



CITY OF SALINAS COUNCIL STAFF REPORT

DATE: October 10, 2017

DEPARTMENT: CITY ATTORNEY'S OFFICE

FROM: Christopher A. Callihan, City Attorney

TITLE: RESOLUTION SUPPORTING "DREAMERS" AND THE DEFERRED ACTION FOR CHILDHOOD ARRIVALS PROGRAM

RECOMMENDED MOTION:

A motion to consider a Resolution supporting "Dreamers" and the Deferred Action for Childhood Arrivals (DACA) Program.

RECOMMENDATION:

It is recommended that the City Council consider a Resolution supporting "Dreamers" and the Deferred Action for Childhood Arrivals (DACA) Program.

EXECUTIVE SUMMARY:

Council member Davis, with support from Council member De La Rosa, requested that a Resolution be prepared for the City Council's consideration regarding the City Council's support for undocumented students who fall within the parameters of the California Dream Act of 2011 ("Dreamers") and those who fall within the parameters of the Deferred Action of Childhood Arrivals (DACA) Program. The County of Monterey, as well as the cities of Santa Cruz and Watsonville have considered and have approved similar resolutions.

BACKGROUND:

Deferred Action for Childhood Action (DACA)

The Deferred Action for Childhood Action (DACA) program was announced by President Obama, and implemented in a memorandum by the Secretary of Homeland Security, on June 15, 2012. Under the program, certain people who came to the United States as children and meet several guidelines may request consideration of deferred action for a period of two years, subject to renewal. Deferred action is a use of prosecutorial discretion to defer removal action against an individual for a certain period of time. Deferred action does not provide lawful status. Individuals may request consideration under DACA, but a determination whether deferred action will result is at the discretion of the Department of Homeland Security (DHS). Individuals may qualify if they were under the age of 31 as of June 15, 2012; came to the United States before reaching their 16th

birthday; have continuously resided in the United States since June 15, 2007, up to the present time; were physically present in the United States on June 15, 2012, and at the time of making their request for consideration of deferred action; had no lawful status on June 15, 2012; are currently in high school, have obtained a general education development (GED) certificate, or are an honorably discharged veteran of the Coast Guard or the Armed Forces; and have not been convicted of a felony, significant misdemeanor¹, or three or more other misdemeanors, and do not otherwise pose a threat to national security or public safety.

On September 5, 2017, the Federal Administration announced that it would begin phasing out DACA on March 5, 2018. The Federal Department of Justice has taken the position that DACA was an “unconstitutional exercise of authority by the Executive Branch” and has stated that legal challenges to the program would “likely” result in DACA being deemed unlawful. On September 5, 2017, the Acting Director of DHS issued a memorandum officially rescinding the program. DHA will not process new DACA applications received after September 5. The memorandum allows current DACA recipients to keep their work authorization and deferred action grants until they expire. Beneficiaries whose status expires before March 5, 2018 can renew their two-year deportation protection and work permit by October 5, 2017. DACA recipients will begin to lose protection on March 6, 2018. They will no longer be eligible for lawful employment and they will be deportable. However, recipients who renew their status before March 6, 2017 can continue to work for the length of their renewal, which may be up to two years. The Federal Administration have a six-month delay for ending DACA with the intent of giving Congress time to pass legislation that would provide relief to DACA beneficiaries.

California Dream Act of 2011

The California Dream Act allows undocumented and nonresident documented students who meet certain provisions to apply for and to receive scholarships funded through public universities, stated administered financial aid, University grants, community college fee waivers, and Cal Grants. AB 540² allows non-resident students who meet certain qualifications to pay in-state tuition. These students may include undocumented students, students who are US citizens but who are not California residents, and dependent students whose parents are not California residents. The California Dream Act has afforded over 20,000 undocumented students (“Dreamers”) access to quality higher education.

CEQA CONSIDERATION:

The City Council’s consideration and approval of the attached Resolution is exempt from environmental review under the California Environmental Quality Act (CEQA) because it can be

¹ A “significant misdemeanor” is defined as a misdemeanor having a maximum term of imprisonment of one year or less but greater than five days and that meets the following criteria: (1) regardless of the sentence imposed, is an offense of domestic violence; sexual abuse or exploitation; burglary; unlawful possession or use of a firearm; drug distribution or trafficking; or, driving under the influence; and (2) if not an offense listed in (1), is one for which the individual was sentenced to time in custody of more than 90 days. The sentence must involve time to be served in custody, and therefore does not include a suspended sentence.

² AB 2000, passed in 2014, is an expansion of AB 540. It increases the scope of student eligibility for students who graduated early from a California high school with the equivalent of three or more years of credit.

seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. [CEQA Guidelines Section 15061(b)(3)]

STRATEGIC PLAN INITIATIVE:

The City Council's approval of the attached Resolution is not among the City Council's current goals and objectives as identified in the City Council's current Strategic Plan.

FISCAL AND SUSTAINABILITY IMPACT:

No impact to the City's General Fund is anticipated upon the City Council's approval of the attached Resolution.

ATTACHMENTS:

Resolution