made outstanding contributions to our community.

For the fall 2021 semester ASU had 264 undocumented students. Because of a change in eligibility requirements for the Arizona Non-Resident Tuition rate for Arizona High School graduates discussed below, we no longer track which DREAMers have DACA status, but, based on past experience, we estimate most of these 264 are DACA students.

Support for DREAMers and DACA is more than an institutional priority for ASU and its governing body, the Arizona Board of Regents. It also reflects ASU President Michael Crow's personal commitment to those whom he often refers to as our "special international students." Dr. Crow has historically been one of higher education's most consistent and outspoken [supporters](#) of passage of the Dream Act, personally lobbying on Capitol Hill for the bill's passage.

And he has been a tireless advocate for DREAMers in Arizona, having led the efforts to raise funds to support DREAMers following the 2006 passage of Arizona's Proposition 300 (which prohibits in-state tuition for DREAMers) as reported in [national](#) and [local](#) articles written at the time.

More recently, following the November 2016 elections, President Crow “issued a strongly worded statement . . . to students, faculty and staff emphasizing the university's ‘unchanged’ commitment to undocumented students.” He reassured our hundreds of DACA students, that “if DACA is eliminated, we will rise to the challenge.” You’ll find more information [here](#).

And in September 2017 just before President Trump announced his decision to end DACA, President Crow [reiterated](#) ASU’s commitments to DREAMers and DACA students. As he explained, it was an easy decision:

In any event, all of this is rather easy at the end of the day. Care for children, show them love and respect, prepare them for the future and help them start their lives. If we can do that, then we will have done our part for tomorrow to be a better day.

When two days later, President Trump announced his decision, President Crow outlined an [action plan](#) designed to minimize the impact on our DACA students.

Over the last four years, ASU has taken many steps to honor its commitment to DACA students and other DREAMers, ranging from raising private scholarship dollars to pushing for the adoption of the Arizona High School Graduate tuition rate that, while higher than in-state tuition, is substantially lower than out-of-state tuition and is available to DACA students, and now all DREAMers, who graduated from Arizona high schools. And ASU’s long-standing partnership with THE DREAM.US has been of tremendous help to ASU’s DREAMers. The strength of that relationship is captured in a 2018 e-mail to me from the President of TheDream.US, Candy Marshall:

I sit with tears in my eyes. I am so moved by ASU’s, Dr. Crow’s and your personal commitment to serving AZ Dreamers.

There is more that I could share, but I think this suffices to demonstrate how important DREAMers are to ASU and to President Crow and why we so strongly support the proposed DACA rule.

Our DACA/DREAMer students have more than rewarded this commitment by demonstrating over and over what they can do when given the opportunity to get a college degree. ASU’s [DREAMzone](#) is devoted to our DREAMers. It provides a wealth of information and resources to them. And it also documents alumni [success stories](#). Two of those alums, Dalia Larios and Reyna Montoya, were featured in amicus briefs filed in connection with the DACA litigation that ultimately reached the US Supreme court. You’ll find one of the briefs [here](#) (see pages 15 and 19-20).

Dalia Larios graduated from ASU with a degree in Biological Studies in 2012. She was the [first DACA recipient to be admitted to Harvard Medical School](#). In January 2018, she and three other Harvard Medical School DACA students penned an essay about the impact President Trump’s decision would have on them, the approximately 100 medical students then attending

medical schools in the United States and thousands of other DACA recipients. [*Dismantling DACA Could Also Destroy These Harvard Med Students' Dreams*](#). She later discussed the essay in a very moving video for Boston's NPR News Station: [*I Am a Future Doctor. And I Am Also An Undocumented American: Behind the Essay*](#). Dalia is now a doctor and she is currently a first-year resident at the Harvard Resident Oncology Program ([HROP](#)). As she said in her video, "What happens with this immigration issue will define who we are as a country."

Dalia's essay included a data point that underscores the importance of DACA to our health care system. As the American Medical Association [noted](#) immediately after President Trump's announcement, "An estimated 5,400 previously ineligible physicians could be introduced into the U.S. health system over the coming decades through a DACA-like legislative fix."

Reyna Montoya is a DACAmented social entrepreneur, community organizer, educator, and dancer. She graduated from ASU with a degree in Political Science and Transborder Studies. She is the Founder and CEO of [Aliento](#) which supports the DACA and undocumented community through arts healing and social engagement activities. Reyna is a 2016 [Soros Justice Fellow](#), a 2017 [Echoing Green Fellow](#), and a [Forbes: 30 Under 30 Social Entrepreneur](#). Additionally, She was recognized in 2017 by [#NBCLatino20](#) and she was honored by the Muhammad Ali Center as the 2018 recipient of the Muhammad Ali [Core Principle Award for Spirituality](#). Reyna is also a member of the [Leadership Council](#) for ASU Lodestar Center for Philanthropy and Nonprofit Innovation and is a member of the [Board of Directors](#) of Chicanos Por La Causa (CPLC), which is one of the largest community development corporations in the country "providing direct services impacting almost 625,000 lives annually in Arizona, Nevada, New Mexico, and Texas." [CPLC](#)

Daniel Rodríguez is another inspiring success story. He graduated with degrees in English Literature and Political Science and in 2014 he graduated from the ASU Sandra Day O'Connor College of Law. DACA allowed Daniel to become the first DACA Attorney in the state of Arizona. His story and that of others like him was featured in an article shortly after the Trump administration announced the coming end of DACA. [*They were already achieving their dreams': How DACA helped 10 Arizona 'dreamers'*](#) His practice focus includes immigration law and, since President Trump's announcement he has concentrated his efforts on [helping DREAMers](#).

And last, but not least, **Oscar López** is another example of what DREAMers can do if given the chance. Oscar was a member of the Carl Hayden High School robotics team that entered the Marine Advanced Technology Education (MATE) Center's annual International ROV competition. The contest is sponsored by several scientific organizations including the National Science Foundation and NASA. Oscar, his teammates, and their robot, "Stinky," bested the reigning champion, MIT, and other college teams from around the country. The story of the four undocumented high school students' success is the subject of a 2014 documentary, [Underwater Dreams](#), and a Hollywood movie [Spare Parts](#). And in January, 2016, Oscar, by then an Army veteran, with service in Afghanistan, had the privilege of [being a guest](#) in First Lady Michelle Obama's Box for the State of the Union Address.

Dalia, Reyna, Daniel, and Oscar, along with Liz Ortiz who is mentioned below, are but a few examples of what DREAMers have meant and contributed to our Nation's well-being and why this proposed rule is so important, not only to DREAMers, but to all of us.

Comments Specific to the Proposed Rule

ASU applauds and supports the administration's efforts to preserve and strengthen DACA. We are particularly supportive of the proposal to treat DACA recipients as "lawfully present" for purposes of statutes governing eligibility for federal benefits and the policy affirmation that DACA recipients are not a priority for removal. ASU also agrees with the DHS position that existing authority allows for advance parole for DACA recipients, which would allow DACA students to, for example, participate in our study abroad programs.

While we appreciate and support DHS's efforts, we do have some concerns with certain aspects. Specifically:

- 1. The threshold criteria** for DACA should be updated by moving up the continuous residency date from June 15, 2007, moving up the physical presence date from June 15, 2012, and by removing the age cap. The situation of Juan Carlos Cisneros, which is discussed in the latter part of this [article](#) is illustrative of the consequences of failing to update these criteria: "He's undocumented, but doesn't qualify for DACA because he came to the U.S. about a year after the cut off for DACA eligibility. He and his mother came to the U.S. from Mexico in 2008."

A related concern is the requirement of unlawful immigration status on June 15, 2012, and at the time of request when applying for DACA. This excludes those who age out of the system when they turn 21. According to the [Migration Policy Institute](#), this means approximately 190,000 minors and young adults have no path to legal status when they turn 21.

- 2. Splitting DACA status from employment authorization** is of concern. In states such as Arizona where DACA students are not eligible for in-state tuition, the ability to be gainfully employed is crucial. A DACA student with an Employment Authorization Card is eligible for employment by ASU. An EAD also allows our graduates to obtain the kinds of jobs open to other college graduates.

Others have pointed out some benefits of the separation including the lower costs this may produce. And we appreciate the severability concerns that underlie the proposed separation of DACA status from employment authorization. However, ASU has been successful in raising funds to help DACA applicants pay for the fees and we think the benefits of providing an EAD at the time of approval of the DACA application far outweigh the risks. We need only look at the contribution that DACA recipients have made to the fight against COVID-19. One [report](#) issued in the early months of the pandemic estimated that 29,000 health care workers were DACA recipients – 1,000 in Arizona.

ASU's own **Christian Lizbeth Ortiz**, who goes by Liz, is one of them. Liz has been working solely as a COVID nurse for the past two years and is currently in the COVID ICU of a local hospital. She received citizenship in 2020 just before the pandemic hit the US. But it was her DACA status that allowed her to stay in this country, get an education, earn a living, and help save lives.

ASU's Edson College of Nursing and Health Innovation educates over 5,300 undergraduate and graduate students. It is safe to assume that some of the college's graduates were also among the 1,000 DACA recipients included in the Report. And with the resurgence of pandemic, we will need them more than ever.¹

3. **The ability to establish domicile** may be of help to our DACA students in qualifying for in-state tuition. For that reason, we ask that DHS consider including language similar to the commentary in the [DACA FAQs](#), where USCIS states: "Individuals granted deferred action are not precluded by federal law from establishing domicile in the U.S."
4. **Other items that we would like to see** in the final regulation include consecutive renewals of deferred action, automatic renewal for pending DACA and work permit applications, and fee waivers for DACA applicants.

Finally, ASU notes its support for the comments submitted by the American Council on Education and the Presidents' Alliance on Higher Education and Immigration (an organization of which President Crow was a founding member).

Arizona State University and President Crow remain strongly committed to the passage of the DREAM Act, which would provide a long lasting and more meaningful solution to the challenges facing all DREAMers. In the meantime, and with the help of DHS in the form of a fortified DACA, ASU will, as President Crow [promised](#) on the day President Trump announced an end to DACA, "within the law, do everything we possibly can do to help young people move their lives forward – regardless of the circumstances that brought them to this country."

Sincerely,



José A. Cárdenas
Sr. Vice President & General Counsel
Arizona State University

cc: Dr. Michael Crow
President, Arizona State University

¹ You'll find more information about the "Essential DREAMer Workers in Health Care" and their importance, "given the persisting workforce shortages that the U.S. health-care system has faced since the pandemic hit in March 2020" [here](#).