

CASE #: A171410, Div: 4

Case No. _____

IN THE CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT

JEFFRY UMAÑA MUÑOZ and ILIANA PEREZ,

Petitioners,

v.

REGENTS OF THE UNIVERSITY OF CALIFORNIA,

Respondent.

**PETITION FOR WRIT OF MANDATE
AND/OR OTHER EXTRAORDINARY RELIEF AND
REQUEST FOR EXPEDITED REVIEW; MEMORANDUM
OF POINTS AND AUTHORITIES
AND EXHIBITS**

Jessica Karp Bansal
(SBN 277347)
ORGANIZED POWER
IN NUMBERS
P.O. Box 142
Claremont, CA 91711
jessica.b@powerinnumbers.us

Stacey M. Leyton (SBN 203827)
Eileen B. Goldsmith (SBN 218029)
*Max Carter-Oberstone (SBN 304752)
ALTSHULER BERZON LLP
177 Post Street, Suite 300
San Francisco, California 94108
Telephone: (415) 421-7151
mcarteroberstone@altber.com

*Ahilan T. Arulanantham (SBN 237841)
Stephany Martinez Tiffer (SBN 341254)
CENTER FOR IMMIGRATION LAW
AND POLICY, UCLA SCHOOL OF LAW
385 Charles E. Young Dr. East
Los Angeles, CA 90095
arulanantham@law.ucla.edu

Attorneys for Petitioners

COURT OF APPEAL FIRST APPELLATE DISTRICT, DIVISION	COURT OF APPEAL CASE NUMBER:
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NUMBER: 304752 NAME: Max Carter-Oberstone FIRM NAME: ALTSHULER BERZON LLP STREET ADDRESS: 177 Post Street, Suite 300 CITY: San Francisco STATE: CA ZIP CODE: 94108 TELEPHONE NO.: (415) 421-7151 FAX NO.: (415) 362-8064 E-MAIL ADDRESS: mcarteroberstone@altber.com ATTORNEY FOR (name): Petitioners JEFFRY UMAÑA MUÑOZ and ILIANA PEREZ	SUPERIOR COURT CASE NUMBER:
APPELLANT/ JEFFRY UMAÑA MUÑOZ and ILIANA PEREZ PETITIONER: RESPONDENT/ REGENTS OF THE UNIVERSITY OF CALIFORNIA REAL PARTY IN INTEREST:	
CERTIFICATE OF INTERESTED ENTITIES OR PERSONS	
(Check one): <input checked="" type="checkbox"/> INITIAL CERTIFICATE <input type="checkbox"/> SUPPLEMENTAL CERTIFICATE	
Notice: Please read rules 8.208 and 8.488 before completing this form. You may use this form for the initial certificate in an appeal when you file your brief or a prebriefing motion, application, or opposition to such a motion or application in the Court of Appeal, and when you file a petition for an extraordinary writ. You may also use this form as a supplemental certificate when you learn of changed or additional information that must be disclosed.	

1. This form is being submitted on behalf of the following party (name): Petitioners JEFFRY UMAÑA MUÑOZ and ILIANA PEREZ
2. a. There are no interested entities or persons that must be listed in this certificate under rule 8.208.
- b. Interested entities or persons required to be listed under rule 8.208 are as follows:

Full name of interested entity or person	Nature of interest (Explain):
--	-------------------------------

- (1)
- (2)
- (3)
- (4)
- (5)

Continued on attachment 2.

The undersigned certifies that the above-listed persons or entities (corporations, partnerships, firms, or any other association, but not including government entities or their agencies) have either (1) an ownership interest of 10 percent or more in the party if it is an entity; or (2) a financial or other interest in the outcome of the proceeding that the justices should consider in determining whether to disqualify themselves, as defined in rule 8.208(e)(2).

Date: October 1, 2024

Max Carter-Oberstone
(TYPE OR PRINT NAME)

/s/Max Carter-Oberstone
(SIGNATURE OF APPELLANT OR ATTORNEY)

TABLE OF CONTENTS

CERTIFICATE OF INTERESTED ENTITIES OR PARTIES.....2

TABLE OF AUTHORITIES6

INTRODUCTION 14

NEED FOR URGENT RELIEF FROM THIS COURT..... 17

JURISDICTION & VENUE 19

PARTIES 20

BACKGROUND 21

I. The Regents’ longstanding policy and the demise of
DACA..... 21

II. The rise of the Opportunity For All campaign..... 23

III. The Regents convenes a working group to consider
amending its policy of refusing to hire undocumented
students for on campus work. 24

IV. The Regents suspends the working group after taking
no action on its hiring policy, citing concerns over
compliance with IRCA. 25

V. The Governor vetoes a bill that would have permitted
the UC to hire undocumented students for on campus
work, echoing the Regents' concerns over IRCA
compliance..... 28

VI. The Regents’ Policy is causing grievous and
irreparable harm to undocumented students and to
the public at large. 28

VERIFICATION 38

MEMORANDUM OF POINTS AND AUTHORITIES 39

I.	This Court Should Exercise Its Original Mandamus Jurisdiction.....	39
A.	This case presents a purely legal question of great public importance that requires prompt resolution by the Court of Appeal.....	39
1.	The question presented is of great importance to the public and requires speedy resolution.	39
2.	This case should be heard by the Court of Appeal in the first instance.	43
B.	Mandamus is the appropriate remedy to compel a government body to exercise its discretion under the correct interpretation of the law, and to stop it from committing illegal acts.....	47
1.	Mandamus is appropriate to compel the exercise of discretion consistent with legal requirements.	47
2.	Mandamus is appropriate to compel performance of duties required by FEHA.	48
II.	This Court Should Grant The Writ Because, Contrary to the Regents’ Understanding, IRCA’s Prohibition On Hiring Undocumented Persons Does Not Apply To The UC	49
A.	IRCA’s plain text does not regulate state government employers.....	50
B.	IRCA’s ban on hiring undocumented persons does not reflect an “unmistakably clear” intent to regulate state entities.....	55
1.	Congress must make an “unmistakably clear” statement when it intends to legislate in an area historically reserved to the States.	55

2.	The phrase “person or other entity” in IRCA does not unmistakably encompass the States.....	61
C.	Construing IRCA to apply to state employers would raise serious constitutional concerns.....	62
III.	This Court Should Grant The Writ Because the Regents’ Policy Denying Employment To Undocumented Students Violates FEHA.....	65
	CONCLUSION.....	66
	CERTIFICATION OF WORD COUNT	68
	EXHIBITS	69

TABLE OF AUTHORITIES

	Page(s)
California Cases	
<i>Anderson v. Phillips</i> (1975) 13 Cal.3d 733.....	46, 47, 48, 50
<i>Brosnahan v. Brown</i> (1982) 32 Cal.3d 236.....	19, 45
<i>Calfarm Ins. Co. v. Deukmejian</i> (1989) 48 Cal.3d 805.....	45
<i>California Labor Federation v. Occupational Safety & Health Standards Board</i> (1990) 221 Cal.App.3d 1547.....	44
<i>In re Chantal S.</i> (1996) 13 Cal.4th 196.....	54
<i>Citizens for Amending Prop. L v. Cty. of Pomona</i> (2018) 28 Cal.App.5th 1159.....	41
<i>Clean Air Constituency v. Cal. Air Res. Bd.</i> (1974) 11 Cal.3d 801.....	43
<i>Cnty. of Butte v. Dept. of Water Res.</i> (2022) 13 Cal.5th 612.....	59, 62
<i>Common Cause v. Bd. of Supervisors</i> (1989) 49 Cal.3d 432.....	48
<i>East Bay Mun. Util. Dist. v. Sindelar</i> (1971) 16 Cal.App.3d 910.....	44
<i>Elden v. Superior Court</i> (1997) 53 Cal.App.4th 1497.....	42
<i>In re Garcia</i> (2014) 58 Cal.4th 440.....	63

<i>Green v. Super. Ct.</i> (1974) 10 Cal.3d 616.....	40
<i>Haniff v. Super. Ct.</i> (2017) 9 Cal.App.5th 191	46
<i>Industrial Welfare Com. v. Super. Ct.</i> (1980) 27 Cal.3d 690.....	46
<i>Jarman v. HCR ManorCare, Inc.</i> (2020) 10 Cal.5th 375	53
<i>Johnson v. Cty. & Cnty. of S.F.</i> (2006) 137 Cal.App.4th 7	45, 46
<i>JSM Tuscany, LLC v. Super. Ct.</i> (2011) 193 Cal.App.4th 1222	42
<i>Millbrae School Dist. v. Super Ct.</i> (1989) 209 Cal.App.3d 1494.....	42
<i>People v. Rodriguez</i> (2016) 1 Cal.5th 676	48
<i>Personnel Com. v. Bd. of Ed.</i> (1990) 223 Cal.App.3d 1463.....	49
<i>Powers v. City of Richmond</i> (1995) 10 Cal.4th 85	39
<i>Regents of Univ. of Cal. v. Super. Ct.</i> (1970) 3 Cal.3d 529.....	20, 41
<i>Regents of Univ. of Cal. v. Super. Ct.</i> (1990) 225 Cal.App.3d 972 40.....	41
<i>Requa v. Regents of Univ. of Cal.</i> (2012) 213 Cal.App.4th 213	20
<i>Rodrigues v. Super. Ct.</i> (2005) 127 Cal.App.4th 1027	42

<i>Save the Plastic Bag Coal. v. Cty. of Manhattan Beach</i> (2011) 52 Cal.4th 155	41
<i>Solvang Mun. Improvement Dist. v. Jensen</i> (1952) 111 Cal.App.2d 237	44
<i>Strauss v. Horton</i> (2009) 46 Cal.4th 364	18
<i>Vandermost v. Bowen</i> (2012) 53 Cal.4th 421	18
<i>Weiss v. City of Los Angeles</i> (2016) 2 Cal.App.5th 194	41, 47, 48
Federal Cases	
<i>Ambach v. Norwick</i> (1979) 441 U.S. 68	57, 63
<i>Arizona Dream Act Coal. v. Brewer</i> (9th Cir. 2017) 855 F.3d 957	21
<i>Atascadero State Hosp. v. Scanlon</i> (1985) 473 U.S. 234	61
<i>BV Engineering v. Univ. of Cal., L.A.</i> (9th Cir. 1988) 858 F.2d 1394	56
<i>Cabell v. Chavez-Salido</i> (1982) 454 U.S. 432	58
<i>Chamber of Commerce v. Whiting</i> (2011) 563 U.S. 582	57
<i>Clark v. Martinez</i> (2005) 543 U.S. 371	64
<i>Custis v. United States</i> (1994) 511 U.S. 485	52
<i>DeCanas v. Bica</i> (1976) 424 U.S. 351	55, 56, 57

<i>Dellmuth v. Muth</i> (1989) 491 U.S. 223	60, 62
<i>Dept. of Homeland Sec. v. Regents of the Univ. of Cal.</i> (2020) 140 S. Ct. 1891	22
<i>Doe v. Lawrence Livermore Nat. Laboratory</i> (9th Cir. 1997) 131 F.3d 836	56
<i>Foley v. Connelie</i> (1978) 435 U.S. 291	58
<i>Gozlon-Peretz v. United States</i> (1991) 498 U.S. 395	54
<i>Gregory v. Ashcroft</i> (1991) 501 U.S. 452	58, 59, 63
<i>Hamilton v. Regents of the Univ. of Cal.</i> (1934) 293 U.S. 245	56
<i>Hensel v. Office of Chief Admin. Hearing Officer</i> (10th Cir. 1994) 38 F.3d 505	61
<i>Kansas v. Garcia</i> (2020) 140 S. Ct. 791	57
<i>Metropolitan Life Ins. Co. v. Massachusetts</i> (1985) 471 U.S. 724	56
<i>Nev. Dept. of Human Res. v. Hibbs</i> (2003) 538 U.S. 721	62
<i>New Orleans v. Dukes</i> (1976) 427 U.S. 297	57
<i>Nixon v. Mo. Mun. League</i> (2004) 541 U.S. 125	52, 53, 61
<i>Raygor v. Regents of Univ. of Minn.</i> (2002) 534 U.S. 533	58

<i>South Dakota v. Dole</i> (1987) 483 U.S. 203	59
<i>Stone v. INS</i> (1995) 514 U.S. 386	52
<i>Sugarman v. Dougall</i> (1973) 413 U.S. 634	58, 63
<i>Texas v. United States</i> (S.D. Tex. 2018) 328 F.Supp.3d 662	22
<i>Texas v. United States</i> (S.D. Tex. 2023) 691 F.Supp.3d 763	23
<i>Will v. Mich. Dept. of State Police</i> (1989) 491 U.S. 58	51
<i>Zadvydas v. Davis</i> (2001) 533 U.S. 678	62

Federal Statutes

8 U.S.C.	
§ 1101, subd. (a)(28)	51
§ 1101, subd. (b)(3)	51
§ 1182 subd. (a)(9)(C)	21
§ 1324a, subd. (a)	49, 50, 52
§ 1324a, subd. (a)(7)	51
§ 1324a, subds. (b)	50, 53
§ 1324a, subd. (d)(1)(A)	53
§ 1324a, subd. (h)(2)	53
§ 1324b	61
§ 1373, subd. (a)	53

20 U.S.C.	
§ 1087kk	32
§ 1087vv, subd. (i)(1)	32
§ 1403, subd.(a)	54

29 U.S.C.	
§ 203, subd.(d)	54
§ 203, subd.(x)	54
§ 630, subd.(b)	59
§ 2611, subd.(4)(A)(iii)	54

42 U.S.C.	
§ 2000e, subd.(f)	54

California Statutes and Regulations

Cal. Bus. & Prof. Code	
§ 6064(b)	63

Cal. Code Civ. Proc.	
§ 393, subd.(b)	19
§ 1085.....	19, 48
§ 1086.....	19, 39

Cal. Code Regs., Title 2	
§ 11028, subd.(f)(3).....	66

Cal. Educ. Code	
§ 70032.....	32
§ 70034.....	32

Cal. Gov. Code	
§ 1020, subd.(b)	63
§ 12926, subd.(e)	66
§ 12926, subd.(v)	65
§ 12935(a)(1).....	65
§ 12940, subd.(a)	65
§ 12940, subd.(j)(4)(A).....	66

Constitutional Authorities

United States Const.	
Tenth Amendment.....	50, 55, 63

California Constitution	
Article VI, § 10	19
Article IX, § 9	20, 56
Rules	
California Rules of Court Rule 8.486.....	19
Other Authorities	
Adam Echelman, <i>Fewer undocumented students have DACA</i> , Open Campus Media, Nov. 30, 2023, https://tinyurl.com/43rkn666	23
Assem. Flr., analysis of Assem. Bill 1660 (Aug. 22, 2014), http://tiny.cc/lmekyz	65
<i>DACA Court Case Updates</i> , FWD.us, Sept. 17, 2024, http://tiny.cc/iodyyz	23
<i>DACA Recipients and Eligible Population by State: California, Unauthorized Population, Migration Policy Institute</i> , http://tiny.cc/4lsnzz	28
Gov. Newsom veto message, Assem. Bill 2586 (Sep. 22, 2024), http://tiny.cc/9sinzz	15, 28
Higher Ed Immigration Portal, https://tinyurl.com/a52z52ab	29
Legis. Analyst, <i>The 2023-2024 Budget: University of California</i> , Feb. 2023, http://tiny.cc/j285yz	21
L. Tribe, <i>Federalism—Clear Congressional Mandate Required to Preempt State Law: Gregory v. Ashcroft (1991)</i> 105 Harv. L. Rev. 196.....	60
The Federalist No. 45, Library of Congress, http://tiny.cc/nkk7yz	55

<i>Persisting Inequalities and Paths Forward: A Report on the State of Undocumented Students in California’s Public Universities</i> , UC Collaborative to Promote Immigrant and Student Equity, Dec. 2020, http://tiny.cc/rgsnyz	36
<i>Profile of the Unauthorized Population</i> , Migration Policy Institute, http://tiny.cc/4lsnzz	28
Sen. Flr. Analysis, Assem. Bill 2586 (Aug. 19, 2024)	28
Sen. Jud. Comm., analysis of Assem. Bill 1660 (Apr. 24, 2014), http://tiny.cc/7oekyz	65
UC Employee Headcount, Aug. 15, 2024, http://tiny.cc/t5kgyz	21
USCIS, Consideration of Deferred Action for Childhood Arrivals, Frequently Asked Questions (April 1, 2024), http://tiny.cc/3jsnzz	22

INTRODUCTION

This petition presents a novel, purely legal question of extraordinary importance: may the Board of Regents of the University of California (Regents) maintain a policy that discriminates against undocumented students by declining to hire them for on campus work? The Regents' only justification for adopting this facially discriminatory policy is the mistaken belief, unilluminated by any judicial opinion, that federal law requires it. But the federal law in question—the Immigration Reform and Control Act (IRCA), which prohibits hiring undocumented persons—does not apply to state employers such as the University of California (UC).

The effects of the Regents' misguided policy have been devastating. The policy is stunting the potential of students with great academic promise, who could pursue advanced degrees at the UC but for their inability to complete the necessary teaching or other employment requirements (such as medical residency). It is discouraging many undocumented students of limited means—who must work to afford college—from applying to the UC altogether. And, as one Regent acknowledged, those who are able to attend must often travel long distances to work for unscrupulous employers in “inhumane and horrific conditions” because they have been denied the opportunity to seek safer jobs on campus. More broadly, the people of this State are being deprived of the important contributions that these students would have made if their academic ambitions had not been needlessly stifled by the Regents' policy.

Absent this Court’s intervention, these irreparable harms will continue unabated. Students and faculty have been advocating for UC to open student jobs to all students regardless of immigration status since the fall of 2022. The Regents formed a working group to consider amending its policy in the spring of 2023, but suspended the group’s work in January of this year, citing concerns that hiring undocumented students would violate IRCA. Then this summer, the California State Assembly and Senate overwhelmingly approved legislation—the Opportunity for All Act (AB 2586)—that would have ended this discriminatory treatment by requiring the State’s public universities to make employment opportunities equally available to all students regardless of immigration status. But on September 22, 2024, the Governor vetoed it, stating that “it is critical that the courts address the legality of such a policy and the novel legal theory behind this legislation.” (Gov. Newsom veto message, Assem. Bill 2586 (Sep. 22, 2024), <http://tiny.cc/9sinzz>.)

This writ petition provides the opportunity to do just that. It seeks relief based on two alternative state law theories. The Court need reach only one of them to rule in petitioners’ favor.

First, the Regents’ policy is an abuse of discretion. Even where state officials have discretion to set policy, they must do so based on an accurate understanding of applicable law. Here, the Regents’ student hiring policy is premised on an erroneous interpretation of IRCA. The plain text of IRCA’s prohibition on hiring undocumented persons does not purport to bind state employers. It explicitly covers the federal government, but never

mentions the States. Moreover, where Congress seeks to legislate in areas of traditional state control—such as whom States can hire as their own employees—it must use “unmistakably clear” language to do so. The relevant provision of IRCA falls far short of this demanding standard.

Second, the Regents’ policy is unlawful because it violates the Fair Employment and Housing Act’s (FEHA) prohibition on immigration status discrimination absent clear and convincing evidence that federal law requires it. The Regents’ erroneous interpretation of IRCA has led it to believe its discriminatory policy is required by federal law (and thus consistent with FEHA), but it is not. Neither IRCA nor any other federal law requires the Regents to adopt its discriminatory policy.

How this petition is resolved will affect the lives of thousands of undocumented students who wish to pursue their academic dreams. Many of them were brought to the United States as children to escape violence and economic insecurity in their country of birth. They have confronted harrowing experiences and challenges that are unimaginable to most Americans. In the face of all this, they have demonstrated the resilience, aptitude, and ambition to pursue their academic dreams at the nation’s most prestigious public university. Yet the Regents’ Policy now places yet another obstacle in their way. Only this Court’s intervention can prevent their dreams from being irretrievably derailed.

This Court should set an expedited briefing schedule and thereafter issue a writ of mandate directing the Regents to

abandon its unsound and unlawful policy. Petitioners respectfully request that the Court issue the writ no later than mid-November so that undocumented students deciding whether to enroll at the UC can take this information into account in time to submit applications by the November 30 deadline.

Alternatively, petitioners request a ruling by early December so that undocumented students currently enrolled at the UC can apply for on campus employment in time for the start of the spring semester.

NEED FOR URGENT RELIEF FROM THIS COURT

1. The Regents' policy of refusing to hire undocumented students for on campus work is causing grievous and irreparable harm to thousands of undocumented students across the State, as well as to the public at large. It effectively bars undocumented students from pursuing a swath of advanced degree programs because they cannot satisfy those programs' teaching or other employment requirements (such as medical residency). It also prevents undocumented students from even being considered for many prestigious opportunities, such as research assistant positions, which are a vital component of the educational experience and serve as important markers of distinction for future applications to jobs or graduate programs. It pushes many students—who must work to afford basic necessities—to take jobs in substandard conditions for unscrupulous employers in the underground labor market. And it discourages an untold number

of qualified undocumented students from even applying to or accepting offers of admission from the UCs in the first place.

2. This case should be heard by the Court of Appeal in the first instance. It presents a purely legal question of statutory interpretation: whether IRCA's ban on hiring undocumented persons applies to state employers such as the Regents. It does not require resolving any factual disputes. It therefore would not benefit from being heard in the trial court in the first instance. Just the opposite. Trial litigation would invite a multiplicity of lawsuits, which could easily result in competing orders simultaneously *requiring* UC to allow all students to seek employment and *prohibiting* UC from adopting such a policy. And given the significance of the question presented, any ruling from the superior court would inevitably be appealed, presenting precisely the same question (in the same posture) that petitioners now ask this Court to decide. The delay incurred by first seeking relief in the trial court would only cause more irreparable harm, while needlessly expending scarce judicial resources. This Court should hear this case now.

3. Because the challenged policy is causing ongoing irreparable harm, this Court should set an expedited briefing schedule. (*Strauss v. Horton* (2009) 46 Cal.4th 364, 399; *Vandermost v. Bowen* (2012) 53 Cal.4th 421, 441 & fn. 15.) Petitioners respectfully request that the Court rule no later than mid-November, as students must decide whether to apply to the UC by November 30. Alternatively, petitioners request that the

Court rule by early December to allow currently enrolled students to seek on campus employment for the spring semester.

JURISDICTION & VENUE

4. This Court has original jurisdiction pursuant to article VI, section 10 of the California Constitution, Code of Civil Procedure sections 1085 and 1086, and Rule 8.486 of the California Rules of Court to hear a case that presents issues of great public importance that must be resolved promptly. (*Brosnahan v. Brown* (1982) 32 Cal.3d 236, 241 (hereafter *Brosnahan*) [exercising original jurisdiction over writ where issue is of “great public importance and should be resolved promptly”].) The legal question of first impression presented here is of surpassing importance to the people of this State and to the thousands of students irreparably harmed by the Regents’ policy of refusing to hire undocumented students for on campus work. (*Infra* Mem. § I.A.1.)

5. Petitioners are entitled to a writ of mandate because they lack a “plain, speedy, and adequate remedy, in the ordinary course of law.” (Code Civ. Proc., § 1086; see *infra* Mem. § I.A.)

6. Venue is proper in the First District Court of Appeal. (Code Civ. Proc., § 393, subd. (b).) Petitioners allege harms occurring at each of the ten UC campuses, including at UC Berkeley, which is located in Alameda County. Public monies are accordingly being spent in Alameda County to carry out the Regents’ challenged policy of refusing to hire undocumented

students for on campus work. (See *Regents of Univ. of Cal. v. Super. Ct.* (1970) 3 Cal.3d 529, 536-41 (hereafter *Karst*.)

PARTIES

7. **Petitioner Jeffry Umaña Muñoz** is an individual residing in California. He graduated from UCLA in June 2024. Within the past year, he has paid a sales and use tax or transaction and use tax initially paid to a retailer in California. (Declaration of Jeffry Umaña Muñoz *infra* p. 101, ¶¶ 34-35 (hereafter Muñoz Decl.)) He has also been assessed and is liable to pay California state income tax. (Muñoz Decl. p. 101, ¶ 36.)

8. **Petitioner Iliana Perez** is an individual residing in California. Within the past year, she has paid a sales and use tax or transaction and use tax initially paid to a retailer in California. (Declaration of Iliana Perez *infra* p. 111, ¶ 25 (hereafter Perez Decl.)) She has also been assessed and is liable to pay California state income tax. (*Ibid.*) She has also paid property taxes in California within the last year. (*Ibid.*)

9. **Respondent Board of Regents of the University of California** is a public “corporation” endowed with the “full powers of organization and government” and “all the powers necessary or convenient for the effective administration of” the University of California. (Cal. Const., art. IX, §§ 9(a), (f).) Subsumed in these broad duties is the power to hire individuals to carry out the University’s important mission. (See *Requa v. Regents of Univ. of Cal.* (2012) 213 Cal.App.4th 213, 229 [“matters of employee compensation and benefits fall within [Regents’] constitutional grant of authority”].) The Board of

Regents wields a budget of nearly \$50 billion across ten UC campuses, serving roughly 295,000 students, and employing 265,000 faculty and staff, including over 66,000 student employees. (Legis. Analyst, *The 2023-2024 Budget: University of California*, Feb. 2023, <http://tiny.cc/j285yz>; UC Employee Headcount, Aug. 15, 2024, <http://tiny.cc/t5kgyz>.)

BACKGROUND

I. The Regents' longstanding policy and the demise of DACA.

10. The Regents has a longstanding policy of refusing to hire undocumented students for on campus work (the Policy). (Declaration of Kent Wong, *infra* p. 114, ¶ 23 (hereafter Wong Decl.).)¹

11. That policy did not affect a large number of students for much of the last decade because the Deferred Action for Childhood Arrivals (DACA) program allowed most undocumented university students to obtain federal authorization to reside and work in the United States starting shortly after the program was established in June 2012.

¹ Petitioners use the term “undocumented” herein to exclude students who have Deferred Action for Childhood Arrival (DACA) status. (See generally *Arizona Dream Act Coal. v. Brewer* (9th Cir. 2017) 855 F.3d 957, 974-75 [holding that DACA holders’ “period of stay” in the U.S. is “authorized by the Attorney General” for purposes of calculating periods of “unlawful[] presen[ce]” under 8 U.S.C. § 1182(a)(9)(C)].) While DACA recipients are considered undocumented in some contexts, because students with DACA have federal work authorization, the UC permits them to obtain employment on campus.

12. DACA was available to young people who (1) came to the U.S. before the age of 16, (2) were under the age of 31 and physically present in the U.S. as of June 15, 2012, (3) had continuously resided in the U.S. since June 15, 2007, (4) were enrolled in school or had graduated high school, obtained a GED, or been honorably discharged from the U.S. armed forces, (5) posed no threat to public safety, and (6) passed extensive criminal background checks. (See USCIS, Consideration of Deferred Action for Childhood Arrivals, Frequently Asked Questions (April 1, 2024), <http://tiny.cc/3jsnzz>.)

13. The Trump Administration attempted to rescind DACA in September 2017, and the program has been the subject of litigation ever since—first in lawsuits challenging the Trump Administration’s attempt to terminate DACA, and then in litigation challenging DACA itself. (See generally *Dept. of Homeland Sec. v. Regents of the Univ. of Cal.* (2020) 140 S. Ct. 1891, 1901-02.)

14. Most relevant for present purposes, in 2018, the United States District Court for the Southern District of Texas ruled that DACA was likely unlawful. (See *Texas v. United States* (S.D. Tex. 2018) 328 F.Supp.3d 662.)

15. The court partially stayed the effect of its ruling pending appeal—permitting those who already held DACA to keep it, while enjoining the federal government from processing new DACA applications.

16. Although the court’s injunction has been subject to appeal and minor modifications over time, it has been largely

reaffirmed by the Fifth Circuit and the district court on several occasions, most recently on September 13, 2023. The overall effect of that litigation has been that most people who had DACA prior to 2018 continue to have that protected status, but most people who sought DACA within the last six years have been unable to access it. (See generally *Texas v. United States* (S.D. Tex. 2023) 691 F.Supp.3d 763; *DACA Court Case Updates*, FWD.us, Sept. 17, 2024, <http://tiny.cc/iodypyz>.)

II. The rise of the Opportunity For All campaign.

17. Over the last six years, increasing numbers of undocumented students enrolled at UC could not obtain DACA (and the federal work authorization it provides). (See Adam Echelman, *Fewer undocumented students have DACA*, Open Campus Media, Nov. 30, 2023, <https://tinyurl.com/43rkn666>.) Petitioner Jeffrey Umaña Muñoz, for example, narrowly missed the chance to obtain DACA status despite meeting all the “eligibility criteria for the program.” (Muñoz Decl. p. 96-97, ¶¶ 4-6, 11.)

18. As these students came to understand that the UC would not allow them to seek jobs on campus, they began to organize and look for solutions. In the summer of 2022, a group of undocumented students formed the Undocumented Student-Led Network. Several months later, they launched a campaign to persuade the UC to allow them to seek employment on the same footing as other students. The students worked in conjunction with professors at the UCLA Labor Center and the Center for Immigration Law and Policy at UCLA School of Law.

III. The Regents convenes a working group to consider amending its policy of refusing to hire undocumented students for on campus work.

19. In response to the campaign's efforts, in May 2023, the Regents unanimously enacted Policy 4407, which created a working group to explore the possibility of amending the policy prohibiting the hiring of undocumented students. (Regents Meeting Minutes, May 18, 2023 at pp. 6-8, <http://tiny.cc/aybeyz>.)

20. Policy 4407 proclaimed the UC's commitment to providing a high-quality education to all students "regardless of immigration status." (Policy 4407 at p. 1, <http://tiny.cc/fzbeyz>.) It further acknowledged that "University employment is an important component of student life and well-being for many students, offering opportunities for academic growth, and preparing them to flourish in their chosen careers." (*Ibid.*)

21. To that end, Policy 4407 directed the Chair of the Regents to convene a working group to explore the possibility of amending the Policy to allow "equal access to University employment opportunities," and all the benefits that come with it, including "professional training and mentoring by members of the faculty" and the chance for students to "support themselves and their family members during their course of study." (*Id.* at p. 2.)

IV. The Regents suspends the working group after taking no action on its hiring policy, citing concerns over compliance with IRCA.

22. Nine months after the adoption of Policy 4407, the Regents reversed course. By a vote of 10-6, it suspended the

working group’s activities for one year, without making any changes to the UC’s hiring practices, and without making any specific commitment that the working group would restart its efforts in a year’s time. (Amendment of Policy 4407, Jan. 25, 2024, <http://tiny.cc/12ceyz>.)

23. At the meeting, UC President Michael V. Drake began by chronicling the University’s longstanding commitment to undocumented students. He noted that the working group established by Policy 4407 “devoted substantial time and resources to examining ways to further expand our support for undocumented students by providing them with equal access to educational employment experiences.” (Regents Meeting, Jan. 25, 2024, Video Recording at 4:41-51, <http://tiny.cc/meceyz> (hereafter Jan. 25 Meeting Video).) Despite these efforts, President Drake concluded that amending the Policy to achieve these goals would not be possible because doing so would give rise to “significant risk for the institution and for those we serve.” (*Id.* 5:30-43.)

24. These risks might arise, in President Drake’s estimation, “if the University is found to be in violation of the Immigration Reform and Control Act [IRCA].” (*Id.* 6:28-7:13.) He noted that, “as an individual, I would like nothing more than to [hire undocumented students for on campus work] right here, right now, because it is the right thing to do.” (*Id.* 6:14-21.) But because, in President Drake’s view, so much was riding on “IRCA compliance”—including a risk of fines, suspension of federal funding, and civil and criminal liability—it would be inconsistent

with his “fiduciary responsibility” to allow the UC to hire undocumented students on an equal basis with other students. (*Id.* 6:22-7:20.)

25. Other Regents echoed President Drake’s concern for consequences that might attend violating IRCA. Regent Raznick, who voted to suspend the working group, believed that hiring undocumented students would result in “substantial and consequential risk” that would “impact[] the functioning of [the] University.” (*Id.* 32:00-15.)

26. Other Regents believed that these harms would not come to pass because hiring undocumented students would not violate IRCA. Regent Perez, for example, observed that “there is a defensible legal argument to be pursued.” (*Id.* 18:10-15; see also *id.* 31:00-05 [Regent Sarris].) Regent Hernandez concurred, concluding that by suspending the working group, the Regents was, “from a legal perspective, ... squandering a great opportunity.” (*Id.* 19:45-20:11.)

27. Several Regents, including those who voted to suspend the working group, conceded that the UC’s current hiring practices were causing substantial harm to undocumented students, who would be forced to endure continued hardship because of the Regents’ inaction. Regent Matosantos, for example, put it bluntly: “where we are today is unconscionable.” (*Id.* 33:47-51.) “A year is a really long time [to wait],” she said, “when we’re talking about questions of justice, when we’re talking about questions of equality, and also when we’re talking about the ability to eat.” (*Id.* 33:07-30; see also *id.* 29:05-09 [“I

don't think the students of this University can wait a year"] [Regent Tesfai]; *id.* 13:48-58 ["a year ... is ... not a short time in the lives of our students"] [Regent Perez].) The current policy, in Regent Matosantos' view, was depriving undocumented students of "the opportunity to be able to have the kinds of experiences that you are going to need for ... your future and to capitalize on the education that you're working towards." (*Id.* 34:01-10; accord *id.* 14:15-20 [the Policy "is foreclosing life altering opportunities" for undocumented students] [Regent Perez].) She nevertheless concluded that it was "critical" to suspend the working group's efforts because "there is not an implementation path" that would satisfy the concerns raised about violating IRCA. (*Id.* 34:35-35:25.)

28. While the motion that was ultimately adopted suspended the working group's efforts for one year, no Regent explained what might conceivably change during that time period that would allow for reconsideration of the Policy given the IRCA-related concerns that were cited. Indeed, Regent Ellis noted that he agreed with Regent Hernandez that "a year is [not] going to mean much," and accused the Regents of giving undocumented students "false hope" by merely suspending rather than "rescind[ing]" Policy 4407. (*Id.* 21:35-40, 22:50-23:00.)

V. The Governor vetoes a bill that would have permitted the UC to hire undocumented students for on campus work, echoing the Regents’ concerns over IRCA compliance.

29. Shortly after the Regents reversed course, California State Assemblymember David Alvarez introduced the Opportunity for All Act (AB 2586). The bill declared that IRCA’s prohibition on hiring undocumented students does not apply to state employers, and therefore prohibited the UC, “the California State University (CSU), and the California Community Colleges (CCC) from disqualifying a student from being hired for an employment position due to their” undocumented status. (Sen. Flr. Analysis, Assem. Bill 2586 (Aug. 19, 2024) at p. 3.) AB 2586 passed both the state Assembly and Senate by overwhelming margins (63-7 and 31-8, respectively). But on September 22, 2024, the Governor vetoed the bill. (Gov. Newsom veto message, AB 2586 (Sep. 22, 2024), <http://tiny.cc/9sinzz>.) The Governor stated that it is “critical that the courts address” whether IRCA’s prohibition on hiring undocumented persons applies to state employers before any changes are made to the UC’s hiring policies, in light of concerns over whether such a policy would violate IRCA. (*Ibid.*)

VI. The Regents’ Policy is causing grievous and irreparable harm to undocumented students and to the public at large.

30. California is home to over two and a half million undocumented people. (*Profile of the Unauthorized Population*, Migration Policy Institute, <http://tiny.cc/4lsnzz>; *DACA Recipients and Eligible Population by State: California*, Migration Policy

Institute, <http://tiny.cc/6lsnzz>) [estimating 2,730,000 “unauthorized” immigrant residents, including 150,090 DACA recipients].) One study estimates there are as many as 54,509 undocumented students attending institutions of higher education in California, and approximately 14,000 undocumented students graduating from high school in the State each year. (Higher Ed Immigration Portal, <https://tinyurl.com/a52z52ab>.) The most recent available figures from the Regents indicate there are roughly 2,500 undocumented undergraduate students and “many” undocumented graduate students (i.e., students who do *not* have DACA) attending the UC. (Decl. of Shawn Brick, Ass. Dir. For Student Financial Support at the UC Office of the President, *Regents v. DHS*, N.D. Cal. Case No. 17-CV-05211-WHA, Dkt. 113-1, Nov. 1, 2017).

31. The Policy has prevented highly qualified undocumented students from attending graduate programs because they cannot fulfill the required teaching or other employment requirements (such as medical residency). That is precisely what happened to **Diego Castro**, who was born in El Salvador and brought to the United States when he was ten years old. (Declaration of Diego Castro *infra* p. 70, ¶ 1 (hereafter Castro Decl.)) Upon arriving, federal authorities separated him from his family and placed him under the care of strangers for four months. (*Ibid.*) He was eventually reunited with his mother. (*Ibid.*)

32. Despite attending an under-resourced public high school in Los Angeles, Diego was an excellent student with

ambitions to continue his education. (Castro Decl. p. 70, ¶¶ 3-4.) He attended UC Irvine on a full scholarship, graduating in 2022 with a double major in Political Science and Latino Studies. (Castro Decl. p. 70, ¶ 8.)

33. Recognizing his academic potential, several professors invited Diego to be a teaching assistant, but the Regents' Policy made it impossible for him to accept their invitations. (Castro Decl. p. 71, ¶ 16.)

34. College sparked Diego's interest in academia, and he aspired to earn a doctorate and become a professor, and after that, a college administrator. (Castro Decl. p. 71, ¶ 10.) Toward the end of his senior year, he began applying to PhD programs. (Castro Decl. p. 72, ¶ 20.)

35. Diego received an offer to complete a PhD program in UC Merced's Department of Sociology. (Castro Decl. p. 72, ¶ 21.) The offer provided a full scholarship, covering all tuition, fees, and free health insurance and wellness benefits for all five years of the program. (*Ibid.*)

36. UC Merced's offer was contingent on Diego working as a teaching or research assistant. (Castro Decl. p. 104, ¶¶ 22-23.) Upon informing the University that he lacked federal work authorization, UC Merced rescinded Diego's offer. In its place, UC Merced made him an offer to attend with only one year of funding, with no plan for how the remaining four years of the program would be funded. (Castro Decl. pp. 72-73, ¶ 25.)

37. Diego was given two weeks to decide whether to accept or reject the updated offer. (Castro Decl. pp. 72-73, ¶ 25.)

He ultimately declined it because he could see no pathway to funding his participation in the final four years of the PhD program.

38. Diego is currently pursuing a master's degree in Education at UCLA, which is being funded through a professor's grant. (Castro Decl. p. 73, ¶ 26.) His "ultimate goal of completing a doctoral program" and "fulfill[ing] [his] dreams of becoming a professor and university administrator ... remain[] closed to [him] because [he] do[es] not have work authorization." (Castro Decl. p. 73, ¶¶ 27-28.)

39. While the Policy is stopping Diego from fulfilling his academic dreams, other undocumented students have been able to attend their school of choice. However, even for these students, the Policy stops them from partaking in opportunities that are crucial to their academic and professional development.

40. Take for example, Petitioner **Jeffry Umaña Muñoz**, who was born in El Salvador and brought to the United States by his mother when he was two years old, settling in Southern California. (Muñoz Decl. p. 96, ¶ 2.)

41. From a young age, Jeffry demonstrated exceptional academic promise. He was the valedictorian of his high school class and was admitted to Harvard. (Muñoz Decl. p. 96, ¶¶ 6-7.) He ultimately opted to stay closer to home, pursuing his undergraduate studies at UCLA. (Muñoz Decl. pp. 96-97, ¶¶ 7-9.) His decision to attend UCLA was motivated in part by the University's representations that it was "friendly and supportive of undocumented students." (Muñoz Decl. p. 96, ¶ 8.)

42. But once Jeffrey arrived on campus, those representations clashed with the reality of his experience. His freshman year, to support himself and his family, he attempted to secure jobs at the university bookstore and cafeteria, but was turned away on account of his undocumented status. (Muñoz Decl. p. 97, ¶ 13.)

43. Jeffrey eventually secured a research fellowship his freshman year that he was told would provide him a \$2500 stipend. (Muñoz Decl. p. 97, ¶ 15.) He never saw any money from his research work, however, because UCLA processed the stipend as a form of financial aid. (Muñoz Decl. p. 97, ¶ 16.) Since Jeffrey was already receiving the maximum financial aid that year, UCLA—in compliance with state and federal law—used the stipend as an offset, reducing another part of his financial aid package by the amount of the stipend and leaving him with no net financial gain from his work. (*Ibid.* ; see also Educ. Code § 70034 [“The [DREAM] loan may not exceed the financial need of the student.”]; *id.* § 70032 (financial need to be calculated pursuant to “federal methodology”); 20 U.S.C. §§ 1087kk, 1087vv(i)(1) [“other financial assistance,” broadly defined, to be subtracted when calculating financial need].)

44. In his sophomore year, Jeffrey was appointed to the Student Initiated Outreach Committee. (Muñoz Decl. p. 98, ¶ 21.) Students on the Committee are compensated with a stipend. UCLA intervened, believing that Jeffrey was ineligible to serve on the Committee because it would constitute employment (which, under the UC’s interpretation of IRCA, would be

unlawful). (*Ibid.*) After protracted negotiations, Jeffrey was eventually seated on the Committee, and received a financial award in lieu of a stipend. (*Ibid.*) Because he was not receiving the maximum financial aid package that year, he was able to receive the award money. (*Ibid.*) But the payments came at irregular and unpredictable intervals, so he could not rely on the money “for things like groceries or other week-to-week needs.” (*Ibid.*) And the whole arrangement made him “feel different,” like “a second-class member of the campus community,” given that his peers could work at jobs that provided consistent paychecks unfettered by any cap. (*Ibid.*)

45. During his junior year, Jeffrey received a prestigious appointment to serve on the Board of Directors of Associated Students UCLA (ASUCLA), a University-affiliated nonprofit. (Muñoz Decl. p. 99, ¶ 26.) In recognition of the significant time commitment, board members receive a stipend equivalent to the full cost of tuition at UCLA. (Muñoz Decl. pp. 99-100, ¶ 26.) The University, however, denied Jeffrey the stipend on account of his undocumented status. (Muñoz Decl. p. 100, ¶ 27.) Jeffrey attempted to find different avenues to receive some compensation for his work, but the University eventually removed Jeffrey from the board. (Muñoz Decl. p. 100, ¶ 28.)

46. **Leslie Sepulveda Ochoa**, a student at UC Berkeley Law School, has experienced similar disappointments. Leslie came to the United States when she was seven years old, with her family. (Declaration of Leslie Sepulveda Ochoa *infra* p. 103,

¶ 1 (hereafter Ochoa Decl.)) She grew up in East Palo Alto with them. (Ochoa Decl. p. 103, ¶ 2.)

47. Leslie has always been an outstanding student. She attended Menlo-Atherton High School, one of the best public high schools in the nation. (Ochoa Decl. p. 103, ¶ 3.)

48. Leslie applied only to in-state universities, ultimately accepting a full scholarship to attend Loyola Marymount University. (Ochoa Decl. p. 103, ¶ 5.) During her junior year, she was selected as a UCLA Dream Resource Center Fellow, which allowed her to work on an array of immigration-related legal issues. (Ochoa Decl. p. 104, ¶ 8.) These experiences sparked her interest in becoming a lawyer.

49. UC Berkeley Law School was her top choice because of its vibrant community of undocumented students, and because it was the only law school she considered that posted resources for undocumented students on its website. (Ochoa Decl. p. 104, ¶ 9.)

50. Leslie was admitted to Berkeley Law School with a full scholarship in 2022, and is now in her third year of study there. (Ochoa Decl. p. 104, ¶ 9.) Leslie is a member of two law reviews. She has held the positions of Associate Editor and Notes Editor for the California Law Review, has been an Associate Editor and Submissions Editor for the Latine Journal of Law and Policy. (Ochoa Decl. p. 105, ¶ 13.)

51. At Berkeley Law School, Leslie has found that “doors have been closed to [her] because of [her] undocumented status.” (Ochoa Decl. p. 105, ¶ 13.) Given her career aspirations, she

would love to be employed as a research assistant for a professor who writes about economic justice issues. This would give her the chance to receive “a highly-coveted letter of recommendation from a professor working in a field [she] would like to pursue.” (*Ibid.*) But she cannot be employed as a research assistant because she is undocumented. (Ochoa Decl. p. 106, ¶ 15.)

52. Similarly, she would have found it “immensely fulfilling” to be employed as a research assistant for Professor David Hausman, who is currently “conducting research on undocumented law students,” but, again, she cannot take a job to do that work given the Regents’ Policy. (Ochoa Decl. pp. 105-106, ¶ 14.)

53. The experiences of Diego, Jeffrey, and Leslie are not aberrational. The Policy imposes enormous hardship on thousands of undocumented students across all ten UC campuses.

54. Because these students are barred from working on campus, they are often driven to accept jobs with unscrupulous private employers “in the underground economy,” and to work “in exploitative conditions.” (Wong Decl. p. 114, ¶ 20.) Regent Perez raised this very issue when he dissented from the Regents’ decision to continue treating undocumented students unequally, explaining to his colleagues: “We can fool ourselves into thinking that our students aren’t working,” but “they are working in underground jobs, subjected to inhumane and horrific conditions.” (Jan. 25 Meeting Video 14:32-45.)

55. The additional income derived from these jobs is often not sufficient for undocumented students to afford on campus housing. (Wong Decl. p. 114, ¶ 21.) As a result, they routinely “endure one to two hour commutes each way to” campus, sometimes “sleep[ing] in the libraries and shower[ing] in the gym in order to save precious hours commuting back and forth.” (*Ibid.*)

56. Many undocumented college students in California experience food insecurity. (*Persisting Inequalities and Paths Forward: A Report on the State of Undocumented Students in California’s Public Universities*, UC Collaborative to Promote Immigrant and Student Equity, Dec. 2020, p. 18, <http://tiny.cc/rgsnysz>.) At UCLA, a church-sponsored food kitchen sits across the street from campus. (Wong Decl. p. 114, ¶ 22.) It is often frequented by undocumented students who do not have enough to eat, and provides a safe place for them to rest, study, and sleep when it is infeasible to commute back home before their next on campus commitment. (*Ibid.*)

57. The Policy, and all its knock-on effects, are “a source of tremendous anxiety and pressure for undocumented students.” (Wong Decl. p. 114, ¶ 20.) The result is that “many [undocumented students] do not graduate” in “four years” and “[m]any have to drop out of school” to work full-time in hopes of saving enough money to be able to resume their studies. (*Ibid.*) Unsurprisingly, many undocumented students are too discouraged to even apply to the UC, or to accept admission if

they do get in, because the inability to work on campus would make it infeasible to complete their education.

VERIFICATION

I, Max Carter-Oberstone, declare:

I am one of the attorneys for petitioners Jeffrey Umaña Muñoz and Iliana Perez. I make this verification for the reason that petitioners are absent from the county where I have my office. I have read the foregoing Petition for Writ of Mandate. I have been informed and believe that the matters therein are true, and on that ground allege that the matters stated therein are true. I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 1, 2024, in San Francisco, CA.



Max Carter-Oberstone

MEMORANDUM OF POINTS AND AUTHORITIES

I. This Court Should Exercise Its Original Mandamus Jurisdiction.

A. This case presents a purely legal question of great public importance that requires prompt resolution by the Court of Appeal.

A writ of mandate is available where “the issues presented are of great public importance and must be resolved promptly.” (*Powers v. City of Richmond* (1995) 10 Cal.4th 85, 113; see also Code Civ. Proc., § 1086.) This is precisely such a case. This case is also appropriate for adjudication by the Court of Appeal in the first instance. The writ petition presents a novel legal question that does not require resolution of any factual disputes, and declining to exercise original jurisdiction risks conflicting judgments in the trial courts.

1. The question presented is of great importance to the public and requires speedy resolution.

The importance of the question presented cannot be overstated. Absent this Court’s intervention, the Regents’ Policy will continue to irretrievably derail the academic ambitions of undocumented students across the State. Students with great academic promise, like Diego Castro, will be barred from pursuing doctoral programs simply because they cannot fulfill the teaching requirements. (*Supra* 30-31.) Many other undocumented students will be deterred from applying or

accepting admission to the UC, knowing that they cannot afford to attend without the ability to work on campus.

Undocumented students currently enrolled in the UCs, like Leslie Sepulveda Ochoa, who recently began her final year at UC Berkeley Law School, will be unable to obtain jobs as research or teaching assistants. These positions are a vital component of the educational experience, serve as important markers of distinction for future applications to jobs or graduate programs, and offer the intangible benefits that come from developing a direct relationship with a professor.

Petitioner Jeffrey Umaña Muñoz—who was admitted to Harvard after being named the valedictorian of his high school class—had similar experiences while he was an undergraduate student at UCLA. He was offered several prestigious opportunities—including an appointment to a university-affiliated nonprofit that would have paid his full tuition—only to have them taken away on account of his undocumented status. (see *supra* 33.)

Whether the Policy remains in place will have indelible impacts on undocumented students across the State. And beyond the obvious harm to the students themselves, the Policy will stifle the important contributions that these students could have made to California’s economy and institutions had they been able to pursue their academic dreams. (See *Green v. Super. Ct.* (1974) 10 Cal.3d 616, 621 [issuing alternative writ where question presented in unlawful detainer action was of “statewide importance”].)

Our Supreme Court has previously exercised jurisdiction over writs involving the Regents’ hiring and immigration policies, recognizing the importance of these issues as well as the Regents’ outsized influence as a body with a state-wide mandate and the status of a quasi-independent branch of government. (E.g., *Regents of Univ. of Cal. v. Super. Ct.* (1990) 225 Cal.App.3d 972, 978 (hereafter *Bradford*) [concerning whether undocumented students qualify for in-state tuition]; *Karst*, supra, 3 Cal.3d at p. 541 [noting UC’s “annual expenditure of hundreds of millions of dollars, vitally affect[s] the lives of thousands of students and teachers”].)

The Regents’ Policy at issue here—which is needlessly preventing thousands of talented young people from achieving their full potential—is of equal or greater importance than those implicated by these prior cases. And the various harms that the Policy inflicts on undocumented students—financial, educational, and dignitary—as well as the public at large are far more substantial than many of the relatively parochial issues that courts have deemed sufficiently weighty to invoke their mandamus jurisdiction. (E.g., *Save the Plastic Bag Coal. v. Cty. of Manhattan Beach* (2011) 52 Cal.4th 155, 160 [plastic bag ordinance affecting city of 35,000 residents]; *Weiss v. City of Los Angeles* (2016) 2 Cal.App.5th 194, 207-09 (hereafter *Weiss*) [procedures for challenging municipal parking tickets]; *Citizens for Amending Prop. L v. Cty. of Pomona* (2018) 28 Cal.App.5th 1159, 1167-1169 [city’s extension of contract with billboard company].)

A writ of mandamus is the only vehicle that will permit petitioners to obtain timely relief given the irreparable harm that the Policy will continue to cause absent swift judicial intervention. Even where other avenues for relief exist, such as filing suit in the trial court and litigating any adverse ruling on appeal, mandamus is still appropriate where, as here, the public has an interest in a “speedy determination of the validity of [a] public agency’s action.” (*Millbrae School Dist. v. Super Ct.* (1989) 209 Cal.App.3d 1494, 1497.)

Even where an issue is *not* of statewide significance, a writ of mandamus may be appropriate where it concerns a novel and important legal issue. *JSM Tuscany, LLC v. Superior Court*, for example, held that a writ of mandate was an appropriate mechanism to review the denial of a motion to compel arbitration—an appealable order—because the issue presented was “novel and important.” (*JSM Tuscany, LLC v. Super. Ct.* (2011) 193 Cal.App.4th 1222, 1236.) *JSM* concerned real estate transactions between private parties, a matter that was concededly not of statewide importance to the public at large. (*Id.* at pp. 1226-34.) But the novelty and importance of the underlying legal issue was sufficient to invoke the Court’s mandamus jurisdiction. (*Id.* at p. 1236; see also *Rodrigues v. Super. Ct.* (2005) 127 Cal.App.4th 1027, 1032 [“writ review of an appealable order is appropriate where it is necessary to resolve an issue of first impression promptly and to set guidelines for bench and bar”]; *Elden v. Superior Court* (1997) 53 Cal.App.4th 1497, 1504 [“Regardless of whether the order is appealable, writ

review is permissible here since the petition raises a novel issue of law.”]; *Clean Air Constituency v. Cal. Air Res. Bd.* (1974) 11 Cal.3d 801, 808 [where case present issue of public importance, “the existence of an alternative appellate remedy will not preclude this court’s original jurisdiction”].)

There is no reason to reach a different result here, particularly because, unlike *JSM*, this case implicates matters of surpassing importance to the public. Indeed, the public has a paramount interest in the speedy resolution of the question presented given the irreparable educational, economic, and social harms that the Policy is causing. This writ petition is accordingly worthy of this Court’s review.

2. This case should be heard by the Court of Appeal in the first instance.

This Court should exercise its original writ jurisdiction, rather than forcing Petitioners to bring litigation in superior court. This case presents a purely legal question of statutory interpretation: whether IRCA’s ban on hiring undocumented persons applies to state employers such as the UC. It does not require resolving any factual disputes. It therefore would not benefit from being heard in the trial court in the first instance. In fact, just the opposite is true. Trial litigation would invite a multiplicity of lawsuits, with the resultant risk of inconsistent judgements. Indeed, trial litigation could easily result in competing orders simultaneously *requiring* UC to allow all students to seek employment and *prohibiting* UC from adopting such a policy. And given the significance of the question

presented, any ruling from the superior court would inevitably be appealed to this Court, presenting precisely the same question (in the same posture) that petitioners now ask this Court to decide. The delay incurred by first seeking relief in the trial court would only cause more irreparable harm, while needlessly expending scarce judicial resources. This Court should hear this case now.

The Courts of Appeal have routinely exercised their original jurisdiction to hear mandamus petitions that, like this one, present important legal questions requiring prompt resolution. In *Solvang Mun. Improvement Dist. v. Jensen* (1952) 111 Cal.App.2d 237, for example, the Court observed that the petitioners could have filed a lawsuit in the trial court to determine whether an improvement district was legally constituted, but the Court of Appeal nevertheless heard the writ of mandate in the first instance “in the hope that some time would be saved” resolving this important issue. (*Id.* at p. 238; see also *East Bay Mun. Util. Dist. v. Sindelar* (1971) 16 Cal.App.3d 910, 917 [exercising original mandamus jurisdiction to decide water district’s authority to issue bonds].)

Likewise, in *California Labor Federation v. Occupational Safety & Health Standards Board* (1990) 221 Cal.App.3d 1547, 1550-51, petitioners filed an original writ in this Court to compel a state agency to issue a regulation implementing state warning label requirements. This Court exercised its original jurisdiction, noting that the petition presented “only questions of law” that would affect workers across the State. (*Id.* at p. 1555.)

The same factors are present here. Like those cases, this matter presents a purely legal question that necessitates immediate judicial intervention. The Regents' Policy is affecting the lives of thousands of undocumented students and their families. The educational and vocational experiences that they have been forced to forgo cannot be retroactively restored. The diplomas they could have earned, the plum research positions they might have obtained, and all the benefits that these experiences would have provided, both for them and the people of this State, cannot be recouped. This Court's immediate intervention is accordingly necessary to forestall any future harm. (*Brosnahan v. Brown*, *supra*, 32 Cal.3d at p. 241 [exercising original jurisdiction over writ where issue is of "great public importance and should be resolved promptly"]; *Calfarm Ins. Co. v. Deukmejian* (1989) 48 Cal.3d 805, 812 [same].)

A mandamus proceeding in the Court of Appeal is also the most efficient vehicle to resolve the question of first impression at issue here. This Court's intervention would avoid the prospect of a multiplicity of lawsuits in the superior courts, and the resulting risk of inconsistent judgments. This Court recognized this very principle in *Johnson v. Cty. & Cnty. of S.F.* (2006) 137 Cal.App.4th 7, 19 (hereafter *Johnson*), which involved a challenge to the legality of a local eviction ordinance. It concluded that since "requir[ing] each landlord to litigate the issue separately *could* lead to inconsistent rulings by different trial court judges," issuing a writ of mandate was preferable because it would "prevent[] piecemeal litigation." (*Ibid.*, emphasis added; see also

Industrial Welfare Com. v. Super. Ct. (1980) 27 Cal.3d 690, 699 [exercising “original jurisdiction” appropriate given the prospect of “lower courts reaching disparate results on common legal issues”]; cf. *Haniff v. Super. Ct.* (2017) 9 Cal.App.5th 191, 198 [mandamus “appropriate to address ‘questions of first impression that are of general importance to the trial courts’”].)

The same dynamic is at play here. While thousands of undocumented students could each litigate the question presented in the context of their individual circumstances, issuing a “published appellate opinion ... [now] ... will ensure ... uniformity in the trial courts.” (*Johnson*, supra, 137 Cal.App.4th at p. 19.) Uniformity is especially important here, as inconsistent rulings could place the Regents in the untenable position of being bound to comply with multiple trial court orders that directly conflict with one another.

And given the importance of the question presented, any trial court order would eventually be appealed to this Court in any event. Meanwhile, the months or years spent litigating the question presented in the superior court would only cause more irreparable harm to people across the State, as even a ruling in petitioners’ favor could potentially be stayed pending appellate review. There is accordingly no reason to delay this Court’s review.

B. Mandamus is the appropriate remedy to compel a government body to exercise its discretion under the correct interpretation of the law, and to stop it from committing illegal acts.

Petitioners ask this court to issue a writ of mandate under two alternative theories: (1) the Policy is an abuse of discretion because it is premised on the Regents' misinterpretation of IRCA, and (2) the Policy violates FEHA's ban on immigration status discrimination. Both are well-recognized grounds for granting a petition for writ of mandamus. The Court need reach only one of these two theories to rule in petitioners' favor.

1. Mandamus is appropriate to compel the exercise of discretion consistent with legal requirements.

Courts will issue a writ where a public entity's conduct is "arbitrary, capricious, or entirely lacking in evidentiary support." (*Weiss*, supra, 2 Cal.App.5th at p. 204.) One example of such arbitrary action arises when a government actor carries out an official duty under an erroneous interpretation of the law. (*Anderson v. Phillips* (1975) 13 Cal.3d 733, 737 (hereafter *Anderson*)). Under *Anderson*, this Court can issue the writ to ensure that the Regents exercises its discretion under a correct understanding of what IRCA requires.

Anderson involved a challenge to a "wholly discretionary" duty: a presiding superior court judge's decisions regarding whether and how to assign cases to his colleagues on the bench. The presiding judge stopped assigning cases to a particular judge based on the presiding judge's belief that the judge's term of appointment had lapsed, such that he was no longer a judicial

officer of the State. (*Id.* at p. 736.) The Supreme Court acknowledged that state law “does not require that a presiding judge assign specific matters or any ‘business’ of the court to a particular judge.” (*Id.* at 737.) But it nevertheless issued a writ of mandate to compel the presiding judge to “exercise his discretion ... under a proper interpretation of the applicable law.” (*Ibid.*) The Court’s order directed the presiding judge to exercise his discretion guided by the knowledge that the judge at issue was in fact eligible to be assigned cases. (*Id.* at 737, 741.)

Since *Anderson*, courts have consistently reaffirmed that a writ of mandate “is an appropriate vehicle for compelling an officer to exercise his or her discretion and to do so ‘under a proper interpretation of the applicable law.’” (E.g., *People v. Rodriguez* (2016) 1 Cal.5th 676, 684; *Common Cause v. Bd. of Supervisors* (1989) 49 Cal.3d 432, 442 [“Mandamus may issue ... to compel an official ... to exercise his discretion ... under a proper interpretation of the applicable law”].)

Petitioners ask this Court to provide the same relief here: to direct the Regents to exercise its discretion in setting the University’s hiring policy under the correct interpretation of the law, namely that IRCA’s prohibition on hiring undocumented persons does not apply to the UC.

2. Mandamus is appropriate to compel performance of duties required by FEHA.

A writ of mandate also lies “to compel a public entity to perform a legal ... duty.” (*Weiss*, *supra*, 2 Cal.App.5th at p. 204); see also Code Civ. Proc., § 1085.) A quintessential circumstance

justifying the issuance of a writ arises when a “public entity adopts a rule or makes a policy decision [that is] unlawful.” *Personnel Com. v. Bd. of Ed.* (1990) 223 Cal.App.3d 1463, 1466.) Petitioners allege this very circumstance: that the Regents’ policy of refusing to hire undocumented students violates FEHA’s ban on immigration status discrimination.

II. This Court Should Grant The Writ Because, Contrary to the Regents’ Understanding, IRCA’s Prohibition On Hiring Undocumented Persons Does Not Apply To The UC

The Regents’ only reason for declining to hire undocumented students for on campus work is its view that doing so would violate IRCA. (*Supra* 24-27.) But that view is wrong. IRCA provides that:

“it is unlawful for a **person or other entity**—

(A) to hire, or to recruit or refer for a fee, for employment in the United States an alien knowing the alien is an unauthorized alien ... with respect to such employment.” (8 U.S.C. § 1324a, subd. (a), emphasis added.)

That prohibition does not apply to state employers such as the Regents, for three distinct reasons. First, the plain text of IRCA defines “person” not to include States, and clarifies that “other entity” includes the federal government, but not the States. Therefore, the only logical inference to draw from IRCA’s plain text is that its prohibition on hiring undocumented people does not apply to state employers.

Second, States have traditionally exercised authority to set the hiring criteria for state jobs. While Congress can regulate in

areas historically reserved to the States—subject to constitutional constraints—it must make its intent to do so “unmistakably clear.” Because IRCA’s prohibition on hiring undocumented workers evinces no intent whatsoever to encumber the States, let alone an unmistakably clear intent, it does not apply to state employers such as the UC.

Finally, construing IRCA to apply to state government employers would raise serious constitutional problems. States unquestionably have constitutional authority, under the Tenth Amendment, to set hiring criteria for a variety of state jobs including for teachers, police officers, and judges. Construing IRCA to constrain whom States can hire into such positions would likely render it unconstitutional. Courts are obligated to construe statutes to avoid such constitutional problems if fairly possible, and here there is an alternative possible construction, which is to read IRCA in keeping with its plain text.

This Court should accordingly issue a writ of mandate invalidating the Policy and directing the Regents to exercise its discretion in deciding which students to hire under the correct interpretation of IRCA. (See *Anderson*, supra, 13 Cal.3d at pp. 737, 741.)

A. IRCA’s plain text does not regulate state government employers.

IRCA’s prohibition on knowingly hiring “unauthorized aliens,” applies to “*a person or other entity*.” (8 U.S.C. § 1324a, subs. (a)-(b), emphasis added.) Neither of these terms reflect an intent to regulate state governments.

“Person” is defined as “an individual or an organization.” (8 U.S.C. § 1101, subd. (b)(3).) “Organization,” in turn, is defined to include “an organization, corporation, company, partnership, association, trust, foundation or fund; and includes a group of persons, whether or not incorporated, permanently or temporarily associated together with joint action on any subject or subjects.” (*Id.* § 1101, subd. (a)(28).) Nowhere in this litany of terms does the statute reference any arms of government whatsoever, let alone States.

Nor is there any background presumption that “person” refers to the States. Just the opposite: “in common usage, the term ‘person’ does not include the” States. (*Will v. Mich. Dept. of State Police* (1989) 491 U.S. 58, 64.)

Given that Congress did not define “person” to include States, the only way that the IRCA provision at issue could bind the States is if the phrase “or other entity” encompasses the States. But it does not. A 1996 amendment to IRCA enacted in the Illegal Immigration Reform and Immigration Responsibility Act (IIRIRA) specifies that an “entity” “includes an entity in any branch of the *Federal* Government.” (*Id.* § 1324a, subd. (a)(7), emphasis added.) In other words, the original prohibition (enacted in 1986) provided that entities are covered by its provisions, but did not mention States. Congress then amended the statute to specify that “entity” includes any branch of the *Federal* government, but again did not include States.

That 1996 amendment “shows that when Congress intended to” regulate the federal government, “it knew how to do

so.” (*Custis v. United States* (1994) 511 U.S. 485, 492.) Its “omission of similar language” directed at state governments “indicates that it did not intend” to regulate the States. (*Ibid.*)

That common-sense inference has particular force here, because of the timing of the amendment. If the phrase “other entity” covered arms of government when Congress enacted IRCA in 1986, there would have been no reason for Congress to amend the statute ten years later to define “entity” to include the branches of the federal government. Reading the phrase “other entity” to encompass governments would therefore render the 1996 amendment entirely superfluous, contrary to the “general presumption” that, “when Congress alters the words of a statute, it must intend to change the statute’s meaning... not just to state an already existing rule.” (*Stone v. INS* (1995) 514 U.S. 386, 397.)

While that textual evidence ought to suffice, U.S. Supreme Court precedent supplies still more support. The Court has held that the term “entity” is not commonly understood to include States. (*Nixon v. Mo. Mun. League* (2004) 541 U.S. 125, 132 (“[w]hile an ‘entity’ can be either public or private,” there “is no convention of omitting the modifiers ‘public and private’ when both are meant to be covered”].) At issue in *Nixon* was whether the Telecommunications Act—which preempted state laws “prohibiting the ability of *any entity*” to provide telecommunications services—preempted the States’ ability to regulate their own local governments’ provision of telecommunications services. (*Id.* at pp. 128-29, emphasis

added.) The Court held it did not, concluding that even the modifier “any” was insufficient to sweep in the States’ regulation of their own subordinate governmental entities, because “‘any’ can and does mean different things depending upon the setting.” (*Id.* at pp. 129, 132.)

Thus, the plain text, enactment history, and U.S. Supreme Court cases construing the key provision’s most important terms all make clear that Section 1324a, subd. (a) does not govern state employers.

Examination of other provisions of IRCA further confirms that its ban on hiring “unauthorized aliens” does not apply to the States. IRCA explicitly refers to States in other contexts, making clear that Congress knew how to cover States when it wanted to. Section 1324a, subd. (h)(2), for example, “preempt[s] any State or local law imposing civil or criminal sanctions” on employers that hire “unauthorized aliens.” (8 U.S.C. § 1324a, subd. (h)(2).) And when IRCA intends to address both federal and state governments, it does so explicitly. (8 U.S.C. § 1324a, subd. (d)(1)(A) [“President shall ... examine the suitability of existing Federal and State identification systems”].) These and other explicit references to States within IRCA (e.g., *id.* §§ 1373, subd. (a), 1324a, subd. (b)(1)(D)(ii)) further confirm that Congress knew how to refer to States. Its decision not to do so in its ban on hiring undocumented persons suggests that it never intended that provision to apply to States. (See *Jarman v. HCR ManorCare, Inc.* (2020) 10 Cal.5th 375, 385 [“When one part of a statute contains a term or provision, the omission of that term or

provision from another part of the statute indicates the Legislature intended to convey a different meaning.”]; *Gozlon-Peretz v. United States* (1991) 498 U.S. 395, 404 [same]; *In re Chantal S.* (1996) 13 Cal.4th 196, 206-07 [similar].)

Finally, Congress’ failure in IRCA to explicitly extend the ban on hiring undocumented persons to the States contrasts with its approach in a bevy of other federal laws—such as Title VII, FLSA, FMLA, and IDEA—that refer explicitly to “State[s]” when intending to regulate them.² Congress’ failure to take a similar approach here is, again, strong evidence that it never intended IRCA’s ban on hiring undocumented persons to bind States.

² Title VII defines “employee” to include “employees subject to the civil service laws of a State government, governmental agency or political subdivision.” (42 U.S.C. § 2000e, subd. (f).) FLSA defines employer to include a “public agency,” which in turn is defined to include “the government of a State or political subdivision thereof.” (29 U.S.C. § 203, subds. (d), (x).) The FMLA incorporates this definition by reference. (29 U.S.C. § 2611, subd. (4)(A)(iii) [employer “includes any ‘public agency’, as defined in section 203(x) of this title”].) The IDEA plainly waives state sovereign immunity. (20 U.S.C. § 1403, subd. (a) [“A State shall not be immune under the 11th amendment to the Constitution of the United States from suit in Federal court for a violation of this chapter.”].)

B. IRCA’s ban on hiring undocumented persons does not reflect an “unmistakably clear” intent to regulate state entities.

1. Congress must make an “unmistakably clear” statement when it intends to legislate in an area historically reserved to the States.

IRCA’s plain text is clear: its prohibition on hiring undocumented persons does not apply to state employers. But even if this provision of IRCA was ambiguous, Petitioners would still prevail. That is because the U.S. Supreme Court has established a bright line rule for determining whether a federal law binds the States: Congress must be “unmistakably clear” if it wishes to upset the ordinary balance of federalism by regulating subject matter historically reserved to the States. This clear statement rule is animated by principles of comity and federalism embodied by the Tenth Amendment.

The Tenth Amendment states: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” (U.S. Const. Amend. 10.) These words reflect the principle that while the federal government’s powers are “few and defined,” the “powers reserved to the several States will extend to all the objects which ... concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State.” (The Federalist No. 45, Library of Congress, <http://tiny.cc/nkk7yz> [Madison].)

These Tenth Amendment principles apply here because the Regents is “fully empowered in respect of the organization and

government of the [UC] which ... is a constitutional department or function of the state government.” (*Hamilton v. Regents of the Univ. of Cal.* (1934) 293 U.S. 245, 257; see also Cal. Const., art. IX, § 9.) As a result, courts have routinely held that the UC, as an apparatus of state government, enjoys the strong presumption against federal encroachment on the exercise of powers historically reserved to the States. (E.g., *BV Engineering v. Univ. of Cal., L.A.* (9th Cir. 1988) 858 F.2d 1394, 1395 [the UC “and the Board of Regents are considered to be instrumentalities of the state ... and therefore enjoy the same immunity as the state of California,” citations and quotations omitted]; *Doe v. Lawrence Livermore Nat. Laboratory* (9th Cir. 1997) 131 F.3d 836, 839 [same].)

Reading IRCA to proscribe whom the UC may hire for its own employment positions would impinge upon two areas of traditional state authority: the power to regulate employment generally, and the power to set the qualifications for state employees. Either one would suffice to trigger the requirement that Congress speak with “unmistakable clarity.”

First, the States’ historic powers encompass a “broad authority under their police powers to regulate the employment relationship to protect [all] workers within the State.” (*DeCanas v. Bica* (1976) 424 U.S. 351, 356 [rejecting Supremacy Clause challenge to state law limiting employment of undocumented workers] (hereafter *DeCanas*); see also *Metropolitan Life Ins. Co. v. Massachusetts* (1985) 471 U.S. 724, 756 [States have broad power to regulate “the employment relationship to protect

workers within the State”], quotations omitted; cf. *New Orleans v. Dukes* (1976) 427 U.S. 297, 303 [“States are accorded wide latitude in the regulation of their local economies under their police powers”].) This power extends to regulating the employment of all persons in the State, including noncitizens. (*DeCanas*, supra, 424 U.S. at p. 356 ; see also *Kansas v. Garcia* (2020) 140 S. Ct. 791, 805-06 [IRCA does not “exclude a State from the entire field of [immigration status] employment verification ... federal law does not create a comprehensive and unified system regarding the information that a state may require employees to provide”]; cf. *Chamber of Commerce v. Whiting*, (2011) 563 U.S. 582, 603-04 [regulation concerning economic activity of immigrants was not one of the “uniquely federal areas of regulation,” such as foreign affairs and patent law, where the federal government’s powers are exclusive].)

Second, States have long enjoyed the power to set qualifications for state employees. (*Sugarman v. Dougall* (1973) 413 U.S. 634, 647 (hereafter *Sugarman*).) This power derives from “a State’s interest in establishing its own form of government” (*id.* at p. 642-43), and the corollary power to define the qualifications for state jobs such that they reflect “the basic concept of a political community” that is empowered to act on behalf of the State. (*Id.* at p. 642, 647-48.) While there is no compendium of every state job that might fall within a State’s “political community,” the U.S. Supreme Court has identified a broad array of jobs for inclusion, such as school teachers, probation officers, police officers, and policymakers. (*Ambach v.*

Norwick (1979) 441 U.S. 68, 74-77 (hereafter *Ambach*) [teachers]; *Cabell v. Chavez-Salido* (1982) 454 U.S. 432, 442, 444-47 (hereafter *Cabell*) [probation officers]; *Foley v. Connelie* (1978) 435 U.S. 291, 297-300 [police officers]; *Sugarman*, *supra*, at p. 647; see also *Cabell*, *supra*, at p. 442 [declining to decide whether “toll-service employees, cemetery sextons, and inspectors” are part of political community].)

In *Gregory v. Ashcroft* (1991) 501 U.S. 452, (hereafter *Gregory*), the Supreme Court confronted the question of whether a federal law encroached upon a State’s ability to define the qualifications of its political community. At issue was whether a Missouri law that forced state judges to retire at age 70 violated the federal Age Discrimination in Employment Act (ADEA). (*Id.* at p. 455.) Drawing on a long line of cases policing the bounds of Congress’ authority to encroach on areas of core state power, the Court held that a federal law must be “unmistakably clear” if it wishes to override the States’ prerogative to set the qualifications of its political community. (*Id.* at p. 460.) This rule is “an acknowledgment that the States retain substantial sovereign powers under our constitutional scheme, powers with which Congress does not readily interfere.” (*Id.* at 461.) It is accordingly “incumbent upon the ... courts to be certain of Congress’ intent before finding that federal law overrides” the States’ historical powers. (*Id.* at p. 460.)³

³ This clear statement rule has been applied in a variety of other contexts in which Congress might disturb the delicate balance between state and federal power. (E.g., *Raygor v.*

Turning to the words of the ADEA, the Court noted that in 1974, Congress amended the Act’s definition of “employer” to include “a State or political subdivision of a State.” (29 U.S.C. § 630, subd. (b).) This made it unmistakably clear that the Act’s prohibitions on age discrimination apply to the States. (*Gregory*, supra, 501 U.S. at p. 464.) But the question still remained whether the ADEA applied to state judges in light of an exception carving out any “appointee on the policymaking level” from the definition of “employee.” (*Id.* at p. 465.) The Court surveyed compelling arguments made on both sides, ultimately concluding that it “is at least ambiguous whether a state judge is an ‘appointee on the policymaking level.’” (*Id.* at pp. 465-67.) The existence of that ambiguity sufficed to tip the balance in favor of the States. Because Congress had failed to make it unmistakably “clear that judges are included” in the definition of “employee,” the Court held that the ADEA did not apply to Missouri’s judicial officers. (*Id.* at p. 467.)

To be clear, Petitioners do not ask this Court to hold that the Constitution prohibits Congress from regulating UC student employment. Petitioners simply ask this Court to apply the clear statement rule to decide whether Congress has, in fact, done so. In other words, this case is not about whether Congress *could*

Regents of Univ. of Minn. (2002) 534 U.S. 533, 544 [state sovereign immunity]; *South Dakota v. Dole* (1987) 483 U.S. 203, 207 [conditional spending]; *Cnty. of Butte v. Dept. of Water Res.* (2022) 13 Cal.5th 612, 629 [preemption of state owned or operated projects].)

regulate UC's policy concerning the hiring criteria for student jobs, but rather about whether Congress *intended* to do it.

Requiring Congress to speak with precision before encroaching on an area of core state concern has several virtues. First, it promotes political accountability by allowing voters to understand which elected officials are responsible for altering the default arrangement between the national and state governments. Second, and relatedly, by providing clear notice of the scope of any proposed legislation, it gives States the chance to “sound the alarm to the people’ and organize resistance ... [a]t the first sign of national abuse of power.” (See L. Tribe, *Federalism—Clear Congressional Mandate Required to Preempt State Law: Gregory v. Ashcroft* (1991) 105 Harv. L. Rev. 196, 202-03.) Finally, it ensures that the legislative branch is vested with the decision of whether to override the States’ traditional powers, rather than allowing courts or administrative agencies to do so while interpreting ambiguous statutory language. (*Id.* at p. 203.)

To vindicate these important goals, the U.S. Supreme Court has treated the plain statement rule as a “simple but stringent test.” (*Dellmuth v. Muth* (1989) 491 U.S. 223, 228 (hereafter *Dellmuth*)). It has consistently held that an explicit reference to “States” is what makes Congress’ intent sufficiently clear.

Congress has taken note. Where it has intended to override the States’ traditional powers—such as in Title VII, FLSA, FMLA, and the IDEA—it has included language that

unequivocally references “States” when setting forth which entities or persons the law regulates. (*Supra* p. 54, fn. 2.)

2. The phrase “person or other entity” in IRCA does not unmistakably encompass the States.

Applying the foregoing precepts to this case leaves room for only one conclusion: IRCA’s rule prohibiting a “person or other entity” from hiring “unauthorized aliens” does not apply to State employers.

The Tenth Circuit came to this conclusion when interpreting an analogous provision of IRCA, which makes it unlawful for a “person or other entity to discriminate” against an employee or applicant because of national origin or citizenship status. (8 U.S.C. § 1324b.) The Court determined that nothing in IRCA suggests that Congress meant to include States in the definition of “person” or “entity,” and thus abrogate state sovereign immunity. (*Hensel v. Office of Chief Admin. Hearing Officer* (10th Cir. 1994) 38 F.3d 505, 508-09.)

The Supreme Court has likewise held that the term “any entity” does not establish an unmistakably clear intent to regulate the States. (*Supra* 52-53 [discussing *Nixon*]; see also *Atascadero State Hosp. v. Scanlon* (1985) 473 U.S. 234, 245-46 [statute authorizing suit against “any recipient of federal assistance” not sufficiently clear to abrogate state sovereign immunity even where undisputed that California received federal assistance].)

Because IRCA’s statutory definitions of “person” or “entity” do not indicate an unmistakably clear intent to encumber the

States, the Act's ban on hiring undocumented persons does not apply to state governments. (Cf. *Nev. Dept. of Human Res. v. Hibbs* (2003) 538 U.S. 721, 726 [intent "unmistakably clear" where "employer" defined to include "the government of a State or political subdivision thereof"]; *Dellmuth*, supra, 491 U.S. at p. 228, 231 [references to "States" that may be suggestive of an intent to abrogate sovereign immunity not sufficiently clear]; *Cnty. of Butte v. Dept. of Water Res.*, supra, 13 Cal.5th at p. 630-31 [similar].)

C. Construing IRCA to apply to state employers would raise serious constitutional concerns.

Finally, this Court should hold that IRCA does not apply to state employers for another reason: construing IRCA to cover state employers would unquestionably give rise to serious constitutional problems. Petitioners proposed alternative, by contrast, would avoid those problems.

It "is a cardinal principle' of statutory interpretation ... that when an Act of Congress raises 'a serious doubt' as to its constitutionality, '[courts] will first ascertain whether a construction of the statute is fairly possible by which the question may be avoided.'" (*Zadvydas v. Davis* (2001) 533 U.S. 678, 689.) If IRCA applies to all state employment, it undoubtedly would give rise to serious constitutional problems with respect to high-ranking officials that wield policymaking authority in the State, and therefore are members of its political community.

This concern is not hypothetical. California has opened all "appointed civil office" to adult state residents, regardless of

immigration status. (Gov. Code § 1020, subd. (b).) California also permits undocumented attorneys to gain admission to the bar. (Bus. & Prof. Code § 6064(b); see also *In re Garcia* (2014) 58 Cal.4th 440.) If the Governor selected an undocumented attorney to work in a high-level position at the Attorney General's office, or even appointed one to be a California Supreme Court Justice, could IRCA prohibit that appointment? If IRCA applies to States, it presumably would. Yet *Sugarman* established that each State has the "broad power to define its political community," and that the power to determine the qualifications for at least some State positions "rest[s] firmly within a State's constitutional prerogatives." (*Sugarman*, supra, 413 U.S. at p. 643-48).

As discussed previously, the Court applied that principle to preserve state autonomy to set employment qualifications for judges in *Gregory*, and public school teachers in *Ambach*. (*Supra* 57-59.) Under these and similar cases, it is highly unlikely that the Tenth Amendment would permit the federal government to dictate who could serve, for example, as a judge in California's own government.

Against this backdrop, a court construing IRCA must then ask if there is a fair way to read the statute to avoid that problem. And of course there is: it should be construed in keeping with its plain text, which does not govern state employers. Indeed, there is no obvious way to read the language enacting IRCA's prohibition on hiring undocumented people to carve out some state government officials but not others. As a

textual matter, if IRCA applies to any state government jobs, it must apply to all of them. Thus, the most straightforward way to avoid the serious constitutional problem identified above is to construe the statute not to apply to any state government employment.

As explained above, Petitioners do not contend that California has sovereign authority to dictate the hiring qualifications for all student employment positions. (*Supra* 59.) But a court must apply the constitutional avoidance canon not only when confronting constitutional problems in the case before it, but also when it identifies those problems in other situations that could arise under the interpretation of a statute it is considering. As Justice Scalia explained in an immigration case, “[i]t is not at all unusual to give a statute’s ambiguous language a limiting construction called for by one of the statute’s applications, even though other of the statute’s applications, standing alone, would not support the same limitation. The lowest common denominator, as it were, must govern.” (*Clark v. Martinez* (2005) 543 U.S. 371, 380.)

Accordingly, if it would create serious constitutional problems to interpret IRCA to dictate what qualifications the States can employ even for just some employees—like judges, high-level policymakers, police officers, and teachers—then courts must avoid interpreting IRCA to create those problems in all cases.

III. This Court Should Grant The Writ Because the Regents' Policy Denying Employment To Undocumented Students Violates FEHA

FEHA prohibits employment discrimination based on an array of protected characteristics, including national origin. (Gov. Code, § 12940, subd. (a).) In 2014, observing the “close[] relat[ionship]” between immigration status and national origin discrimination, the Legislature amended FEHA to extend protections for immigration status discrimination, which the Legislature deemed to be a form of national original discrimination. (Assem. Flr., analysis of Assem. Bill 1660 (Aug. 22, 2014), <http://tiny.cc/lmekyz>.) The amendments clarified that national origin discrimination “includes, but is not limited to, discrimination on the basis of possessing a driver’s license or identification card granted” to a person who cannot demonstrate that they are lawfully present in the United States. (Gov. Code, § 12926, subd. (v).) One purpose of this enactment was to ensure that a person possessing such an identification card is “treated equally when he or she presents that [ID card] to obtain employment.” (Sen. Jud. Comm., analysis of Assem. Bill 1660 (Apr. 24, 2014), <http://tiny.cc/7oekyz>.)

In response, the Fair Employment & Housing Council—which is empowered to adopt any “suitable rules, regulations, and standards that ... [i]nterpret, implement, and apply all provisions of” FEHA (Gov. Code § 12935(a)(1))—issued regulations implementing FEHA’s national origin discrimination ban, as clarified by the 2014 amendments. One provision of these regulations clarifies that it is unlawful for an employer to

“discriminate against an employee because of the employee’s or applicant’s immigration status, unless the employer has shown by clear and convincing evidence that it is required to do so in order to comply with federal immigration law.” (Cal. Code Regs., tit. 2, § 11028, subd. (f)(3).)

The Regents’ Policy plainly violates this prohibition.⁴ The Regents’ only justification for its overtly discriminatory policy is that IRCA requires it. But as previously explained, IRCA’s ban on hiring undocumented persons does not bind the UC. (*Supra* Mem. § II.) The plain text of the relevant provision of IRCA simply does not regulate States, and certainly does not evince an “unmistakably clear” intent to do so.

The Regents accordingly cannot establish “by clear and convincing evidence” that the Policy is required “to comply with federal immigration law.” (Cal. Code Regs., tit. 2, § 11028, subd. (f)(3).) This Court should accordingly issue a writ invalidating the Policy and directing the Regents to evaluate students’ applications for employment without regard to IRCA’s prohibition on hiring unauthorized workers.

CONCLUSION

For the foregoing reasons, the Court should issue a writ of mandate directing the Regents to rescind the Policy and directing the Regents to evaluate students’ applications for employment

⁴ The UC is a covered employer under FEHA. (Gov. Code, §§ 12940, subd. (j)(4)(A), 12926, subd. (e).)

without regard to IRCA's prohibition on hiring unauthorized workers.

Dated: October 1, 2024

Respectfully submitted,

By: /s/ Max Carter-Oberstone

Stacey M. Leyton
Eileen B. Goldsmith
Max Carter-Oberstone
ALTSHULER BERZON LLP

Jessica Karp Bansal
ORGANIZED POWER
IN NUMBERS

Ahilan T. Arulanantham
Stephany Martinez Tiffer
CENTER FOR IMMIGRATION LAW
AND POLICY, UCLA SCHOOL OF LAW

Attorneys for Petitioners

CERTIFICATION OF WORD COUNT

Pursuant to Rules 8.204(c), 8.485(a), and 8.486(a)(6) of the California Rules of Court, the undersigned hereby certifies that the foregoing Petition For Writ of Mandate and/or Other Extraordinary Relief; Memorandum of Points and Authorities is produced using 13-point Century Schoolbook type and contains 12,392 words, according to the word count generated by the computer program used to produce the brief.

Dated: October 1, 2024

By: /s/ Max Carter-Oberstone

EXHIBITS

1. Declaration of Diego Alexander Castro, September 30, 2024, p. 70
2. Declaration of Jeffry Umaña Muñoz, September 27, 2024, p. 96
3. Declaration of Leslie Sepulveda Ochoa, September 30, 2024, p. 103
4. Declaration of Iliana Guadalupe Perez Gonzalez, September 27, 2024,
p. 107
5. Declaration of Kent Wong, September 27, 2024, p. 112

I, Diego Alexander Castro, upon my personal knowledge, hereby declare as follows:

1. I was born in El Salvador in 1996. In October 2007, when I was ten years old, I came to the United States with a member of my extended family. Once I arrived in the United States, I was detained, separated from my extended family member and put into the care of total strangers through the Office of Refugee Resettlement. I lived with these strangers for four long months. In February 2008, I was finally reunited with my Mom and I moved with her to Los Angeles, California.
2. I grew up in the neighborhood of Koreatown, in Los Angeles, with my Mom, Step-Dad, and younger sisters.
3. I attended high school at the School of Business and Tourism in Miguel Contreras Learning Complex. My understanding is that Miguel Contreras is an under-resourced school, and when I was there many of its students did not graduate from high school.
4. Although education was very important for my family, I never thought college was an option for me because of my undocumented status. As an undocumented student I did not know what options were available to me after high school. As a result, I did not spend a lot of time focusing on school, even though I got good grades on tests and assignments. I did not even begin to think about applying to college until my junior year of high school, when one of my good friends who was in an advanced class with me encouraged me to apply.
5. I graduated from high school in 2015. That same year, I applied and was admitted to both California State University, Los Angeles and Marymount California University. But I could not afford the tuition, and I did not know that I qualified for financial aid because my counselor had never heard about the California Dream Act, so I did not enroll in either college at that time.
6. Despite the financial setbacks I faced in enrolling at a four-year university, I still aspired to pursue higher education. I decided to go to community college where I could take classes while helping provide for my family and myself. I also hoped I would somehow adjust my status by the time I finished school. I attended Pasadena City College from 2015-2018.
7. I was able to attend Pasadena Community College because the community college counselors helped me with the application process for the California Dream Act.
8. In 2018, I received a full-ride scholarship to the University of California, Irvine (UC Irvine), and transferred. I graduated as a Political Science and Chicano/Chicana Latino Studies double major, in 2022.

9. Receiving a full-ride scholarship to UC Irvine was life changing because I had no financial support from my family who were working hard to make ends meet. I was also excited to attend UC Irvine because of the tight-knit community of undocumented students on campus and the resources available to undocumented students through the UC Irvine Dream Resource Center.
10. As a student at UC Irvine, I was exposed to academia and was inspired to become a faculty member and administrator. My ultimate goal is now to be a professor doing research on undocumented people in higher education. I also would like to some day hold an administrative position where I can influence positive changes in the curriculum to make higher education more accessible to diverse communities.
11. I wanted to work on campus while at UC Irvine because many campus jobs offer learning opportunities, but most job opportunities were closed to me because I do not have federal work authorization.
12. During my first quarter at UC Irvine, I met a doctoral student who was looking for data support for the School of Social Sciences Undocumented Student Equity Project. I was interested in the research both because it aligned with my own interests and because the position awarded a scholarship. The experiential research scholarship came from a grant given to the professor leading the School of Social Sciences Undocumented Student Equity Project.
13. My research allowed me to study undocumented communities. The experience not only introduced me to academic research, it also demonstrated the positive impact research can have in my community as an undocumented person. This was inspiring and gave me a sense of agency in my educational experience.
14. From my first quarter at UC Irvine to the time I graduated, I always did some kind of research, whether through Independent Study, fellowships, as a research assistant, or through the Undergraduate Research Opportunities Program (UROP).
15. Through UROP, I led my own research projects. One such project examined family separation. That research made a deep impression on me because it allowed me to study my own history of family separation and even interview my mom. The following year I presented my research at a symposium.
16. The research I conducted while an undergraduate student also allowed me to develop meaningful relationships with faculty at UC Irvine. As a result, on several occasions faculty invited me to be a Course Reader. A Course Reader is the equivalent of a Teaching Assistant at the undergraduate level. Course Reader positions are paid, but to work as a Course Reader a student has to have work authorization, so I was barred from taking those positions.

17. During my time at UC Irvine, I was also involved with SAFIRE (Students Advocating for Immigrant Rights and Equity). SAFIRE is a student organization that provides resources and supports Undocumented students on campus.
18. While I was the Director of Advocacy for SAFIRE, we launched a campaign that provided students, regardless of immigration status, with opportunities to obtain over 40 different fellowship positions across departments, centers, and schools within the university.
19. My involvement with SAFIRE led to an advocacy position with UC Irvine's student government as an ACQUIRE Coordinator. That position allowed me to advocate for undocumented students directly to the elected student body. Unfortunately, my lack of work authorization also required me to forfeit my compensation as an ACQUIRE Coordinator.
20. All of my experiences as an undergraduate confirmed my interest in pursuing a doctoral program. As I approached graduation from UC Irvine in 2022, I began applying to doctoral programs.
21. In April of 2022 I received an offer to complete a doctoral program at the University of California, Merced (UC Merced) in Sociology. The offer fully funded my participation in the program for five years. In addition to covering tuition, the funding covered all student services fees and provided full health insurance and wellness benefits.
22. I was deeply disappointed to learn that the funding was contingent on my having work authorization, because I would be required to work as a teaching assistant as part of my work toward the doctoral degree. I have attached a copy of the correspondence related to my offer and the employment authorization requirement as Exhibit A to this declaration.
23. As that correspondence shows, when I informed the admissions office at UC Merced that I did not have work authorization because I was undocumented, they could not identify any options that would have allowed me to complete the program and receive comparable funding.
24. After multiple conversations over email and a zoom discussion, UC Merced rescinded my first offer.
25. UC Merced also sent me a "draft" second offer which would have provided me just one year of funding. In that offer there was no alternative plan for funding the rest

of the program. Additionally, there was no mention in the second offer of how I could get the same teaching experience as my peers without the ability to work as a Teaching Assistant. The second offer was also only open for two weeks. Ultimately, I decided not to take this offer because I had no idea how I would pay for the rest of the doctoral degree after the first year, and I could not risk moving to Merced for something so uncertain.

26. I still have not given up on my dream of working in academia. In the Fall of 2024, I am starting a Master's degree in Education at UCLA. This program is funded through a professor's grant. Because this is not a PhD program, I do not need to work as a teaching assistant to complete the program. I can also live at home and commute for classes, making the option more affordable for me.
27. Although I am looking forward to continuing my education in this graduate program, my ultimate goal of completing a doctoral program remains closed to me because I do not have work authorization. In addition, most doctoral programs provide funding for their students by giving them paid teaching assistant positions. Thus, even if I am able to find funding to complete a doctoral program through some kind of state or private grant, I still will be barred from getting the experience of teaching in a classroom that other PhD candidates receive.
28. If the University of California would allow me to work, I would be able to complete a doctoral program like the one to which I was admitted at UC Merced and fulfill my dreams of becoming a professor and university administrator.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 30, 2024 in Los Angeles, California.

Signed by:
Diego Alexander Castro Gomez
6996EBBD6084406...

Diego Alexander Castro

EXHIBIT A



April 18, 2022

Dear Diego A. Castro Gomez,

Congratulations on your offer of admissions to the PhD program in Sociology at the University of California Merced starting in the Fall 2022 semester. The Dean and I are impressed by your achievements and potential and are therefore delighted to make you a highly selective funding offer for **five (5) years** in the program!

UC Merced's Sociology PhD program offers advanced graduate training. Our curriculum provides students a rigorous education. Students receive extensive training and experience in social theory, multiple research methods and advanced statistics, along with a variety of areas within Sociology. Students choose among graduate concentrations in the following areas: Social Inequality (Gender, Race/Ethnicity, Social Class, Sexuality), Political Sociology and Social Movements, Health, Education, and Immigration. At the graduate level, we offer a Ph.D. degree. Our nationally recognized faculty are affiliated with several graduate training initiatives on campus and frequently involve graduate students in ongoing research projects as research assistants and co-authors.

The funding offer consists of full coverage of in-state tuition each semester, including student services fees, and health insurance and fees (plus dental, vision and wellness benefits). As a California resident of the United States, this funding offer consists of full coverage of in-state tuition each semester, including student services fees, and health insurance and fees (plus dental, vision and wellness benefits).

Final determination of residency status is made by the registrar after review of residency documentation.

You will also receive stipend or salary each semester, which may take the form of a Teaching Assistantship, Research Assistantship, Fellowship, or a mix of these. The pre-tax stipend amount will be a minimum of \$2177 per month during the academic year. In addition, we encourage you to apply for prestigious external fellowships as well, which may supplement or replace financial support from the university. Please note that graduate students are responsible for some fees totaling approximately \$169 per semester. Further financial details are appended to the end of this letter.

Financial support each semester is contingent on satisfactory academic progress and employment work performance, and continuous enrollment in 12 units as a graduate student. Employment is contingent on maintaining eligibility for employment in the United States. Any change in student status, which may affect this award, such as change of degree, full-time to part



-time enrollment changes, or withdrawal, should be reported immediately to the Graduate Division.

The terms of this offer are dependent upon your being present on campus in **August** for the first day of Graduate Orientation Week (GROW) and is made with the understanding that Payroll Services is able to verify your work authorization. This requires that you present originals of the appropriate documents to Payroll Services on this campus so that the I-9 (Employment Eligibility Verification form) can be completed.

We encourage you to make your final decision no later than May 5, 2022 by accepting your admission and financial support offers through the online admissions portal.

Again, congratulations on your admissions to graduate school at UC Merced. We look forward to having you join us!

Sincerely,
Irenee Beattie
Chair
Sociology

Jeffrey Gilger
Dean, School of
Social Sciences, Humanities, & Arts

The following chart is a summary of financial support offered by the University of California, Merced, based on receiving a Teaching or Research assistantship each semester. The financial offer includes ONE of the three columns of tuition support, depending on citizenship and residency status.

Academic Year	Salary/Stipend	SALARY, TUITION AND FEES		
		Domestic CA	Domestic non -CA	International
2022-2023	\$21,911	\$15,825	\$30,927	\$30,927
2023-2024	\$21,911	\$15,825	\$15,825	\$30,927
2024-2025	\$21,911	\$15,825	\$15,825	\$30,927
2025-2026	\$21,911	\$15,825	\$15,825	\$15,825
2026-2027	\$21,911	\$15,825	\$15,825	\$15,825
TOTALS	\$109,555	\$79,125	\$94,227	\$124,131

Salary and stipend amounts are based on holding an academic or research appointment for the entire period noted. All funding is subject to change based on availability and research needs. The offer of financial support is contingent upon your remaining in satisfactory academic standing, making progress towards your degree, and compliance with all applicable policies as defined in the Graduate Policies and Procedures Handbook and the terms of employment.



Failure to comply with these policies may result in the termination of financial support.

Fees paid by this academic award include Educational, Registration, and Health Insurance fees and are considered a benefit of employment. Should you decline the academic appointment there is no guarantee your fees will be paid from another source. Tuition and fee amounts are estimated based on the current academic year. Actual amounts may vary. In addition, some students may receive additional awards of financial support during their graduate studies beyond this initial offer. Any additional award from an outside agency that provides the same level of funding (e.g. tuition & fees), the funding from the outside agency will take precedence over UC Merced funding, when applicable.



April 18, 2022

Dear Diego A. Castro Gomez,

Congratulations! We are pleased to offer you admission to the PhD program in Sociology for Fall 2022 at the University of California, Merced. You are joining a very distinguished group of faculty and graduate students and the entire program is delighted to attract outstanding scholars like you!

UC Merced continues the University of California's tradition of providing students a world-class education, accessibility and public service while adding a special blend of personalized attention and interdisciplinary research. You will be able to work alongside internationally acclaimed professors on groundbreaking research and discoveries. In addition, you will have a profound impact in the development of campus spirit, culture, and traditions that will become hallmarks distinct to UC Merced.

This offer is provisional and requires receipt of the following to satisfy the provision(s):

Final official transcripts from UC Irvine with degree posted

You are allowed to enroll for the first semester of the academic year. However, you must clear the above provision(s) by the end of your first semester or you will not be able to register for future semesters. All academic records submitted to our office become the property of the University, and we cannot return them to you. If your academic records cannot be replaced, mail your documents with a notification letter informing us that you have only one copy. We can certify and photocopy them and return the originals.

As an international graduate student, you will need to submit required documents to obtain your student visa. To begin this process, please visit the [Office of International Affairs](#) website to download the appropriate forms.

We enthusiastically await your acceptance and ask that you inform us of your decision by May 5, 2022. Your official response can be submitted electronically by [clicking here](#). If you have any questions, please contact Graduate Division at gradadmissions@ucmerced.edu or (209) 228-4723.

Again, I extend my personal congratulations and welcome you to UC Merced!

Sincerely,

Chris Kello
Interim Vice Provost & Graduate Dean

UNIVERSITY OF CALIFORNIA

BERKELEY • DAVIS • IRVINE • LOS ANGELES • MERCED • RIVERSIDE • SAN DIEGO • SAN FRANCISCO



SANTA BARBARA • SANTA CRUZ

University of California, Merced



April 29, 2022

TO: Diego Alexander Castro

FROM: Irene Beattie, SOC Graduate Program Chair
 Jeff Gilger, SSHA Dean
 Anne Zanzucchi, SSHA Associate Dean
 Christopher Kello, Graduate Division Dean

CC: SSHA Graduate Services
 SSHA Financial Services

RE: Supplemental Funding Memo

Congratulations on your offer for admissions to the Sociology Graduate Program! This memo provides funding information for AY 2022-2023, with guidance on continued support options and commitments for your degree completion goals.

UC Merced’s Sociology PhD program offers advanced graduate training. Our curriculum provides students a rigorous education. Students receive extensive training and experience in social theory, multiple research methods and advanced statistics, along with a variety of areas within Sociology. Students choose among graduate concentrations in the following areas: Social Inequality (Gender, Race/Ethnicity, Social Class, Sexuality), Political Sociology and Social Movements, Health, Education, and Immigration. At the graduate level, we offer a Ph.D. degree. Our nationally recognized faculty are affiliated with several graduate training initiatives on campus and frequently involve graduate students in ongoing research projects as research assistants and co-authors.

Based on your strong academic background and promise, we are pleased to offer a \$40,178 AY 2022-2023 fellowship to you for AY 2022-2023, which includes full coverage of tuition/fees. The distribution is:

Academic Year ¹	9-Monthly Payments	Tuition & Fees ²	Total Award
2022-23	\$2,583	\$16,931	\$40,178

¹Academic years estimated from September to May.
²Estimated Tuition, Student Services Fee and Health Insurance Fee. If applied to your student account, Non-Resident Supplemental Tuition will also be covered. All graduate students are responsible for at least a portion of their Campus Based Fees, commonly at \$168.50 per semester.

Also, you have been offered a Recruitment and Academic Fellowship (\$1500) in an award period of Fall 2022 which is separate and in addition to the above AY 2022-2023 funding support.

As a reminder, University fellowships require enrollment in 12 units of graduate-level courses.

Your fellowship will be paid from your student account through the Financial Aid system and may be picked up at the Cashier's Office. If you would like to receive award disbursements via direct deposit, please sign up for [Electronic Funds Transfer](#) prior to the beginning of the academic year.

Please note that acceptance of this award may, and most likely will, affect your eligibility to receive graduate student loans, including any student loans already accepted and/or received for the awarded academic term(s).

The purpose of this fellowship is to enable you to devote yourself full-time to the pursuit of your graduate degree. **Therefore, please note: You should not hold full-time employment during this fellowship period.** Under certain circumstances, however, exceptions may be considered. Should you wish an exception to be made, you must make a request in writing and submit a letter of support from your adviser or your graduate program chair for review by Graduate Division.

Beyond AY 2022-2023, we are committed to working with you and your graduate academic advisor on continued planning to support funding options for you. Your academic success is very important to us. Funding support will take some time, and we are very committed to that support effort and steps.

We hope that you will accept this offer of financial support for AY 2022-2023. Please accept or decline this fellowship and sign below. Failure to respond by May 31, 2022 will be interpreted as a declination and this award offer will be withdrawn.

If you accept this fellowship, your signature also serves as verification that you have read and accept the terms of the fellowship guidelines.

I hereby accept / decline the **UCM Graduate Fellowship (AY 2022-2023)**

Signature

Date



Diego Alexander Castro <[redacted]>

UC Merced Sociology--Following up

31 messages

Irenee Beattie <ibeattie@ucmerced.edu>

Fri, Mar 25, 2022 at 4:53 PM

To: [redacted]
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]

Dear Prospective UC Merced Sociology Ph.D. students-

I hope you are doing well. I wanted to follow up after our visit day to say again how much I enjoyed "meeting" those of you who were able to attend. I hope you feel that your questions have been answered about our program. If you need to follow up with me to ask about anything, please do so.

Also, you should have received the book, *A Field Guide to Graduate School*, which is a gift from our department to help you along your grad school journey (let me know if it didn't arrive so I can look into it!). Of course, we hope that you will be joining us at UC Merced as a Bobcat!

If you could please keep me informed once you decide on your graduate school plans, that would help me out. Knowing who will be joining our program enables us to plan for next year, as well as make decisions about whether or not we are able to admit students from the wait list.

Thank you again for your interest in our program, and don't hesitate to reach out if I can provide any additional information. I hope to be meeting many of you in person in the Fall!

Best,
Irenee

Irenee R. Beattie
Associate Professor and Graduate Chair
Department of Sociology

University of California, Merced

Pronunciation: I-reen BEE-tee

Pronouns (*Why?*): she or they

Diego Alexander Castro <[REDACTED]>
To: Irenee Beattie <ibeattie@ucmerced.edu>

Tue, Mar 29, 2022 at 8:18 AM

Good Morning Dr. Beattie,

I hope you are doing well and staying safe during the pandemic.

I wanted to thank you again and the UC Merced Sociology department for allowing students who are waitlisted to attend the departmental virtual visitation. I had an amazing time, and most importantly, I had the opportunity to discuss with the faculty that I hope to work under.

I finished wrapping up my Winter Quarter at UCI this past Monday and took some time to recharge. Since then, I have spent more time going over my notes, and some current students mentioned that there is a "Summer Bridge Program" for admitted students. I was wondering, in the case of being accepted, would this opportunity be available despite my immigration status? Or is it just dependent on being nominated by a faculty member?

Thank you for your time and I look forward to hearing from you soon!

In Community,
Diego Castro

[Quoted text hidden]

--

Diego Castro
Political Science B.A., Chicano Latino B.A.
School of Social Sciences
University of California, Irvine
[REDACTED]

Irenee Beattie <ibeattie@ucmerced.edu>
To: Diego Alexander Castro <[REDACTED]>

Thu, Mar 31, 2022 at 12:44 PM

Thanks, Diego. Unfortunately, the nominees for the summer bridge program were already due in graduate division, so you were not eligible since you are still on the wait list (your immigration status would not be relevant for your eligibility). Things are still in flux as we are still waiting to hear back from several of our admitted students about their plans. I hope I will be able to provide you with more information within the next week or two. Thank you for your continued patience!

Best,

Irenee

Irenee R. Beattie
Associate Professor and Graduate Chair
Department of Sociology
University of California, Merced

Pronunciation: I-reen BEE-tee
Pronouns (Why?): she or they

[Quoted text hidden]

Diego Alexander Castro <[REDACTED]>
To: Irenee Beattie <ibeattie@ucmerced.edu>

Thu, Mar 31, 2022 at 1:00 PM

Hi Dr. Beattie,

Thank you for your prompt response and for letting me know whether my immigration status was relevant. I was wondering if the nominated students don't end up going to Merced, would their spots go to the next person.

Thank you again for your help and time.

In Community,
Diego Castro

[Quoted text hidden]

Diego Alexander Castro <[REDACTED]>
To: Irenee Beattie <ibeattie@ucmerced.edu>

Wed, Apr 13, 2022 at 9:30 AM

Good morning Dr. Beattie,

I hope you are doing well!

I know you must be very busy with other stuff but I wanted to let you know that I didn't received the book A Field Guide to Graduate School and I was wondering if you check on it for me.

Also, I was wondering if April 15th deadline would apply if I am offered admissions? The reason I was wondering is because I know is around the corner and I wanted to start taking the steps on any possible outcome.

Thank you for your time and I hope you can understand.

In Community,
Diego Castro

[Quoted text hidden]

Irene Beattie <ibeattie@ucmerced.edu>
To: Diego Alexander Castro <[REDACTED]>

Wed, Apr 13, 2022 at 9:50 AM

Thanks for reaching out, Diego. We are still waiting to hear from several admitted students, so I imagine we will not move to our wait list (if even possible) after 4/15. You would have more time to make a decision on a late admissions offer.

I will check on the book. Can you send me the best address to mail it to?

Thank you for your patience. I will be in touch as soon as I have any more information.

Best,
Irenee

Sent from my iPhone

On Apr 13, 2022, at 9:31 AM, Diego Alexander Castro <[REDACTED]> wrote:

[Quoted text hidden]

Diego Alexander Castro <[REDACTED]>
To: Irene Beattie <ibeattie@ucmerced.edu>

Wed, Apr 13, 2022 at 10:01 AM

Hi Dr. Beattie,

Thank you for your prompt response and for updating me on any decisions.

My address is: [REDACTED], Los Angeles, CA, 90057.

Thank you again!

In Community,
Diego Castro

[Quoted text hidden]

Irene Beattie <ibeattie@ucmerced.edu>
To: Diego Alexander Castro <[REDACTED]>

Wed, Apr 13, 2022 at 2:48 PM

Hi Diego-

I checked with the folks who sent the books out, and they said they ordered it to be sent to that address, so you should have received it. They are looking into the delivery info to see if they can spot any issues.

Also, there is a chance we will be moving to admit one or more students from our wait list in the coming week. I understand from our interactions that you are still interested in a slot if one opens up.

I wanted to double check with you about which faculty members you would be most excited to work with. I know you indicated some names on your application, but sometimes students identify other possible mentor matches during our visitation day, so I figured I would check back with you to see if you have any other possible advisors who you connected with during your visit.

[Quoted text hidden]

Diego Alexander Castro <[REDACTED]>
To: Irenee Beattie <ibeattie@ucmerced.edu>

Wed, Apr 13, 2022 at 5:22 PM

Hi Dr. Irenee,

Thank you for your follow-up email. Besides the Professors I mentioned in my application (Dr. Canizales, and Dr. Golash-Boza), I also spoke with Dr. Edward Flores and the great work he is doing at the UC Merced Community and Labor Center. After speaking with him and learning about the projects we might work on if admitted, I would be very excited to work with him. Lastly, I also had the pleasure to meet with Dr. Valdez during the visitation day and learn more about her work. I am very interested in working under her and engaging in projects related to the UC PromISE initiatives.

Thank you for your time and I look forward to hearing from you.

In Community,
Diego Castro

[Quoted text hidden]

Irenee Beattie <ibeattie@ucmerced.edu>

Fri, Apr 15, 2022 at 9:13 AM

To: Diego Alexander Castro <[REDACTED]>, Paul Almeida <[REDACTED]>

Hello Diego-

I am excited to let you know that we will be making you a funded admissions offer to join our PhD program in the fall. You will have 5 years of guaranteed funding, which covers both your tuition and living expenses (though we are generally able to fund students in their 6th year as well). I am very happy that a spot has opened up for you as I believe you will thrive in our program!

As you know, I am traveling right now (so I am cc'ing Professor Paul Almeida as he is helping me manage graduate admissions while I am traveling). We will work on getting you the official offer letter ASAP, but it may not be until next week. Please let us know if you have any questions.

Congratulations! And thank you so much for your patience!

Best,
Irenee

Sent from my iPhone

On Apr 14, 2022, at 1:22 AM, Diego Alexander Castro <[REDACTED]> wrote:

[Quoted text hidden]

Diego Alexander Castro <[REDACTED]>

Fri, Apr 15, 2022 at 12:51 PM

To: Irene Beattie <ibeattie@ucmerced.edu>
Cc: Paul Almeida <[REDACTED]>

Hi Irene,

I'm beyond excited and I'm definitely looking forward to the official offer letter. I think my only questions would be if you could share with me how much would living expenses be? And if you could share with me who might advisor would be? I remember I provided a couple of names but I was just wondering.

I am still hoping to make UC Merced my next home but with my undocumented situation knowing this would help me immensely.

Thank you for your time and support.

In Community,
Diego Castro

[Quoted text hidden]

Diego Alexander Castro <[REDACTED]>
To: Irene Beattie <ibeattie@ucmerced.edu>
Cc: Paul Almeida <[REDACTED]>

Fri, Apr 15, 2022 at 1:36 PM

Hi Professor Almeida,

Again I am really excited to be admitted and I hope you saw my previous email. The questions I had were directed to you per Irene's email and hopefully you can assist me that.

Thank you for your time and I apologize for not making that clear in my previous email.

In Community,
Diego Castro

[Quoted text hidden]

Irene Beattie <ibeattie@ucmerced.edu>
To: Diego Alexander Castro <[REDACTED]>
Cc: Paul Almeida <[REDACTED]>

Fri, Apr 15, 2022 at 2:09 PM

Hi Diego-

I am still finalizing advisor assignments, but most likely your first year advisor will be Professor Ed Flores. Honestly, the grad students and Grad Div financial services are better positioned to tell you about the estimated living expenses than we are as faculty.

Also, I am happy to tell you that we are going to be awarding you a \$1500 fellowship this summer (that will be paid after you matriculate in mid-August) which should help with moving expenses somewhat. You will be getting official notification soon. We are excited for you to join our program!

Best,
Irene

Sent from my iPhone

On Apr 15, 2022, at 9:36 PM, Diego Alexander Castro <[REDACTED]> wrote:

[Quoted text hidden]

Diego Alexander Castro <[REDACTED]>
To: Irene Beattie <ibeattie@ucmerced.edu>
Cc: Paul Almeida <[REDACTED]>

Fri, Apr 15, 2022 at 2:32 PM

Hi Irene,

Thank you so much for getting back to me and for when you mean that I will be covered living expenses does that come in the form of a stipend? Or how is that process?

Thank you again and I look forward to hearing from you

In Community,
Diego Castro

[Quoted text hidden]

Paul Almeida <[REDACTED]>

Fri, Apr 15, 2022 at 2:34 PM

To: Irene Beattie <ibeattie@ucmerced.edu>, Diego Alexander Castro <[REDACTED]>

Prof. Flores is doing amazing work protecting undocumented working families in the central valley and I know he publishes with grad students.

The cost of living is much less than Orange county, i went to high school living in Santa Ana.

I hope this helps Diego.

Paul

From: Irene Beattie <ibeattie@ucmerced.edu>

Sent: Friday, April 15, 2022 2:09:48 PM

To: Diego Alexander Castro <[REDACTED]>

Cc: Paul Almeida <[REDACTED]>

[Quoted text hidden]

[Quoted text hidden]

Irene Beattie <ibeattie@ucmerced.edu>

Fri, Apr 15, 2022 at 2:40 PM

To: Diego Alexander Castro <[REDACTED]>

Cc: Paul Almeida <[REDACTED]>

Yes, you receive a stipend for your job as a teaching assistant (for which you work 20 hours per week), and you would cover your living expenses from those funds. I would be happy to set up a meeting with you after 4/25 to talk about more details.

And your offer letter should be coming soon, and that will spell out more details.

Sent from my iPhone

On Apr 15, 2022, at 10:33 PM, Diego Alexander Castro <[REDACTED]> wrote:

[Quoted text hidden]

Irene Beattie <ibeattie@ucmerced.edu>
To: Diego Alexander Castro <[REDACTED]>
Cc: Paul Almeida <[REDACTED]>

Fri, Apr 15, 2022 at 2:43 PM

Also, I should mention that your offer letter will be delivered to you in the online application system, so you should check there for it. Again, we would be very excited for you to join our program!!

Best,
Irenee

Sent from my iPhone

On Apr 15, 2022, at 10:33 PM, Diego Alexander Castro <[REDACTED]> wrote:

[Quoted text hidden]

Diego Alexander Castro <[REDACTED]>
To: Irene Beattie <ibeattie@ucmerced.edu>
Cc: Paul Almeida <[REDACTED]>

Fri, Apr 15, 2022 at 3:35 PM

Hi Irenee and Professor Almeida,

Thank you so much for your response and I definitely feel confident. I will check my portal for the official letter. I'll also like to meet Irenee and hopefully go over those small details.

Thank you again for your help and time. I am looking forward to making this happen.

In Community,
Diego Castro

[Quoted text hidden]

[Quoted text hidden]

Paul Almeida <[REDACTED]>
To: Diego Alexander Castro <[REDACTED]>, Irenee Beattie <ibeattie@ucmerced.edu>

Fri, Apr 15, 2022 at 4:01 PM

Dear Diego,

It is funding for I believe 5 years, this includes tuition and stipend/salary working as a TA or GSR. GSR is a grad student research assistant.

I think after taxes you receive around \$2,300 per month as a TA (for 9 months) and then in summer there are additional funding opportunities (and over xmas break). Your tuition is covered and not part of your \$2300 take home pay.

We are doing awesome placing our Merced grad students in jobs. So **far this year** we have placed students as tenure track professors in sociology at UC Davis, Cal Poly Pomona, University of Houston-Downtown, and other universities.

Best wishes,

Paul

[Quoted text hidden]

Diego Alexander Castro <[REDACTED]>

Fri, Apr 15, 2022 at 4:47 PM

To: Paul Almeida <[REDACTED]>

Cc: Irene Beattie <ibeattie@ucmerced.edu>

Professor Almeida,

Thank you so much for sharing the breakdown with me. I feel so relieved and excited to work under Professor Flores.

I checked on my portal and it looks like it hasn't been updated yet. I was wondering by when would I need to confirm?

Thank you again for all your help.

In Community,
Diego Castro

[Quoted text hidden]

Paul Almeida <[REDACTED]>

Fri, Apr 15, 2022 at 4:57 PM

To: Diego Alexander Castro <[REDACTED]>

Cc: Irene Beattie <ibeattie@ucmerced.edu>

Thanks Diego.

We are checking with grad division to get your offer letter posted ASAP. I know they are close to getting it done.

[Quoted text hidden]

Diego Alexander Castro <[REDACTED]>

Mon, Apr 18, 2022 at 8:55 AM

To: Paul Almeida <[REDACTED]>

Cc: Irene Beattie <ibeattie@ucmerced.edu>

Good morning Professor Almeida,

Thank you again for being so responsive and helpful. I mentioned to Irene my immigration situation and that I don't have work-permit, and I wanted to double check with you if this would impact any of the financial package that I will receive. I haven't received a letter and I'll update you all once I do.

Secondly, I was wondering if I could connect with my cohort?

Thank you for your time and I look forward to hearing from you soon

In Community,
Diego Castro

[Quoted text hidden]

Irene Beattie <ibeattie@ucmerced.edu>

Mon, Apr 18, 2022 at 9:14 AM

To: Diego Alexander Castro <[REDACTED]>

Cc: Paul Almeida <[REDACTED]>

Hi Diego-

I will connect all of the students in the cohort after my return from my travels. The graduate division financial services folks will be able to answer your questions about your award package after you receive your letter.

Best,
Irene

Sent from my iPhone

On Apr 18, 2022, at 4:56 PM, Diego Alexander Castro <[REDACTED]> wrote:

[Quoted text hidden]

Diego Alexander Castro <[REDACTED]>

Mon, Apr 18, 2022 at 10:36 AM

To: Irene Beattie <ibeattie@ucmerced.edu>

Cc: Paul Almeida <[REDACTED]>

Hi Irene,

Thank you so much for being attentive during your travel and I will wait for the letter.

Thank you again for your time!

In Community,
Diego Castro

[Quoted text hidden]

Diego Alexander Castro <[REDACTED]>

Thu, Apr 21, 2022 at 6:26 AM

To: Irene Beattie <ibeattie@ucmerced.edu>

Cc: Paul Almeida <[REDACTED]>

Good morning Irene and Professor Almeida,

I hope you are doing well. I was following up because I received my financial letter and it categorizes me as an international student which I am not. I was wondering if this was an error?

Thank you for your time and I look forward to hearing from you,

In Community,
Diego Castro

[Quoted text hidden]

Paul Almeida <[REDACTED]> Thu, Apr 21, 2022 at 9:28 AM
To: Diego Alexander Castro <[REDACTED]>, Irene Beattie <ibeattie@ucmerced.edu>

Diego can you screen capture the document you are referring to and send it to me?

I don't think your main offer letter states this.

From: Diego Alexander Castro <[REDACTED]>
Sent: Thursday, April 21, 2022 6:26:16 AM
To: Irene Beattie <ibeattie@ucmerced.edu>

[Quoted text hidden]

[Quoted text hidden]

Diego Alexander Castro <[REDACTED]> Thu, Apr 21, 2022 at 1:03 PM
To: Paul Almeida <[REDACTED]>
Cc: Irene Beattie <ibeattie@ucmerced.edu>

Hi Professor Almeida,

Thank you for your prompt response and help.

The letter that refers to me as an "international student" is the 3rd one. Similar to the 2nd letter is asking me that I need to verify my work authorization. I have attached screenshots below.

Thank you for your time and I look forward to hearing from you soon!

In Community,
Diego Castro

[Quoted text hidden]

2 attachments

As an international graduate student, you will need to submit required documents to obtain your student visa. To begin this process, please visit the [Office of International Affairs](#) website to download the appropriate forms.

Screen Shot 2022-04-21 at 1.00.33 PM.png
52K

The terms of this offer are dependent upon your being present on campus in August for the first day of Graduate Orientation Week (GROW) and is made with the understanding that Payroll Services is able to verify your work authorization. This requires that you present originals of the appropriate documents to Payroll Services on this campus so that the I-9 (Employment Eligibility Verification form) can be completed.

Screen Shot 2022-04-21 at 12.58.51 PM.png
92K

Diego Alexander Castro <[REDACTED]> Mon, Apr 25, 2022 at 6:41 AM
To: Paul Almeida <[REDACTED]>
Cc: Irene Beattie <ibeattie@ucmerced.edu>

Good morning Professor Almeida and Beattie,

I hope your Monday is going well.

I was following up and I was wondering if you had time Professor Beattie to schedule a meeting sometime this week? I am able to adjust to most availability you may since my schedule is flexible every week. Please share with me what times work best for you — I hope to go over some other specific details on my letter.

Thank you for your time and I look forward to hearing from you

In Community,
Diego Castro

[Quoted text hidden]

Irene Beattie <ibeattie@ucmerced.edu>
To: Diego Alexander Castro <[REDACTED]>

Tue, Apr 26, 2022 at 9:24 AM

Hello Diego-

Thanks for reaching out. Any chance you could meet with me at 4 today or 2:30 on Thursday? Let me know if either of those work and I will set up a zoom link.

I look forward to meeting with you!

[Quoted text hidden]

Diego Alexander Castro <[REDACTED]>
To: Irene Beattie <ibeattie@ucmerced.edu>

Tue, Apr 26, 2022 at 10:21 AM

Good Morning Dr. Beattie,

Thank you for your prompt response, and Thursday at 2:30 pm works for me.

In Community,
Diego Castro

[Quoted text hidden]

Irene Beattie <ibeattie@ucmerced.edu>
To: Diego Alexander Castro <[REDACTED]>

Wed, Apr 27, 2022 at 3:41 PM

Hi Diego-

Great--I look forward to meeting with you tomorrow at 2:30. Here is the zoom meeting info below.

Best,
Irene

Irene Beattie (she/they) is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting

<https://ucmerced.zoom.us/j/88104560028?pwd=Y0NQVUI1QldkT0ZQamdSZ3NOWVk0UT09>

Meeting ID: 881 0456 0028

Passcode: 474678

One tap mobile

+16699006833,,88104560028# US (San Jose)

+12532158782,,88104560028# US (Tacoma)

Dial by your location

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 646 876 9923 US (New York)

Meeting ID: 881 0456 0028

Find your local number: <https://ucmerced.zoom.us/u/kiy7CNIRg>

Join by SIP

88104560028@zoomcrc.com

Join by H.323

162.255.37.11 (US West)

162.255.36.11 (US East)

115.114.131.7 (India Mumbai)

115.114.115.7 (India Hyderabad)

213.19.144.110 (Amsterdam Netherlands)

213.244.140.110 (Germany)

103.122.166.55 (Australia Sydney)

103.122.167.55 (Australia Melbourne)

149.137.40.110 (Singapore)

64.211.144.160 (Brazil)

149.137.68.253 (Mexico)

69.174.57.160 (Canada Toronto)

65.39.152.160 (Canada Vancouver)

207.226.132.110 (Japan Tokyo)

149.137.24.110 (Japan Osaka)

Meeting ID: 881 0456 0028

Passcode: 474678

From: Diego Alexander Castro <[REDACTED]>

Sent: Tuesday, April 26, 2022 10:21 AM

[Quoted text hidden]

[Quoted text hidden]

1. My name is Jeffry Umaña Muñoz. I make this declaration based on my own personal knowledge and if called to testify I could and would do so competently as follows.

Early Life and High School

2. I was born in El Salvador in June 2002. I came to the United States with my mom in 2004, where we reunited with my dad who had come earlier. Our family settled in San Bernardino, CA. I've lived in Southern California for most of my life, except for a few months when I was 11, when we lived in Ohio.
3. From a very young age I knew that, because my family was not from this country, we were in danger. I can't remember a time when my parents sat down with me and explained that we were undocumented. As far back as I can remember it, I just always knew we were not safe. As I got older, I became very interested in politics and current events, and I came to understand that we were undocumented and what that meant for us.
4. When I was around ten years old, the DACA program was announced. I met all eligibility criteria for the program, except I was too young to apply. Even back then, I had perfect grades, and my parents were confident that once I applied, my application would be granted. We felt that it was just a matter of time. This made all of us feel happy and a little bit safer. It also made my dreams of higher education seem more achievable.
5. I turned 15 in June of 2017. My parents and I were working on getting the money together to hire a lawyer to file my application, but in September of 2017 the Administration announced that it was going to end the DACA program. This put everything on hold for us.
6. While the pause on DACA was devastating for me, I continued to work hard and achieve in school. I graduated from high school in 2020, and I was the valedictorian of my high school class.
7. I had a very successful college application process, and I was admitted to Harvard University, among others. I considered attending Harvard, but several considerations held me back. First, the REAL ID law was supposed to go into effect the year after I started college. Because I am undocumented, I knew I would not be able to obtain a REAL ID-compliant identity document. I only had a California driver's license (through AB 60), and I did not know if I would be able to fly domestically if REAL ID went into effect.
8. In addition, I felt that the UC as an institution would be more conducive to my receiving a good education as an undocumented student. Several UC policies and programs for undocumented students caught my attention. One was the opportunity for paid fellowships. There was also an undocumented student group on campus called IDEAS (Improving Dreams, Equality, Access, and Success) and a resource center specifically for undocumented students. These things gave me the impression that UCLA was a campus that prides itself on being friendly and supportive to undocumented students.

9. These were not the only reasons I chose to attend UCLA rather than Harvard. I also had concerns about traveling safely across the country during the pandemic and did not want to be far away from my family. But UCLA's image as an institution that supports undocumented students was a significant factor in my decision.

Undergraduate Education and On-Campus Work Experiences

10. In the fall of 2020, I started my freshman year at UCLA.
11. In December 2020, there was a brief period when USCIS was again processing first-time DACA applications. I worked with a staff attorney at the UCLA Immigrant Legal Services Center who sent in my DACA application with all the requisite evidence and the filing fee in early 2021. However, before my application could be adjudicated, consideration of new DACA applications was placed "on hold," and I never received a decision.
12. During my freshman year I came to realize how being undocumented without DACA or some other form of work authorization was going to limit my experiences on campus.
13. When I first got to campus, I explored working at the campus bookstore or the dining hall, but since they are official forms of employment, students must be hired and processed, and the University believed that it had to participate in the I-9 verification process. I had to quickly rule out many of the traditional on-campus jobs because they were not available to me.
14. Because traditional campus jobs were not available to me, I started applying for on-campus fellowships that offered stipends. Unfortunately, although many of these fellowships claimed to welcome undocumented students, some of them classified fellows as employees and required I-9 verification, which I could not complete.
15. In the fall of 2020, I was awarded a paid on-campus fellowship that did *not* require I-9 verification: the UndocuBruins Research Fellowship. The Fellowship provided a stipend of \$2,500 per quarter, paid through the campus financial aid platform. Unfortunately, as I soon learned, this meant that the stipend would be counted as part of my financial aid package and subjected to a maximum financial aid cap.
16. I expected to receive my Fellowship stipend in my university account through the financial aid platform. When I did not, I was confused, so I met with the financial aid counselor. The counselor explained that there is a maximum amount of aid and scholarships a student can receive. Because I had already been awarded the maximum, and because my fellowship stipend was being treated as financial aid, I would never actually receive the \$2,500. Instead, the university reduced the amount of another scholarship I had received (the University Dream Grant) by the amount of my stipend. Through this experience I learned that any new scholarship, fellowship, stipend, or other monetary award I received would be subject to the same practice.

17. In addition, even if I had received the \$2,500 stipend, it would have been disbursed to me in accordance with the financial aid calendar — typically at the beginning or end of our quarters.
18. In contrast, students with work authorization could receive the maximum amount in financial aid and scholarships and still receive additional income from campus-based fellowships without the direct offset to their financial aid package that I experienced. Likewise, since their stipends were paid as wages rather than financial aid, my peers with work authorization had a consistent, reliable pay schedule that was not dependent on the financial aid calendar.
19. In summary, unlike a peer with work authorization who could get a full-ride scholarship and then apply for and receive fellowships or campus employment for extra income, I would always be limited to a fixed budget.
20. What started to become very clear to me after my freshman year is that while UCLA markets itself as being friendly to undocumented students, in reality, it designs a lot of its programs and services with the assumption that most undocumented students have DACA. That just is not the case anymore, because the federal government no longer processes DACA applications.
21. During my sophomore year I was appointed to the Student Initiated Outreach Committee (SIOC), a committee of student government. My appointment was in line with the student government by-laws, and I qualified for the position based on all the eligibility criteria. The role is compensated through a stipend, but the university still classified the stipend as employment in their systems. As a result, I was told I was ineligible to serve on the committee. I advocated with the administration and the student government to pay the stipend as a financial aid award. During this particular quarter, I was not receiving the maximum amount of financial aid and scholarships, so I was able to receive the payments on my university account. However, the payments arrived at unpredictable times—often either at the beginning of the quarter or the very end. The administration also broke up the payments into strange increments. The irregular cadence of these payments made it difficult for me to rely on this income for things like groceries or other week-to-week needs. It also created an experience where I felt as if I was being treated as a second-class member of the campus community. Nonetheless, I believed in the committee's work, and I served in that position during my sophomore and junior years.
22. When I told other undocumented students about my experience of advocating for my stipend to be issued through my financial aid award, and how the payments came late, I learned that many of them had been through similar situations. Even when they did succeed in getting a stipend issued through the financial aid system, the University would just end up using it to offset another grant or aid award, so they would never see additional funds actually made accessible to them. As a result, many undocumented

students did not even bother to engage in the kind of advocacy that I did to try and receive the true financial value of their stipends, scholarships, and other forms of financial assistance.

23. As my understanding of university administrative systems and processes deepened, so did my concern that the system was not really set up to serve undocumented students. Many of us who are undocumented and make it to higher education are already high-achieving and from families with low incomes. As a result, we have already earned the maximum scholarship and aid awards available to us, so even if we earn a stipend, we don't ever see the money because it just offsets another grant we have already earned. For me and for other students, this was demoralizing and made it feel like all our hard work was for nothing. It was also a huge problem financially. While a full scholarship was great, students still had costs to cover for transportation, gas, meals, books, clothing, technology needs, and were often trying also to support the needs of loved ones.

24. In the winter quarter of my sophomore year, my grandmother and a cousin on my mother's side passed away back home in El Salvador due to COVID. My parents needed to send more money back home than usual, and they needed my help. At that time, the financial aid office provided students with refunds to our accounts that we could use to pay our on-campus housing costs and campus meal plan fees. I used the money the financial aid office provided me for my housing and meal costs to send funds quickly to my family back in El Salvador. When my campus housing bill came due, I was not able to pay. Because I was late on my campus housing payment, I was kicked off the campus meal plan and a hold was placed on my university account. This meant I couldn't do things like access official transcripts or receive official grades.

25. I reached out to the Emergency Crisis and Response Team (ECRT) at UCLA. The purpose of this team is to provide additional resources for students experiencing crisis. For example, when DACA applications were briefly being processed in 2020, ECRT paid the filing fee to make sure I could get the application in as quickly as possible. However, when I reached out to them a second time and explained my situation, they said I had reached the cap for the type of aid they provide. Without assistance from ECRT I was unable to make the approximately \$4,000 housing payment for that quarter and the charge remained outstanding on my financial aid record. This was a really difficult time for me. If I had been able to work on campus, I would not have been in such a bad financial position. I would have been able to earn money and help my family during our time of crisis.

26. During my junior year I was appointed to the Associated Students UCLA (ASUCLA) Board of Directors. ASUCLA is a student-run, independent non-profit 501c3 organization. Students who serve as board members of ASUCLA are compensated with a stipend equivalent to the cost of tuition and fees. The stipend is supposed to be paid out biweekly. The stipend amount is high in recognition of the amount of work that serving on the board requires as well as the fact that many students would not be able to serve on the board without compensation, because they would need to allocate that time to earning money elsewhere. Students with work authorization receive the stipend as income--it

does not touch their financial aid account. They are brought on as UC employees. Their pay is processed through UC Path, the system UC uses for all employee payroll.

27. I met all the qualifications to be able to serve as a board member for ASUCLA based on the by-laws and academic standards, but the administrators who run the program could not find a way to provide me with my stipend. The stipend would simply offset other financial aid awards I had already earned. The result was that I would not actually receive any compensation for my work.
28. When I continued to try to find a way to be compensated for my service, ASUCLA asked that I be removed from the Board of Directors. ASUCLA argued that my role was not a student government role, but rather that it was a type of employment because my job was to make decisions about the ASUCLA enterprises, and I could not serve without work authorization. Ultimately, I was removed from the ASUCLA board because I would not serve without compensation.
29. Being unable to work on campus and to be compensated fairly for the work I contributed to student government and student organizations on campus was emotionally draining and made it much more difficult to achieve my goals as a student. Beyond this, it was a major source of financial stress, because I really needed the income that I would have earned through my role at ASUCLA.
30. Once I found out that I could not get paid from ASUCLA, I decided that my only choice was to take out the DREAM Loan. The DREAM Loan is a state-provided loan for undocumented students with or without DACA. You can take out \$4,000 per academic year, for up to four years, for a total of \$20,000. The interest rate is the same as the student federal direct subsidized loan rate. I needed the DREAM Loan because that quarter I could not afford the housing fees without it. I had already lost my on-campus meal plan in the past because my housing payment was late, and I could not risk another late payment.

Undergraduate Degree and Current Graduate Studies

31. I graduated from UCLA with my Bachelor's degree in Chicana and Central American Studies and Labor Studies in June of this year.
32. I began a two-year Master's Degree program at Cal State Los Angeles in August.

Taxes

33. From my sophomore year until this past summer, I was a tenant of UCLA and lived in campus housing. My leases were for nine-month periods. When I first started, I was issued money from my financial aid package as a refund, which I was expected to use to pay my campus housing fees. Starting in the 2022- 2023 academic year, UCLA changed their process, so that my housing fees were deducted directly from my university account

once every three months. Now that I am a graduate student, I am living at home with my parents.

34. My parents have lent me a car to use while I am a student. Within the last eighteen months or so, I have paid for maintenance on the car, including oil changes, brake replacement, new tires, and gas. I am now a commuter student and drive over 250 miles per week and pay for all the gas for this commute. All these transactions involve sales and use tax or transaction and use tax first paid by me to the retailers. Within the last year or so, I paid \$300 for new tires and new brakes for the car, which was about \$400. I recently purchased a new car battery, which cost \$250. I paid state sales tax on all these purchases. In May I paid approximately \$300 for the annual California vehicle registration fee.
35. I have paid sales and use taxes in other ways as well. Because I am a busy student I get take-out meals with frequency. My monthly expenses are around \$2,000 per month. Many of my expenses involve a sales and use tax or transaction and use tax that I pay to a retailer.
36. I am a member-owner of a worker-owned cooperative called Sunrise Strategies LLC DBA Radiate Consulting LA. I have been a member-owner since 2022. The UCLA Labor Center contracts with Radiate Consulting LA and I do work for the UCLA Labor Center through the co-op. The co-op is structured to withstand the frustrating and bureaucratic delays that come with working for UCLA. The co-op provides me with my payment up front. When I sign a contract for my work with the co-op, our member administrator shows me a breakdown of what I can expect in terms of income and what will be withheld for taxes and other co-op costs. So far, UCLA has been the only client I've worked with, but I may work with other clients in the future. The co-op issues K-1 tax forms to their member-owners. I have been assessed and am liable to pay taxes on income earned from my work as a member-owner of the co-op.
37. Being a member-owner of the co-op was helpful for me when I was an undergraduate student and is now helpful for me as a graduate student, but it is not a viable or scalable solution to the problems facing undocumented students on campus at UCLA. First, there are very few faculty on campus willing to go through all the steps it took to set up the co-op and help students become member-owners. Second, the co-op structure requires that the co-op retain certain funds for taxes and certain funds for member profit sharing, making it difficult to ensure wage parity between co-op member-owners and students employed by the Labor Center, paid through UC Path. In addition, it's my understanding that UCLA is often late paying its vendors. This puts a strain on the co-op, which takes on the burden of giving member-workers our payments up front and makes expanding to a much bigger scale unrealistic.

Conclusion

38. My inability to work for UCLA while I was a student there was very detrimental to me. I recognize that even if UCLA were to acknowledge and exercise its authority as a state

institution to employ undocumented students, that recognition would come too late to help me personally. I have no plans to return to the University of California as a student in the foreseeable future.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 27, 2024, in San Bernardino, California.



Jeffrey Umaña Muñoz 9/27/2024

I, Leslie Sepulveda Ochoa, upon my personal knowledge, hereby declare as follows:

1. I was born in Mexico in 2000. In March 2008, when I was 7 years old, I came to the United States with my family.
2. I grew up living with them in East Palo Alto, California.
3. From 2014 to 2018, I attended and graduated from Menlo Atherton High School. I was part of an after-school program called College Track. College Track is a college preparatory program for students who are the first in their family to pursue post-secondary education. I felt a strong sense of community in the program, and I also had a lot of resources for navigating my advanced course load in high school and, later, the college application process. I spent most of my time in school or at the after-school program, coming home in time for dinner and rest.
4. Growing up I always knew I was undocumented, but my parents still encouraged me to follow my dreams and pursue any career that I wanted. I understood school to be my contribution back to my family and community, especially because of how hard my parents worked and sacrificed for my sister and me to have an education in the United States. Thus, I always saw going to college as the next step for me after graduating from high school. I focused on being a good student so that I could have the best scholarship opportunities available to me.
5. When the time came, I only applied to in-state colleges and universities because I did not want to risk leaving the resources available to undocumented individuals in California. I also worried that if I went to a school out of state my family would not be able to visit me. I was excited when I received a scholarship from Loyola Marymount University (LMU) that provided full tuition and room and board for all four years of college.
6. From 2018 to 2022, while I was a student at LMU, I advocated for undocumented students. I was part of the LMU student government, where I held the positions of Attorney General and Immigrant Justice Representative. As the Immigrant Justice Representative, I convened all the different immigrants' rights organizations across campus to advance the interests of immigrant students. When the COVID-19 pandemic hit, I helped raised money for and created a stipend to help immigrant students who were struggling financially. Additionally, I founded "Boundless LMU," a fellowship program modeled after the UCLA Dream Resource Center Summer Fellowship, where students would get placed in a fellowship that provided professional development opportunities. Five fellows per semester were placed across different LMU departments as well as external organizations and companies.

7. I was also President of RESILIENCE. RESLIENCE is a student organization that consists of students, faculty, staff, and outside organizations. Together we worked in collaboration to offer resources and a safe environment to undocumented students and allies. As President, I fundraised for the organization, and raised awareness on campus regarding issues of immigration that effected both LMU undocumented students and the immigrant community more broadly. In my own personal capacity, I worked with Faculty and other student advocates to advocate for and then create a Dream Resource Center on campus.
8. During college, my advocacy for immigrant students at LMU led me to be selected as a UCLA Dream Resource Center Fellow. That experience solidified my desire to be a lawyer and go to law school. Through that program, I did a series of summer internships with different immigration law offices and nonprofits, such as the Immigration Institute of the Bay Area and Catholic Charities in San Mateo. I worked on an array of projects including DACA renewals, asylum applications, U Visa declarations, and applications for work permits. I enjoyed working with DACA recipients, many of whom were either in college or opening their own businesses. I was inspired by how they were able to achieve so much with the small opportunity they were given. Overall, my favorite part of the experience was working with and connecting with clients, because I could support them in their experience of being undocumented. I was deeply moved and honored to be part of the life-changing process by which they adjusted status or applied for relief. I realized that as a lawyer I could continue to play a role in change that positively affected people's lives.
9. In 2022, I went to UC Berkeley Law School (Berkeley Law) straight through from college. Berkeley Law was my top-choice school because it was the only law school that had any information I could find (albeit minimal) on undocumented law students. I also received the Berkeley Law Opportunity Scholarship. That scholarship provides me with full tuition and health insurance for all three years of law school.
10. Once I was accepted and found out I had an interview for the scholarship, students from La ALIANZA Law Student Association encouraged me to attend and shared resources with me. They also connected me with other current undocumented law students. It meant a lot that these students reached out and connected me with other students who were undocumented to help me prepare for the scholarship interview and law school as an undocumented student.
11. At Berkeley Law, I am continuing my advocacy for undocumented students by being part of UndocuStudents at Berkeley Law. The same undocumented students that encouraged me to attend Berkeley Law and helped me prepare for my

scholarship interview became my close friends. Berkeley Law does not have many undocumented students, so we are a tight-knit group of students that share resources and information with each other. We decided to formalize our resource sharing system by enrolling as a student group with the university. As a 2L, I was part of the founding board and did a lot of the outreach to alumni and undocumented lawyers to come speak on career panels. This upcoming year I will be a co-chair of the group and look forward to continuing our efforts in building a supportive community.

12. Unfortunately, the work I have done with my classmates to create UndocuStudents at Berkeley Law is in jeopardy because next year there will be no undocumented students in the incoming class. I believe this is at least in part a product of the fact that the government has not been accepting new DACA applicants for most of the last five years, which has made it harder for undocumented students to afford higher education. Although we are also open to allies in the organization, I worry that the work I have done so far for undocumented students in the law school will be lost to future students. We plan to reach out to students at other law schools to see what their experience has been like, in order to help us respond to this situation.

13. Although I have benefited from my law school education thus far, I have been disappointed that certain doors have been closed to me because of my undocumented status. For example, besides my work with UndocuStudents at Berkeley Law, I am also part of two academic journals, the *California Law Review* and the *Latine Journal of Law and Policy*. In the *California Law Review*, I've held the positions of Associate Editor and Notes Editor, and in the *Latine Journal of Law and Policy*, I've held the positions of Associate Editor and Submissions Editor. Through my positions at these journals, I have been exposed to areas of research that are of interest to me in the legal field. For example, I edited an article that discussed debt policy, which directly relates to my future career interests in economic justice work. I would have been interested in being employed as a Research Assistant for a Berkeley Law professor doing work in that area. I know that Research Assistants gain valuable insights into complex legal issues, research methodologies, and writing skills from being able to work with professors on their academic projects. Also, I know that if I conduct high-quality research, holding a Research Assistant position could provide me with an opportunity to get a highly-coveted letter of recommendation from a professor working in a field I would like to pursue.

14. Similarly, I would have enjoyed being employed as a Research Assistant for Professor Hausman at Berkeley Law. He is one of the leading academic researchers on issues involving the immigration courts and immigration

enforcement systems more broadly. I recently learned that Dr. Hausman is conducting research on undocumented law students. It would have been immensely fulfilling to contribute to research that might have opened more doors to future undocumented law students like me.

15. Unfortunately, I am barred from being employed as a Research Assistant because I do not have work authorization. Several of my peers work as Research Assistants, and they are paid for their work. Additionally, a paid Research Assistant position would have provided me with important financial support, as my scholarship only covers my tuition, so I am still responsible for paying my own housing costs and other expenses.
16. As a first-generation college graduate, I am already navigating law school on my own, and it is disheartening to also be limited from accessing opportunities on campus only because I do not have work authorization. Because of my immigration status, after graduation I will almost certainly have to work as a solo practitioner. I am nervous about graduating and immediately starting practice on my own. If the University of California would allow me to work, I would have more opportunities to get the mentorship and experience necessary to navigate the legal profession post-graduation.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 30, 2024 in Berkeley, California.

Signed by:
Leslie Sepulveda
468B2BA0DF4A4A0...

Leslie Sepulveda Ochoa

I, Iliana Guadalupe Perez Gonzalez (Iliana Perez), upon my personal knowledge, hereby declare as follows:

1. I was born in Mexico in 1987. In December of 1995, when I was eight years old, I came to the United States with my family on a tourist visa that expired shortly after we arrived.
2. We settled in Turlock, California where my grandparents, uncles, and aunts were. Turlock is a small rural community in the middle of the Central Valley. Many of Turlock's immigrant residents work on farms or dairies. While I was growing up, my Dad worked as a farmworker and in construction.
3. I knew that I was undocumented early on because we had a plan prepared in case my parents were ever deported without my brother and me. Although the thought of being separated from my parents scared me, I focused my attention on doing well in school. I didn't yet know all of the barriers I would have to overcome in order to achieve my academic goals.
4. In the Spring of 1996, I attended Wakefield Elementary School. There I excelled in mathematics, and it became my comfort subject because it didn't require full knowledge of the English language. As a result of this, I was invited to take the GATE (Gifted and Talented Education) Test, enrolled in the GATE Program, and transferred to Julien Elementary School on the "good side" of town. The GATE Program was rigorous, requiring me to enroll in challenging classes and be involved in extracurriculars. I quickly became part of the college-going kids. In 1999, by the time I enrolled in Turlock Junior High School, I was doing my best to be a competitive college applicant but understood that attending college in the United States would be difficult because of my undocumented status.
5. From 2001-2005 I attended Turlock High School. I took AP classes and continued to participate in extracurricular activities like band and cross-country. When the time came, I made a list of all the universities I would apply to. However, the fact that I was undocumented meant that things would be different for me, and that all the college options might not be a possibility due to my immigration status. When I was in high school there wasn't a lot of information for undocumented students who wanted to navigate higher education. Additionally, I knew that I wouldn't be eligible for financial aid.
6. I was accepted to many of my top-choice schools, including several UCs, but unfortunately couldn't afford to attend. I was disheartened but I couldn't give up on my years of hard work to attend college. I quickly began to call different colleges to see if any could offer me additional financial assistance. That's when I learned about the Smittcamp Family Honors College at Fresno State University. I disclosed my immigration status, and they assured me that I could qualify for the scholarship

program regardless of my immigration status because it was a private scholarship funded through the Smittcamp family. The Smittcamp Honors Program offered me a full-ride scholarship that included tuition, as well as room and board.

7. Thanks to the Smittcamp Honors Program, I attended Fresno State from 2005-2009 and received a bachelor's degree in mathematics. I was the only undocumented student enrolled in the honors program, so I was focused on graduating on time to avoid paying any tuition after the funding for my scholarship ended. My ultimate goal was to enroll in a doctoral program in economics because of my interest in researching the intersection of international trade and migration. In large part because of my own migration story, I wanted to better understand the economic reasons for why people migrate.
8. Consequently, I immersed myself in research activities knowing that I needed research experience in order to be competitive when applying to doctoral program. However, most of my work was on a volunteer basis or through departmental fellowships because of my status. For example, I remember feeling disappointed when I found out I didn't qualify for the McNair Research Scholars program, which provides significant support to students intent on pursuing graduate school with the goal to advance social justice. I did not qualify only because I was undocumented.
9. During my third year at Fresno State, I began researching the requirements for applying for a doctoral program. I called various programs and at each one I was told it wasn't going to happen for me because of my immigration status. Each university administrator stated that because funding typically required working as a teaching assistant, and therefore work authorization, the program would be unable to accommodate an undocumented student like me. After learning this I was ready to leave the United States and I applied to doctoral programs in Mexico and Canada, in addition to a few programs in the United States.
10. Ultimately, I was accepted to the New School for Social Research (New School) in New York City for a master's degree program. Immediately after graduating from Fresno State I moved to New York to attend the New School. However, because of my status I didn't qualify for financial aid, so the only way to fund my education moving forward was through a private loan. Quickly my debt stacked up and I couldn't figure out how to afford to pay for tuition and my living expenses in New York. After only one semester I had to drop out of the program. I moved back home to Turlock.
11. When I came back home it was the loneliest I had ever felt. I knew I had the skills and drive, but there was nothing I could do to fix my immigration status. Everything I had been told about the American Dream was turned on its head. I felt like I had my hands tied. At some point, I ended up working with my father mowing lawns in 110-

degree weather with my head down, wondering if things would ever change. Although I didn't share this with anyone at the time, I was deeply depressed.

12. Then I learned about Educators for Fair Consideration (E4FC), the entity that would later become Immigrants Rising, where I now proudly serve as Executive Director. I heard about the organization on the radio when they were advertising a scholarship for undocumented students. I had never heard of a resource just for undocumented students in higher education and I was eager to build community, so I emailed Kathy Gin (the founder and previous director) to offer up my time as a volunteer for the organization. After sharing my story with Kathy, she asked to meet me in San Francisco where she was based. I drove up to meet her.
13. After that meeting and with Kathy's support, I was energized to learn more about the opportunities that existed for undocumented college graduates like me. This was the first time where I had a community of undocumented folks to think through post-college opportunities.
14. I ended up developing my individual findings into an expanded research project for Educators for Fair Consideration to better understand the post-college opportunities for college graduates that were undocumented. I interviewed 13 students and ended up writing a guide called the "Life After College Guide for Undocumented Students." This guide set the foundation for my career now.
15. While volunteering my time, I also worked as an independent contractor in a lot of gigs. In one of these gigs I came across Professor William Perez, who was researching the seemingly new phenomena of undocumented college students. As a social justice professor, he strongly believed that research subjects should be trained to do research. As such, he spearheaded the creation of a fellowship program for undocumented students interested in obtaining a PhD. I shared my desire to continue with my studies and received an invitation to apply for the fellowship. The fellowship used departmental funding and did not require employment. I was accepted into the program.
16. I was able to enroll in Claremont Graduate University in January 2012, where I received my Masters in 2015 and a PhD in 2018. I was part of the first cohort of four undocumented students for the CGU 21st Century Civil Rights Fellowship. We called ourselves "UndocuPhDs." We benefited from the fellowship program, and we continued to engage in advocacy efforts to expand access to graduate school for other undocumented students. The program was designed for undocumented students interested in completing a doctoral program with the school of Education Studies. I researched indigenous undocumented students, deported youth, and self-removed individuals. My Ph.D. dissertation was on the economic viability of entrepreneurship

for immigrants. Because the PhD was interdisciplinary I also took economics courses, which allowed me to graduate with a master's degree in economics.

17. In June 2012, in the middle of my studies, the Deferred Action for Childhood Arrivals Program, commonly known as DACA, was announced. I applied to the program immediately. A year after that I got my first work permit.
18. Having work authorization changed my life. I quickly became a Research Assistant in my department and began getting paid for the research work I previously could only volunteer my time to do. Throughout my graduate studies, I was hired as a Research Assistant by Pitzer College and later as a Research Analyst at the Stanford Business School. And for the first time I was a part-time employee at Immigrants Rising, continuing my work on the undocumented student entrepreneurship programming.
19. My work with the Stanford School of Business on the Stanford Latino Entrepreneurship Initiative ended up turning into my first full time job shortly before graduating from my doctoral program. I only left that position to return to Immigrants Rising as the Entrepreneurship and Research Director. While there, I took a leading role in the creation of entrepreneurship programming for undocumented immigrants. After a national search, I was selected to be the Executive Director of Immigrants Rising in August of 2023.
20. Working as the Executive Director for Immigrants Rising was a full circle moment for me. As someone who was undocumented for 27 years and only recently adjusted my status through marriage to my long-time partner, I have used my position to share my story in hopes of humanizing the complex issue of immigration in the United States. I work to empower undocumented people to achieve their educational and career goals through personal, institutional, and policy transformation.
21. Beginning in January 2020, along with my responsibilities as Executive Director for Immigrants Rising, I also served as a Lecturer with the UCLA Labor Center. I teach courses on immigration, research design, big data, and their connections to social justice. The Labor Studies Department was excited about my research on entrepreneurship as an alternative to employment, so my class has incorporated that work into the curriculum as well.
22. As a Lecturer I have had the pleasure of meeting amazing students who are the leaders of this generation of the undocumented student movement. Because of the focus on immigration in my classes, I get a combination of students who are undocumented, DACAmented (i.e., undocumented but with DACA), or fully documented members of mixed status households. When I first started teaching many of my students let me know that they were DACA recipients, whereas more recently

most of my students have let me know they are undocumented and do not have DACA.


23. Jeffrey Umaña Muñoz was one of the special students I had the pleasure to have in class. Jeffrey took the class while he was completing his senior paper, and his paper was on comparing undocumented student activism pre-DACA and post-DACA. His research for his capstone project, as well as his work as a leader in the Undocumented Student-Led Network, led to rich discussions during class.
24. In my position as Lecturer, I am not involved in any hiring, including the hiring of any teaching assistants or other classroom aides. From my understanding, because my class has more than 40 students enrolled, I am assigned a Teaching Assistant to help lead a discussion group and to help with grading. I have no say in the decision-making process as to who that Teaching Assistant is. About a month before the start of the quarter, the Director of the Labor Studies Department sends me the resume and application of my assigned Teaching Assistants. I then meet with the assigned Teaching Assistants to discuss agreements on their roles.

Taxes

25. In February of 2024 I filed and paid my income taxes, as well as my property taxes for the property I own in Turlock, California. I have also paid general sales and use taxes in my day-to-day life living in Long Beach, California whenever I buy groceries and similar items for daily living, which I do on a regular basis.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 27, 2024 in Los Angeles, California.

Signed by:

D85BD85656EA479

Iliana Guadalupe Perez Gonzalez

Declaration of Kent Wong

1. My name is Kent Wong. I make this declaration based on my own personal knowledge and if called to testify I could and would do so competently as follows.

Background and Expertise

2. I am the Project Director for Labor and Community Partnerships at the UCLA Labor Center. I previously served as Director of the Labor Center for over 30 years, from 1992-2003. The Labor Center works to build bridges between the labor movement, immigrant communities, and worker movements around the world; strengthen innovative worker education and popular education programs; and promote student internship opportunities within labor and community organizations.
3. I have taught courses in labor studies and ethnic studies at UCLA for over thirty years, including the first-ever course in the country on the issue of undocumented immigrant students.
4. I was also the founding president of the Asian Pacific American Labor Alliance and of the United Association for Labor Education. I am currently vice president of the California Federation of Teachers.
5. I have worked with my students to publish three path-breaking books on the immigrant youth movement: *Underground Undergrads: UCLA Undocumented Immigrants Speak Out* (2008); *Undocumented and Unafraid: Tam Tran, Cinthya Felix, and the Immigrant Youth Movement* (2012); and *Dreams Deported: Immigrant Youth and Families Resist Deportation* (2016).
6. The Labor Center runs the Dream Resource Center (DRC). Since 2011, the DRC has provided undocumented student leaders a safe and empowering space to create social, policy, and narrative change via research, leadership development, and placements within the immigrant rights, social justice, and labor movements.
7. In the past 14 years, more than one thousand undocumented students have participated in DRC's Dream Summer program. Dream Summer places undocumented students with labor and community organizations for 10-week summer fellowships, allowing students to further their experiential education and take part in experiences that otherwise would be denied to them.
8. Over the course of my career, I have interacted with thousands of undocumented students. I have repeatedly found that among my finest students have been undocumented students.

The Experience of Undocumented Students and their Struggle for Support and Opportunities

9. The vast majority of undocumented students come from low-wage immigrant working-class families. From grades K-12, they have essentially been treated the same as their classmates: no difference in the classes they can take, no differences in the educational opportunities available to them. Yet, when they graduate from high school, the disparate treatment they face from different sectors of society is dramatic. They are denied work authorization, equal access to higher education, and many financial aid opportunities.
10. Through my experience working with hundreds of undocumented students, I have seen that these differences in treatment are a source of tremendous anxiety and pressure for them.
11. Undocumented students have not simply accepted these forms of disparate treatment. Particularly over the past 14 years, undocumented students have repeatedly organized to demand the resources and opportunities they need and deserve.
12. In 2010, thousands of undocumented students across the country mobilized in support of the federal DREAM Act, which would have given lawful status and work authorization to undocumented immigrants who came to this country as children.
13. We held a gathering of undocumented students at the Labor Center to watch the DREAM Act votes in Congress. There was extraordinary energy, excitement, and celebration when the House voted to pass the DREAM Act, and there was tremendous sadness when, despite majority support, the filibuster prevented a vote in the Senate.
14. Shortly afterwards, the Labor Center convened a meeting with undocumented student leaders to talk about what could be done to support them and help sustain their work and their studies. The Dream Resource Center and Dream Summer Program emerged from that meeting.
15. In 2011, Dream Summer fellows were heavily involved in the campaign to pass the California Dream Act. The Act provided undocumented students in California with access to state financial aid for the first time.
16. Also in 2011, Dream Summer fellows helped launch the Right to Dream campaign, which led to the enactment of the Deferred Action for Childhood Arrivals (DACA) program in 2012.
17. DACA has been a huge benefit to the 800,000 youth who have qualified for its protections over the last twelve years. A study by UC San Diego found that young people with DACA earn on average 40% more than young undocumented people without work authorization, because DACA recipients have been able to use their skills to obtain good jobs, rather than working in the underground economy where there is a lot more exploitation and abuse.
18. The Labor Center can hire students who have DACA. They have done extraordinary work for us. And their work opens up career opportunities for them. I know students with DACA whose work with the Labor Center has been decisive in securing employment

after graduation, including with government, labor unions, workers centers, and community organizations.

19. Both the California Dream Act and DACA resulted in an improvement in the status of undocumented students. But now, with increasing numbers of students who no longer have access to DACA because of the Trump Administration's suspension of the program and subsequent legal challenges, we are again seeing massive disparities.
20. As a result of the tremendous anxiety and pressure our undocumented students experience, many do not graduate in the four years that are generally the standard for undergraduates. Many have to drop out of school for a quarter or a semester in order to work, often in the underground economy in exploitative conditions, to save enough money to return to school. Some of the students who drop out for these reasons fail to return.
21. Many undocumented students do not have the financial resources to live in the dorms. They endure one- to two-hour commutes each way to the UCLA campus. I know undocumented students who sleep in the libraries and shower in the gym in order to save precious hours commuting back and forth. These burdens can have a negative impact on undocumented students' performance at school.
22. Right across the street from UCLA, there is a church-sponsored food kitchen named the 580 Cafe that feeds many of our undocumented students. The 580 Cafe has created a space where students who are facing food insecurity know that they can go to get food. It also permits students who have extremely long commutes to rest or sleep for a few hours if they cannot make the trip back home because they have an evening event or are studying for finals or preparing a final paper.

Undocumented Students and Campus Employment

23. It is UC policy to refuse to provide any job opportunities for students who lack work authorization.
24. Every year, the Labor Center employs dozens of graduate and undergraduate students. They play an indispensable role in the work that we do.
25. Unfortunately, our undocumented students do not have access to employment by UCLA. I cannot hire them as research assistants or teaching assistants. I have been teaching a class for nearly twenty years about undocumented students. But I cannot employ undocumented students to work as my research or teaching assistants. That situation is very challenging. Here I am, putting out research about immigrant students and workers, and about the reality of the Los Angeles working class with its huge immigrant population, but I cannot hire those students who are most capable and skilled at assisting with this research.
26. Years ago, the very first undocumented student to ever attend UCLA Law School worked with us at the Labor Center as a summer law clerk. We could not hire him as an

employee, so we had to fashion a special scholarship program for him. We would have much preferred to hire him so that he could enjoy the benefits of other students who are gainfully employed. But we could not. And because it was so expensive for him to complete his law school education, this brilliant student—the first ever undocumented student to graduate from UCLA, who went on to become a practicing immigration attorney—had to work weekends as a day laborer, even though he worked for us as a law clerk during the day.

27. I have many similar stories of brilliant undocumented students who have struggled as a result of the UC's policy of refusing to employ undocumented students.
28. Denying work opportunities to our undocumented students not only harms our students, their families, and their communities, it also harms the University itself.
29. Undocumented students are crucial when it comes to advancing the research, educational, and public service mission of the University as a whole and the Labor Studies program in particular. The issues we address in our Labor Studies curriculum include challenges facing immigrant and low-wage workers, including day laborers, car wash workers, janitors, and hotel workers. Undocumented students often have keen interest in conducting research in and partnering with the communities from which they came. And the skills our undocumented students have are essential to that work. Many are bilingual and biliterate, and many have the lived experience of immigrant households and immigrant communities, so they know the issues facing workers.
30. For example, the Labor Center recently completed a community scholars research project on the garment industry in LA, which is made up almost entirely of immigrant workers, mainly immigrant women. We had an excellent team of graduate and undergraduate students, including undocumented students, who conducted this research and they did a brilliant job. Because they are bilingual and biliterate, and because they have a deep knowledge and sensitivity to these communities, they were able to interview garment workers, document workplace conditions, and identify daily exploitation and violations of basic minimum wage standards.
31. The Labor Center would like to hire undocumented students. We would like to allow them to list on their resumes that they were employed by a UCLA Center. And undocumented students would like to go through the process that all our other student workers go through and simply apply for and be hired for a position.
32. Instead, we have to go to great lengths to establish fellowships and scholarships to be able to provide any compensation at all to undocumented students for their work. We have to make use of worker cooperatives and find other ways that we can get resources to undocumented students because the University has prohibited us from hiring them.
33. Unfortunately, scholarships, fellowships, and worker cooperatives are not adequate substitutes for employment.

34. When we provide scholarships or fellowships, students are required to declare them to UCLA. UCLA then deducts the amount of the scholarship or fellowship from the student's overall financial aid package. This is a huge problem. Frequently it turns out there is zero net financial gain for undocumented students as a result of receiving a scholarship or fellowship. The amount they receive is simply offset by a reduction in other financial aid.
35. With respect to workers cooperatives, there is an extraordinary amount of set up work required. You have to create an LLC, incorporate it, staff it, and organize it. It takes a minimum of six months to get a worker cooperative off the ground. Once the cooperative is set up, you then have to get it certified by the University and become a vendor of the University, which is also time-consuming. Very few of my colleagues within UCLA or the UC system would be willing to invest the time and resources it takes to set up a cooperative. If a faculty member has the option of simply hiring a student with work authorization versus investing time and resources to set up a worker cooperative, most will simply hire the student with work authorization, even if the undocumented student is more qualified for the job.
36. There is something very wrong with a system when undocumented students study hard, work hard, do exactly what our society has asked them to do, and are then told that, despite everything they have done to acquire the education, skills, and training they need to contribute to society, their own universities refuse to hire them. That is harmful to undocumented students and it is harmful to the University itself.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 27, 2024 in Los Angeles, CA.

Kent Wong

Kent Wong

9/27/2024