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DATE: September 5, 2017

TO: All Colleges

FROM: Jacob Knapp *JK*
Acting General Counsel

SUBJECT: **Legal Update: Rescission of Deferred Action for Childhood Arrivals (DACA)**

This morning, Attorney General Sessions announced the “unwinding” of the DACA program. The purpose of this memo is to discuss the details of the administration’s actions related to DACA and the impact on our students who participate in the DACA program.

What is DACA?

DACA was established in June of 2012 by the Obama Administration to provide administrative relief from deportation to specific individuals who applied for and received DACA status from the federal government. The purpose of DACA was to protect eligible immigrant youth who came to the United States as children (1) protection from deportation; and (2) a work permit. Eligible applicants were able to obtain DACA status for two years, subject to renewal.

Applicants for DACA status had to meet the following requirements:

- Must have been physically present in the US on June 15, 2012
- Must have been under the age of 31 on June 15, 2012
- Must have come to the US before 16th birthday
- Must have continuously resided in the US since June 15, 2007
- Must currently be in school, or have graduated high school or obtained a GED certificate, or have been honorably discharged from the armed forces
- Have not been convicted of a felony and do not otherwise pose a threat to national security or public safety.

Department of Homeland Security Memorandum on Rescission of DACA

On September 5, 2017, the Department of Homeland Security (DHS) issued a memorandum on the rescission of DACA. It is important to note that DACA was not immediately terminated – a six month window was created by the administration, ostensibly for Congress to put the program into legislation. For the time being, individuals with DACA status continue enjoy the benefits of the DACA program, including

deferred action and work authorization. The DHS memo on the rescission of DACA provides that DHS will, effective immediately, do all of the following:

- Pending DACA Initial Applications: DHS will consider, on an individual, case-by-case basis, properly filed and pending DACA initial requests and associated applications for Employment Authorization Documents that have been accepted by the Department as of September 5, 2017.
- New DACA Initial Applications: No new applications for initial DACA status will be accepted after September 5, 2017.
- Pending DACA Renewal Requests: DHS will consider, on an individual, case-by-case basis, properly filed and pending DACA renewal requests from current beneficiaries that have been accepted by the Department as of September 5, 2017.
- New DACA Renewal Requests: DHS will consider, on an individual, case-by-case basis, DACA renewal requests from *current beneficiaries whose benefits will expire between September 5, 2017 and March 5, 2018*. To be considered, these applications for renewal must be accepted by DHS as of October 5, 2017.
- Existing DACA Status: DHS will not terminate the grants of previously issued deferred action or revoke Employment Authorization Documents for the remaining duration of their validity periods.

Two issues to highlight once again for our existing DACA students: (1) DHS does not intend to terminate an individual's DACA status prior to its stated expiration; and (2) An individual whose DACA status is set to expire between now and March 5, 2018 may still apply for a renewal of their DACA status – but the application for renewal must be accepted by the Department by October 5, 2017.

The September 5, 2017 DHS Memorandum on the Rescission of DACA can be found at the following link: <https://www.dhs.gov/news/2017/09/05/memorandum-rescission-daca>

AB 540 and the California Dream Act

It is important to note that today's decision on the "unwinding" of DACA does not impact a student's ability to attend our colleges, qualify for an exemption from non-resident tuition fees under AB 540, or to apply for financial aid under the provisions of the California Dream Act. AB 540 and the California Dream Act are state programs that are entirely separate and distinct from DACA and the federal enforcement of immigration laws.

An AB 540 eligible student is exempt from paying non-resident enrollment fees if they meet all of the following criteria:

- Attended a California high school for at least three years, OR attained the equivalent of at least three years of credits from a California high school and attended at least three full years at California K-12 schools;

AND

- Graduated from a California high school, got a GED or passed the California High School Proficiency Exam;
- Are registered or enrolled at a California community college;

AND

- If required, complete an affidavit saying you have filed (or will file when you are eligible to do so) for legal immigration status.

More information about the California Dream Act can be found at the following link:

<http://www.icanaffordcollege.com/en-us/financialaidinfo/dreamact.aspx>

Additional resources for undocumented students can be found on the Chancellor's Office website at:

<http://www.cccco.edu/ResourcesforUndocumentedStudents.aspx>

Please feel free to contact my office if you have questions related to the rescission of DACA. We will continue to provide updates to our colleges as new information becomes available. As always, you should check with your local counsel for legal advice on specific issues related to your district.