



**Judicial
Watch**
*Because no one
is above the law!*

July 11, 2017

VIA E-MAIL and U.S. CERTIFIED MAIL

Honorable Mark Brnovich
Arizona Attorney General
1275 West Washington Street
Phoenix, AZ 85007-2926

Re: Request to Initiate Legal Action

Dear Attorney General Brnovich:

We represent former Arizona State Senator and Senate President Russell Pearce. Senator Pearce is concerned about the illegal use of public monies by the Arizona Board of Regents (“ABOR”). Specifically, ABOR has been and continues to provide in-state tuition rates for certain unlawfully present aliens, namely the so-called Deferred Action for Childhood Arrivals (“DACA”) recipients. Significant public monies are being used to provide lower in-state tuition rates to these DACA recipients.

As you know, your office recently won an important victory at the Arizona Court of Appeals in an action against Maricopa County Community College. *State of Arizona v. MCCC Dist. Bd.*, No. 1-CA-CV 15-0498 (Ct. App. Div. 1; issued June 20, 2017). In that case, your office argued, and the Court confirmed, that DACA recipients are not “lawfully present” aliens and thus not eligible for in-state tuition under Arizona law.

As ABOR itself has conceded, its sole basis to disregard federal and state law and to begin offering in-states rates to DACA recipients was the anomalous ruling by the Superior Court in *State of Arizona v. MCCC Dist. Bd.* Now, however, even as that legal “fig leaf” has disappeared because of the unequivocal ruling of the Court of Appeals, ABOR persists in its unlawful use of public monies. On June 29, 2017, ABOR announced that it plans to continue offering in-state rates to DACA recipients despite the plain language of federal and state law, the ruling of the Court of Appeals, and your opinion as the chief law enforcement officer of Arizona.

In light of ABOR’s continuing open defiance of the law and controlling legal precedent, Senator Pearce requests that you initiate legal action to enjoin the further use of public monies by ABOR in providing in-state tuition to DACA recipients. A.R.S. § 35-212. If you do not do so

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within 60 days, our client intends to initiate a legal action as an Arizona taxpayer under A.R.S. § 35-213 to recover all of the unlawful expenditures by ABOR incurred thus far plus interest, enjoin further expenditures, and seek attorney fees and costs as provided under the law.

We look forward to your prompt response.

Sincerely,

JUDICIAL WATCH, INC.



James F. Peterson
Senior Attorney

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