EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA, Plaintiff, v. STATE OF CONNECTICUT; THE OFFICE OF HIGHER EDUCATION; TIMOTHY LARSON, the Commissioner of Higher Education, in his official capacity; THE BOARD OF REGENTS FOR HIGHER EDUCATION; THE BOARD OF TRUSTEES OF THE UNIVERSITY OF CONNECTICUT, Defendants.	Case No. 3:26-cv-1278-VAB

BRIEF OF AMICUS CURIAE CONNECTICUT STUDENTS FOR A DREAM IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS

Madelyn Finucane (ct31861)
Brenda Cachay Gutierrez, Law Student Intern*
Alaa Hajyahia, Law Student Intern*
Edgar O'Connell, Law Student Intern*

Worker and Immigrant Rights Advocacy Clinic
Jerome N. Frank Legal Services Organization
Yale Law School
127 Wall Street
New Haven, CT 06511

Counsel for Amicus Curiae
Connecticut Students for a Dream

*Motion for law student appearance filed concurrently

TABLE OF CONTENTS

INTEREST OF AMICUS CURIAE 1

ARGUMENT 2

I. Because § 1623(a) regulates states rather than private actors, the statute violates anticommandeering doctrine and does not preempt the Connecticut Tuition Laws. 3

II. The Connecticut Tuition Laws embody the political accountability and individual liberty interests that anticommandeering doctrine protects. 7

A. The Connecticut Tuition Laws are a success story for political accountability: state leaders responded to sustained demands from an informed and engaged public. 7

B. Connecticut residents' liberty to seek an education is at stake here, and the protection of such liberties motivates anticommandeering doctrine. 14

CONCLUSION 18

TABLE OF AUTHORITIES

Cases

Bd. of Regents of State Colls. v. Roth, 408 U.S. 564 (1972) 15

Bond v. United States, 564 U.S. 211 (2011) 14, 16

City of New York v. United States, 179 F.3d 29 (2d Cir. 1999) 5, 6

Clark v. Martinez, 543 U.S. 371 (2005) 2, 6

Coleman v. Thompson, 501 U.S. 722 (1991) 14

Danso v. Univ. of Conn., 50 Conn. Supp. 256 (Super. Ct. 2007) 15

Dep't of Homeland Sec. v. Regents of the Univ. of Cal., 591 U.S. 1 (2020) 1, 8

Haaland v. Brackeen, 599 U.S. 255 (2023) 5

Meyer v. Nebraska, 262 U.S. 390 (1923) 15

Murphy v. Nat'l Collegiate Athletic Ass'n, 584 U.S. 453 (2018) ..... passim

New York v. U.S. Dep't of Just., 951 F.3d 84 (2d Cir. 2020) 4, 5, 6

New York v. United States, 505 U.S. 144 (1992) 3, 7, 14, 16

Pennhurst State Sch. & Hosp. v. Halderman, 451 U.S. 1 (1981) 6

Plyler v. Doe, 457 U.S. 202 (1982) 16, 17

Reno v. Condon, 528 U.S. 141 (2000) 5

United States v. Texas, 181 F.4th 548 (5th Cir. 2026) 4, 5

Vlandis v. Kline, 412 U.S. 441 (1973) 6

Statutes and Law

8 U.S.C. § 1621(d) 6

8 U.S.C. § 1623(a) ..... passim

Conn. Const. art. VIII, § 2 6

Conn. Gen. Stat. § 10a-19m (Supp. 2026) 2, 14, 15

Conn. Gen. Stat. § 10a-29(9) (2025) 2, 11, 14, 15

Conn. Gen. Stat. § 10a-77(f) (Supp. 2026) 2, 14, 15

Conn. Gen. Stat. § 10a-161d (2025) 2, 6, 13, 14, 15

Conn. Gen. Stat. § 10a-173(d) (Supp. 2026) 2, 14, 15

Pub. Act No. 11-43 (Conn. 2011) 9, 10

Pub. Act No. 15-82 (Conn. 2015) 11

Pub. Act No. 18-2 (Conn. 2018) 13

Other Authorities

Brief of United We Dream & 50 Orgs. as Amici Curiae Supporting Respondents, *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1 (2020) (Nos. 18-587, 18-588, 18-589) 1

Brian McCready, *New Law Allows Dreamers to Access State's Financial Aid: Malloy*, Greater Hartford Patch (Apr. 27, 2018) 13

CT Students for a Dream, *About Us* 1, 8, 11

CT Students for a Dream, *College Access Program* 1

CT Students for a Dream, *College Access Program: Four-Year Impact Report (2021–2026)* (Oct. 22, 2026) 1, 17

CT Students for a Dream, *Events* 8

CT Students for a Dream, *Petition for Rule-Making to Promulgate Regulations Governing Financial Aid Eligibility for Students Attending Connecticut Institutions of Higher Education* (Mar. 6, 2014) 12

CT Students for a Dream, *Support Equal Access to Student-Generated, Institutional Aid* 12

Deborah J. Merritt, *The Guarantee Clause and State Autonomy: Federalism for a Third Century*, 88 Colum. L. Rev. 1 (1988) 7

Drive Renewed for In-State Tuition for Undocumented Students, Hartford Courant (Mar. 13, 2011) 8, 9

Gabriela Zhunio, *CT Students for a Dream: Fighting for Immigrant Rights, One Policy at a Time*, Hatters' Herald (Jan. 15, 2025) 2

Harriet Jones, *Undocumented Students Once Again Call for Access to Financial Aid in Connecticut*, Conn. Pub. Radio (Feb. 14, 2018) 12

Higher Ed Officials Back In-State Tuition for Undocumented Students, CT Mirror (Mar. 15, 2011) 9

Kevin Zevallos, *The American Dream(ers): Undocumented Youth's (Re)interpretation of Social Movement Frames* (2018) (M.A. thesis, Univ. of Conn.) 8, 10, 12, 13

Lucy Gellman, *In the Midst of Immigration Fight, C4D Fêtes 16 Years*, Arts Paper (Sept. 18, 2026) 1, 16

Testimony of Camila Bortolleto, Founder, CT Students for a Dream, on H.B. 5031 Before the Higher Educ. & Emp. Advancement Comm. (Conn. Feb. 13, 2018) 12, 16

Testimony of Carolina Bortolleto, Co-Founder, CT Students for a Dream, on H.B. 5031 Before the Higher Educ. & Emp. Advancement Comm. (Conn. Feb. 13, 2018) 16

The Federalist No. 51 (James Madison) (Clinton Rossiter ed., 1961) 14, 17

Young Immigrants Turn Dreams into Action, Cmty. Found. for Greater New Haven (May 21, 2018) 10

INTEREST OF AMICUS CURIAE

Connecticut Students for a Dream ("C4D") is the only statewide organization in Connecticut led by undocumented youth, the young people this lawsuit most directly affects.[1] Founded in 2010 by four undocumented teenagers, C4D has grown into a statewide network that organizes undocumented young people and their allies to advance the rights and dignity of immigrant communities. *See* Lucy Gellman, *In the Midst of Immigration Fight, C4D Fêtes 16 Years*, Arts Paper (Sept. 18, 2026);[2] *About Us*, CT Students for a Dream.[3] C4D's members include high school students planning for college, students now enrolled at Connecticut's public universities and community colleges, and recent graduates.

C4D's members led the campaigns that produced two of the statutes the United States now challenges: Connecticut's in-state tuition and institutional aid laws. *See infra* Part II.A. C4D also helps students use those laws, offering one-on-one mentoring and college-planning resources through its College Access Program.[4] *See College Access Program*, CT Students for a Dream.[5] Since 2021, the program has provided more than 1,100 individual advising sessions to students and families and has guided 88 high school seniors through applying to college. *See* CT Students for a Dream, *College Access Program: Four-Year Impact Report (2021–2026)*, at 1 (Oct. 22, 2026) [hereinafter *CAP Impact Report*]. C4D's work even reaches beyond the classroom. Its members advocated for the State's expansion of HUSKY health coverage to children regardless of

[1] C4D retained the Jerome N. Frank Legal Services Organization as counsel for purposes of this brief. No money was contributed toward its preparation or submission.

[2] https://www.newhavenarts.org/arts-paper/articles/in-the-midst-of-immigration-fight-c4d-fêtes-16-years (last visited Nov. 14, 2026).

[3] https://ct4adream.org/about-us/ (last visited Nov. 14, 2026).

[4] C4D has also brought its members' perspective to the courts, joining a Supreme Court amicus brief in support of DACA recipients. *See* Brief of United We Dream & 50 Orgs. as Amici Curiae Supporting Respondents, *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1 (2020) (Nos. 18-587, 18-588, 18-589).

[5] https://ct4adream.org/cap/ (last visited Nov. 14, 2026).

immigration status. *See* Gabriela Zhunio, *CT Students for a Dream: Fighting for Immigrant Rights, One Policy at a Time*, Hatters' Herald (Jan. 15, 2025).[6]

C4D brings a perspective that no party to this case can offer. C4D's members include the students who fought for these laws, who built their education and their futures around them, and who would bear the direct consequences of the declaratory and injunctive relief the United States seeks. C4D submits this brief so the Court can hear from them before deciding whether to strike down statutes that have shaped Connecticut's public colleges and universities, some for fifteen years.

ARGUMENT

8 U.S.C. § 1623(a) does not preempt Conn. Gen. Stat. §§ 10a-29(9) and 10a-161d (2025) and §§ 10a-77(f), 10a-173(d), and 10a-19m (Supp. 2026) (collectively, the "Connecticut Tuition Laws"). To have preemptive effect, a federal statute must "regulate individuals, not States." *Murphy v. Nat'l Collegiate Athletic Ass'n*, 584 U.S. 455, 477 (2018). In other words, the federal statute must conform to anticommandeering principles. Because § 1623(a) regulates states, not individuals, it violates anticommandeering doctrine and thus has no preemptive power. This doctrinal violation is not minor or technical because the Connecticut Tuition Laws embody the values that motivate anticommandeering doctrine. They are a success story of political accountability and serve to protect individual liberty from government overreach. Thus, both the doctrine itself and the values that underlie it prevent § 1623(a) from having any preemptive effect. At a minimum, reading § 1623(a) to preempt the Connecticut Tuition Laws, as Plaintiff United States urges, would raise serious constitutional doubts. Those doubts give the Court an independent reason to reject the United States' reading in favor of the narrower reading that Defendants

[6] https://hattersherald.com/16821/features/ct-students-for-a-dream-fighting-for-immigrant-rights-one-policy-at-a-time/ (last visited Nov. 14, 2026).

advance. *See Clark v. Martinez*, 543 U.S. 371, 380–81 (2005) (explaining that when a statute is open to more than one plausible reading, courts should choose the one that avoids serious constitutional problems).

I. Because § 1623(a) regulates states rather than private actors, the statute violates anticommandeering doctrine and does not preempt the Connecticut Tuition Laws.

The United States submits that § 1623(a) preempts the Connecticut Tuition Laws, but the Supreme Court's anticommandeering doctrine forecloses such preemption. *See Murphy*, 584 U.S. at 477. Anticommandeering limits on preemption necessarily flow from "the expression of a fundamental structural decision incorporated into the Constitution, *i.e.,* the decision to withhold from Congress the power to issue orders directly to the States." *Id.* at 470. The Supreme Court provides a two-step test for determining if a federal law can preempt a state law. *Id.* at 477. In step one, the federal law "must represent the exercise of a power conferred on Congress by the Constitution." *Id.* In step two, the federal law must "regulate individuals, not States." *Id.* (quoting *New York v. United States*, 505 U.S. 144, 166 (1992)). Section 1623(a) fails this second requirement.

Applying the doctrine to the case at hand, § 1623(a) does not pass the second prong of the *Murphy* test (and thus cannot preempt the Connecticut Tuition Laws) because § 1623(a) would regulate Connecticut and not individuals. *See Murphy*, 584 U.S. at 477. Because § 1623(a) regulates determinations about postsecondary education benefits eligibility, and Connecticut makes those determinations, § 1623(a) regulates Connecticut.

The United States' own complaint concedes that it seeks to regulate Connecticut here. *See* Compl. ¶¶ 27, 31. It describes § 1623(a) as a limit on states. *See id.* While setting out its theory of the case, the United States writes that "a *state* may not offer in-state tuition (or 'resident tuition') benefits to illegal aliens present in the United States based on their residence in the state, if those

same benefits are denied to American citizens from other states. See 8 U.S.C. § 1623(a).” Compl. ¶ 27 (emphasis added). In a similar vein, the United States goes on to argue that “*state governments* must not confer greater benefits to illegal aliens present in our Nation than to American citizens.” Compl. ¶ 31 (emphasis added). In both instances, the entity doing the action the United States seeks to regulate is the state. *See United States v. Texas*, 181 F.4th 548, 571 (5th Cir. 2026) (Ramirez, J., dissenting) (stating that “the only entities that can determine ‘illegal alien eligibility’ for the public benefits contemplated by § 1623(a) are, in fact, the States”). The United States means to use § 1623(a) as a direct order to Connecticut to stop executing the laws that the Connecticut General Assembly passed.

That command is precisely what the anticommandeering doctrine forbids. As articulated in *Murphy*, the United States engages in regulation when it either (1) “confer[s] any federal rights” or (2) “impose[s] any federal restrictions” on the entity in question. *Murphy*, 584 U.S. at 479–80. Here, § 1623(a) imposes federal restrictions on Connecticut. It makes no difference that § 1623(a) is phrased in a way that tells Connecticut what it may *not* do rather than what it *must* do. *See Murphy*, 584 U.S. at 475 (describing as “empty” the distinction between federal statutes that command affirmative action and those that impose a prohibition); *New York v. U.S. Dep’t of Just.*, 951 F.3d 84, 113 (2d Cir. 2020) (confirming that *Murphy* clarified “prohibitions as well as mandates can manifest impermissible commandeering.”). Section1623(a), which tells states which benefits they may not extend to their own residents, is exactly such a forbidden prohibition.

Eligibility for in-state tuition or institutional aid has no existence apart from a state’s decision to create it, so a federal rule about who may be “eligible” for those benefits regulates no private person’s conduct, confers no federal right on any private actor, and operates only by dictating what the state itself may do. Nor is § 1623(a) the kind of evenhanded law, applicable to states and private parties alike, that does not typically implicate the Tenth Amendment. *Cf.*

Haaland v. Brackeen, 599 U.S. 255, 283 (2023) (explaining that "[l]egislation that applies 'evenhandedly' to state and private actors does not typically implicate the Tenth Amendment" (quoting *Murphy*, 584 U.S. at 476)); *Reno v. Condon*, 528 U.S. 141, 151 (2000) (upholding the Driver's Privacy Protection Act, which "regulates the States as the owners of data bases" and is "generally applicable" because it reaches both states and private resellers). Unlike the statute in *Condon*, which reached private resellers as well as state motor vehicle departments, § 1623(a) has no private object: only governments set resident tuition rates and award state-funded aid, and so § 1623(a), however it is framed, falls on states. *See Texas*, 181 F.4th at 571 (Ramirez, J., dissenting); *see also Murphy*, 584 U.S. at 478.

Whether a federal statute is in violation of anticommandeering principles depends, in part, on the domain in which it seeks to regulate. The Second Circuit has twice rejected commandeering challenges to federal provisions governing immigration information-sharing. *See State of New York v. Dep't of Justice,* 951 F.3d at 113; *City of New York v. United States*, 179 F.3d 29, 35 (2d Cir. 1999). In *State of New York*, the court stressed that "[a] commandeering challenge to a federal statute depends on there being pertinent authority 'reserved to the States.'" 951 F.3d at 113. Relying on its earlier rejection of a facial challenge in *City of New York*, it doubted that states hold reserved power to adopt immigration policies "contrary to those preferred by the federal government," including policies forbidding their officials from voluntarily sharing immigration-status information with federal authorities. *See State of New York*, 951 F.3dat 113–14; *City of New York*, 179 F.3d at 35.

Connecticut's reserved power at stake here is neither obscure nor contested. Setting tuition and awarding aid at a state's own public colleges and universities is an established sovereign function: the Supreme Court has long recognized that a state "has a legitimate interest in protecting and preserving the quality of its colleges and universities and the right of its own bona fide

residents to attend such institutions on a preferential tuition basis." *Vlandis v. Kline*, 412 U.S. 441, 452–53 (1973); *see also* Conn. Const. art. VIII, § 2 ("The state shall maintain a system of higher education."). Congress itself has acknowledged that a state may make noncitizens who are not lawfully present eligible for state benefits by enacting, after August 22, 1996, a law that affirmatively so provides, *see* 8 U.S.C. § 1621(d), which is exactly what the Connecticut General Assembly did, *see* Conn. Gen. Stat. § 10a-161d(c) (2025) (making eligible students without legal immigration status eligible for institutional financial aid "in accordance with 8 USC 1621(d)"). Unlike the grant condition that the Second Circuit sustained in *State of New York*, § 1623(a) does not "fix the terms on which [Congress] shall disburse federal money to the States," 951 F.3d at 114 (quoting *Pennhurst State Sch. & Hosp. v. Halderman*, 451 U.S. 1, 17 (1981)); it dictates instead how Connecticut may spend its own.

Because § 1623(a) can operate only by commanding Connecticut to withdraw benefits that its own legislature chose to confer, it violates anticommandeering doctrine and cannot preempt the Connecticut Tuition Laws. At a minimum, these constitutional problems give the Court an independent reason to reject the United States' reading of § 1623(a) in favor of the narrower reading that Defendants advance. *See Clark*, 543 U.S. at 380–81. As Part II explains, the Connecticut Tuition Laws are themselves an embodiment of the very values that the anticommandeering doctrine exists to protect.

II. The Connecticut Tuition Laws embody the political accountability and individual liberty interests that anticommandeering doctrine protects.

Connecticut's Tuition Laws are the product of grassroots advocacy by undocumented students and their allies, who organized, coalesced, and engaged the State's democratic process. To invoke § 1623(a) to preempt those laws would contradict the political accountability that the anticommandeering doctrine protects. Further, the Connecticut Tuition Laws promote the liberty

of individuals by granting Connecticut residents the opportunity to pursue higher education. To conclude that they are preempted would be to restrict individual liberty, which is another reason the anticommandeering doctrine keeps laws such as § 1623(a) from preempting laws such as the Connecticut Tuition Laws.

A. The Connecticut Tuition Laws are a success story for political accountability: state leaders responded to sustained demands from an informed and engaged public.

Anticommandeering doctrine promotes political accountability by ensuring that state governments remain "accountable to the people" and "responsive to the local electorate's preferences." *New York*, 505 U.S. at 169. First, the doctrine clarifies responsibility. As the Supreme Court explained in *Murphy*, when Congress directly regulates, "the responsibility for the benefits and burdens of [] regulation is apparent" since voters "know who to credit or blame." 584 U.S. at 473–74. However, when Congress indirectly regulates through commands to a state, "responsibility is blurred." *Id.* In other words, anticommandeering doctrine ensures that regulatory outcomes can be traced to an appropriate person or entity. Second, and relatedly, anticommandeering doctrine fosters authentic democratic engagement at the state and local level. *See generally* Deborah J. Merritt, *The Guarantee Clause and State Autonomy: Federalism for a Third Century*, 88 Colum. L. Rev. 1, 7 (1988) (discussing "the ability of state and local governments to draw citizens into the political process"). Such engagement in governmental decision-making "trains citizens in the techniques of democracy . . . and enhances voter confidence in the democratic process." *Id.* Anticommandeering doctrine thus promotes both clarity and engagement—two elements of political accountability.

The Connecticut Tuition Laws are the product of the political accountability that anticommandeering doctrine protects, and emblematic of how Connecticut has remained responsive to its communities. Connecticut's legislators did not extend these benefits by accident

or without knowing whom they would serve. Over nearly a decade, Connecticut's undocumented students emerged from the shadows and introduced their experiences into the public consciousness. Voters and community leaders coalesced around these students, "'productive young people' who were brought here as children and 'know only this country as home,'" and demanded change from the State's elected officials. *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 29 (2020). The General Assembly acted on what it heard.

The story of the Connecticut Tuition Laws begins with undocumented students' own voices. In 2011, C4D held Connecticut's first "Undocumented and Unafraid: Coming Out" event, where undocumented students shared their experiences and came out publicly to their communities. *See* Kevin Zevallos, *The American Dream(ers): Undocumented Youth's (Re)interpretation of Social Movement Frames* 5 (2018) (M.A. thesis, Univ. of Conn.);[7] *About Us*, *supra*. On March 24, 2012, more than 200 students, parents, and community leaders attended a second similar event. *See Events*, CT Students for a Dream.[8]

In early 2011, "supporters of allowing [undocumented] students" to access education benefits "launched a[] . . . campaign for it in the state legislature." *Drive Renewed for In-State Tuition for Undocumented Students*, Hartford Courant (Mar. 13, 2011).[9] Among these "advocates" were "a coalition of students, educators, [and] immigration activists" who organized rallies and circulated petitions. *Id.* In the months that followed, C4D members would take to the Capitol, where they lobbied lawmakers and testified before the Higher Education Committee about their own lives.

[7] https://opencommons.uconn.edu/gs_theses/1242 (last visited Nov. 14, 2026).

[8] https://www.ct4adream.org/events (last visited Nov. 14, 2026).

[9] https://hartfordinfo.org/issues/documents/educationfunding/htfd_courant_031311.html (last visited Nov. 14, 2026).

On March 15, 2011, undocumented students and their supporters flooded the halls of the General Assembly, "sitting on the floor" once every chair had been filled and prompting the creation of an overflow room. Pub. Act No. 11-43 (Conn. 2011), *reprinted in Legislative History for Connecticut Act*, at 702 (2011). A citizen mother urged the Higher Education Committee to consider "looking at [their] baby girl and telling her that she could not further pursue her education." *Id.* at 782. Religious leaders testified on behalf of themselves and other pastors, and advocated for students who "cannot attend schools which they cannot afford." *Id.* at 786. Lending their institutional support were Governor Dannel Malloy, Senate Majority Leader Martin Looney, the Connecticut Chapter of the American Civil Liberties Union, and "officials of the state's two largest public higher education systems," the "acting chancellor of the 36,600-student Connecticut State University System," and the "assistant chancellor of the state's 58,200-student community college system." *Higher Ed Officials Back In-State Tuition for Undocumented Students*, CT Mirror (Mar. 15, 2011).[10]

On a personal level, undocumented students brought friends who "wait[ed] to testify in [their] support." *Id.* A senior from Brien McMahon High School's Center for Youth Leadership testified on behalf of "226 student activists" who lamented that "many of [their] classmates [would] not be able to celebrate a brighter future . . . simply because the circumstances of their birth render[ed] higher education cost prohibitive." Pub. Act No. 11-43 (Conn. 2011), *reprinted in Legislative History for Connecticut Act*, at 784 (2011). Facing the figures that would determine the course of her classmates' futures, the senior added: "To vote no on this bill is to deny one of the intrinsic fundamental tenants [sic] of our society," the right to self-determination which has nothing to do with "whether the hospital of the student's birth was in Hartford or Honduras." *Id.*

[10] https://ctmirror.org/2011/03/15/higher-ed-officials-back-state-tuition-undocumented-students/ (last visited Nov. 14, 2026).

Another student proclaimed that she would vote and "be the voice" for her undocumented peers. *Id.* at 804.

Interspersed in the sea of support were the testimonies of undocumented students—the catalysts for the political engagement unfolding across Connecticut. A high school valedictorian, who came to the United States "not knowing a word of English" and gained admission to Cornell University and Connecticut institutions, shared that he was unable to claim a scholarship to the University of Connecticut due to his lack of status. *Id.* at 787. Now, he added, his parents "worry, fight, and struggle to pay the high international rates of [his] community college." *Id.* A formerly undocumented student chronicled the numerous obstacles she faced throughout her academic career, stating that she was only able to "hit the ground running" once she adjusted her status. *Id.* at 801. Others proclaimed they were "undocumented and unafraid," *id.* At, *e.g.*, 807, questioned how they could be considered "an out of state student" despite spending the majority of their lives in Connecticut, *id.* at 809, and implored the General Assembly to "recognize the importance of education regardless the status of a person." *Id.* at 811.

Legislators acted with those stories before them. In 2011, the General Assembly extended in-state tuition to undocumented students who completed four years of high school in Connecticut. Pub. Act No. 11-43 (Conn. 2011); *see* Zevallos, *supra*, at 5 (describing how C4D pushed for the 2011 law "using personal testimonies and lobbying efforts"); *Young Immigrants Turn Dreams into Action*, Cmty. Found. for Greater New Haven (May 21, 2018) (reporting that C4D "successfully advocated to allow undocumented immigrant students [to] pay in-state tuition");[11] *About Us*, *supra* ("For the first time, the personal stories and voices of CT's undocumented students were heard by our legislators.").

[11] https://www.cfgnh.org/articles/young-immigrants-turn-dreams-into-action (last visited Nov. 14, 2026).

In 2015, the General Assembly reduced that requirement to two years. Pub. Act No. 15-82 (Conn. 2015) (codified as amended at Conn. Gen. Stat. § 10a-29(9) (2025)). Connecticut's undocumented students and their allies remained the impetus for change. "In fact, [the General Assembly] did not receive any negative testimony regarding extending this public benefit to this . . . relatively small, but well-qualified group of students." Pub. Act No. 15-82 (Conn. 2015), *reprinted in Legislative History for Connecticut Act*, at 72–73 (2017). Kenneth Reveiz, a member of C4D, recalled the "countless mornings and nights knocking on doors, registering voters, mobilizing volunteers, and getting out the vote." *Id.* at 470. Reveiz described himself as "an agent of change in [his] neighborhood" and "responsible for a huge boom of civic engagement." *Id.* Similarly, Meghan Vesel, the former Deputy Director of the Brazilian Immigrant Center, described undocumented students as "provid[ing] training in civic engagement and legislative advocacy." *Id.* at 480. Undocumented students' organizing efforts inspired a coalition of residents, educators, and community leaders to urge the Connecticut legislature to decrease the four-year high school requirement. In their testimony, supporters argued that a two-year high school requirement would ensure Connecticut was no longer a "clear outlier" in its strict requirements, and that the State could reap the economic benefits of increased access to higher education. *Id.* at 476–78.

The campaign for institutional aid unfolded the same way: drawing in all sectors of the Connecticut populace over several years. In 2014, C4D petitioned three of the defendants here, the Board of Regents for Higher Education, the Office of Higher Education, and the Board of Trustees of the University of Connecticut, to make undocumented students eligible for institutional financial aid on the same terms as other students. *See* CT Students for a Dream, *Petition for Rule-Making to Promulgate Regulations Governing Financial Aid Eligibility for Students Attending Connecticut*

Institutions of Higher Education (Mar. 6, 2014).[12] Connecticut's public colleges and universities set aside part of their tuition revenue as "institutional aid" for students with financial need. Undocumented students paid tuition like everyone else, but they could not receive that aid. In 2014, for example, the colleges awarded $140 million in institutional aid, and none of it went to undocumented students. *See Support Equal Access to Student-Generated, Institutional Aid*, CT Students for a Dream.[13]

Recognizing that power lay in the Capitol, undocumented students and their allies took the issue to the General Assembly through C4D's Afford to Dream campaign. *See* Zevallos, *supra*, at 1. A measure to close that gap won a bipartisan committee vote and passed the State Senate in both 2015 and 2016, with more than thirty co-sponsors. *See id.*

Each year, legislators heard from the students themselves. At a February 13, 2018, public hearing, the Higher Education Committee "heard hours of testimony" on the institutional aid bill. Harriet Jones, *Undocumented Students Once Again Call for Access to Financial Aid in Connecticut*, Conn. Pub. Radio (Feb. 14, 2018).[14] One of C4D's founders, Camila Bortolleto, told the Committee that she was undocumented, that she had come to the United States from Brazil at age nine and grown up in Danbury, and that before the 2011 law she "had to pay the out[-of-]state rate for all 4 years" of college. Testimony of Camila Bortolleto, Founder, CT Students for a Dream, on H.B. 5031 Before the Higher Educ. & Emp. Advancement Comm. (Conn. Feb. 13, 2018)

[12] https://law.yale.edu/sites/default/files/documents/pdf/Clinics/WIRAC_C4D_rulemakingPetition.pdf (last visited Nov. 14, 2026).

[13] https://www.ct4adream.org/institutional-aid (last visited Nov. 14, 2026).

[14] https://www.ctpublic.org/education/2018-02-14/undocumented-students-once-again-call-for-access-to-financial-aid-in-connecticut (last visited Nov. 14, 2026).

[hereinafter Camila Bortolleto Testimony].[15] She asked for "equal access to the system of set-aside funds that we all pay into." *Id.*

On April 25, 2018, prior to the General Assembly's successful vote on an institutional aid measure, Deputy Speaker Gentile expressed gratitude for the "many organizations who have supported this legislation . . . including non-profit organizations, labor, and those in the religious community." Pub. Act No. 18-2 (Conn. 2018), *reprinted in Legislative History for Connecticut Act*, at 85 (2018). He then turned to the Dreamers, describing them as "an amazing group of young students who have literally camped out here at the Capitol to ensure that no legislator did not have the opportunity to meet with them and talk with them." *Id.* at 86. The General Assembly passed S.B. 4, and Governor Malloy signed it, saying: "We are talking about young people whose dream is to seek higher education, work here and contribute to our state's economy." Brian McCready, *New Law Allows Dreamers to Access State's Financial Aid: Malloy*, Greater Hartford Patch (Apr. 27, 2018) (quoted in Zevallos, *supra*, at 1).[16] The new law made undocumented students who qualify for in-state tuition, and who came to the United States as children, eligible for institutional aid beginning in January 2020. Pub. Act No. 18-2, § 1 (Conn. 2018) (codified at Conn. Gen. Stat. § 10a-161d (2025)); *see* Compl. ¶¶ 37 & n.8, 44, 86–92.

The Connecticut Tuition Laws illustrate the political accountability that the anticommandeering doctrine protects. The General Assembly enacted these laws with full knowledge of the students they would benefit, because those students testified publicly in their own names and activated their communities. Connecticut voters, in turn, can readily identify the officials responsible for these policies: their own state legislators. *See Murphy*, 584 U.S. at 473–

[15] https://www.cga.ct.gov/2018/HEDdata/Tmy/2018HB-05031-R000213-Bortolleto, Camila, Founder-CT Students for a Dream-Student-Generated Institutional Financial Aid-TMY.PDF (last visited Nov. 14, 2026).

[16] https://patch.com/connecticut/hartford/new-law-allows-DREAMers-access-states-financial-aid-malloy (last visited Nov. 14, 2026).

74 (explaining that where responsibility for a regulation is clear, "[v]oters who like or dislike the effects of the regulation know who to credit or blame"). The United States' interpretation of § 1623(a) would disrupt that accountability. Under that interpretation, Connecticut would be forced to stop providing benefits that its own legislature chose to provide. Voters who saw those benefits disappear would naturally hold their state officials responsible, even though the decision was made by Congress. *See id.* (observing that when a State acts "only because it has been commanded to do so by Congress, responsibility is blurred").[17]

B. Connecticut residents' liberty to seek an education is at stake here, and the protection of such liberties motivates anticommandeering doctrine.

Federalism also exists to protect individual liberty. In "the compound republic of America," James Madison explained, power "is first divided between two distinct governments," so that "a double security arises to the rights of the people." The Federalist No. 51, at 323 (James Madison) (Clinton Rossiter ed., 1961). That division guards not only against "the oppression of [the society's] rulers" but also against "the injustice of the other part" of society, protecting minorities whose rights would otherwise "be insecure." *Id.* at 323–24. The Supreme Court has embraced the same understanding, stating that "[f]ederalism secures to citizens the liberties that derive from the diffusion of sovereign power." *New York*, 505 U.S. at 181 (quoting *Coleman v. Thompson*, 501 U.S. 722, 759 (1991) (Blackmun, J., dissenting)); *see Bond v. United States*, 564 U.S. 211, 222 (2011) (explaining that federalism "protects the liberty of all persons within a State

[17] The requested relief is not limited to undocumented students. The United States asks the Court to declare Conn. Gen. Stat. §§ 10a-29(9), 10a-161d, 10a-77(f), 10a-173(d), and 10a-19m "unconstitutional and invalid" in their entirety. Compl., Prayer for Relief ¶ 1. But § 1623(a) reaches only "an alien who is not lawfully present in the United States." 8 U.S.C. § 1623(a). Section 10a-29(9) defines who qualifies as an in-state student for tuition purposes; invalidating it would leave Connecticut unable to classify *any* student as in-state. *See also* Defs.' Mem. 10–11 (identifying U.S. citizens from other States who qualify for in-state tuition). Sections 10a-77(f) and 10a-173(d) govern community college aid and the Roberta B. Willis Scholarship program, which serve U.S. citizens and lawfully present students, *see* Defs.' Mem. 15–16, and § 10a-19m provides student loan reimbursement to a wide range of Connecticut residents, including U.S. citizens. Even if § 1623(a) preempted some applications of these statutes, the relief the United States seeks would sweep in programs that benefit U.S. citizens and lawfully present noncitizens.

by ensuring that laws enacted in excess of delegated governmental power cannot direct or control their actions"); *Murphy*, 584 U.S. at 473.

The overreach Madison describes, and the federalist structures meant to protect against it, are at stake here. The United States seeks to assert federal power over the way Connecticut allocates funds to its postsecondary education system. *See* Compl. ¶ 89. In doing so, the United States not only seeks to control Connecticut's use of state money, but also to put a limit on the liberties of Connecticut residents. That liberty is precisely what federalism's structure exists to secure: the freedom of a state's residents to benefit from the choices their own state has made, free from federal commands routed through their state government, including, as here, the choice to open the door to higher education, and with it the liberty to acquire knowledge that the Supreme Court recognized a century ago. *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923).

United States Supreme Court precedent recognizes a conception of liberty broad enough to include the liberty to seek postsecondary education. In *Meyer v. Nebraska*, the Court explained that liberty denotes "not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children," 262 U.S. 390, 399 (1923), and observed that "[t]he American people have always regarded education and acquisition of knowledge as matters of supreme important which should be diligently promoted," *id*. at 400; *see also Bd. of Regents of State Colls. v. Roth*, 408 U.S. 564, 572 (1972) ("In a Constitution for a free people there can be no doubt that the meaning of 'liberty' must be broad indeed."). Consistent with that understanding, Connecticut case law also recognizes the unique intersection of liberty and postsecondary education. *See Danso v. Univ. of Conn.*, 50 Conn. Supp. 256, 263 (Super. Ct. 2007) ("Undoubtedly, however, a student attending a state college has a liberty interest in continuing that education."). The liberty of Connecticut residents at stake here is a fundamental one.

While the United States does not directly seek to ban Connecticut residents who are undocumented from seeking postsecondary education entirely, declaring Conn. Gen. Stat. §§ 10a-29(9), 10a-161d, 10a-77(f), 10a-173(d), and 10a-19m invalid would still put the liberty of Connecticut residents to seek postsecondary education in jeopardy. That § 1623(a) regulates the State rather than individuals, *see supra* Part I, does not make the harm to individuals any less real. Protecting individuals from federal commands routed through their own state government is the point of the anticommandeering rule. *See New York*, 505 U.S. at 181; *Bond*, 564 U.S. at 222. For a Connecticut student unable to afford postsecondary education but for provisions that fall under the challenged statutes, the United States eliminating these provisions would be tantamount to the United States eliminating their liberty to seek postsecondary education altogether. *See* Camila Bortolleto Testimony, *supra* ("[W]ithout access to any aid, many immigrant families remain unable to afford the high cost of tuition even at instate tuition rates."); *cf. Plyler v. Doe*, 457 U.S. 202, 223 (1982) (recognizing that denying undocumented children an education "imposes a lifetime hardship on a discrete class of children not accountable for their disabling status").

The United States seeks to strip these students of in-state tuition and institutional aid. Connecticut has seen what that looks like. C4D founder Camila Bortolleto graduated from Western Connecticut State University in 2010, before the in-state tuition law took effect, and "had to pay the out[-of-]state rate for all 4 years, which was expensive and especially painful as I had lived down the street from WCSU for 10 years at that time." Camila Bortolleto Testimony, *supra*. Another C4D co-founder, Hafid Dumet, was admitted to the same university and learned that he, too, would have to pay out-of-state tuition. *See* Gellman, *supra*. He enrolled part-time in accounting and finished in six years. *Id.* Bortolleto and Dumet persevered, but only by paying far more than their classmates, or by stretching their studies over more years. Even with in-state tuition, C4D co-founder Carolina Bortolleto told the legislature, "affording college is an almost

insurmountable task" for many undocumented students. Testimony of Carolina Bortolleto, Co-Founder, CT Students for a Dream, on H.B. 5031 Before the Higher Educ. & Emp. Advancement Comm. (Conn. Feb. 13, 2018).[18] That remains true today. As C4D's College Access Program report shows, for many undocumented students, "in-state tuition alone does not make college affordable," and institutional aid is a major factor in where they apply and enroll; about 90% of those who applied for it received it. *CAP Impact Report*, *supra*, at 1. The United States' own figures show that, without the Connecticut Tuition Laws, tuition would roughly triple at the State's public universities and community colleges and more than double at UConn. *See* Compl. ¶ 36. For many students, that increase would put college out of reach altogether.

Mandating that Connecticut make college unaffordable for individuals in practice means restricting those individuals' liberty. *Cf. Plyler*, 457 U.S. at 221 ("[E]ducation provides the basic tools by which individuals might lead economically productive lives to the benefit of us all. In sum, education has a fundamental role in maintaining the fabric of our society. We cannot ignore the significant social costs borne by our Nation when select groups are denied the means to absorb the values and skills upon which our social order rests."). Such federal interference between Connecticut and its residents would be the type of overreach Madison warns about. *See* The Federalist No. 51, at 323. That is why our "compound republic" system defends against such infringements on liberty. *See id.*

CONCLUSION

The anticommandeering doctrine prevents § 1623(a) from preempting the Connecticut Tuition Laws. At a minimum, the serious constitutional questions that the United States' reading of § 1623(a) raises give the Court an independent reason to adopt the narrower reading that

Defendants advance. C4D respectfully requests that this Court dismiss all of the United States' claims against all Defendants.

Dated: November 20, 2026

Respectfully submitted,

/s/ Madelyn Finucane
Madelyn Finucane (ct31861)
Brenda Cachay Gutierrez, Law Student Intern*
Alaa Hajyahia, Law Student Intern*
Edgar O'Connell, Law Student Intern*
Worker and Immigrant Rights Advocacy Clinic
Jerome N. Frank Legal Services Organization
Yale Law School
127 Wall Street
New Haven, CT 06511

Counsel for Amicus Curiae
Connecticut Students for a Dream

*Motion for law student appearance filed concurrently