

Should undocumented immigrants be allowed to practice law in Utah? The ACLU and others say yes

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Link: <https://www.sltrib.com/news/2019/03/27/should-undocumented/>

ACLU of Utah Brief: <https://www.smartjusticeutah.org/docs.html>

Press release: https://www.acluutah.org/images/19-03-26_PR_ACLU_UT_DACA_brief.pdf

The Utah American Civil Liberties Union answered an “emphatic” yes to the state Supreme Court’s question of whether undocumented immigrants should be able to take the state bar exam and practice law, the group announced Tuesday.

The state Supreme Court had reached out to 11 groups for opinions on the matter in November 2018, some months after the court was petitioned to amend its rules to show undocumented immigrants who meet certain criteria are eligible to obtain a law license. The court sought perspectives on whether admitting undocumented law school graduates to the bar would conflict with federal law and whether it had the power to make the change.

The petitioners are only identified as Mary and Jane Doe, and both are described as Deferred Action Against Childhood Arrivals recipients, also known as “Dreamers.” Both are graduates of Utah law schools who are licensed to practice law in California, according to a news release from LatinoJustice, a New York-based nonprofit civil rights group.

At least four groups filed amicus briefs in favor of the undocumented immigrants, according to documents obtained by The Salt Lake Tribune. Those in favor include the ACLU of Utah, the Utah Minority Bar Association, LatinoJustice and the University of Utah S. J. Quinney College of Law.

Under the current state bar requirements, which are determined by the Supreme Court, undocumented immigrants can graduate from law school but can’t practice law in the state. This is because of a 1996 federal law that prohibits states from giving professional licenses to non-citizens unless the state opts out, according to the [ACLU](#). Several other states — including California, Florida, New York, New Jersey, Pennsylvania, Connecticut, Texas, Illinois, Nebraska and Wyoming — have allowed such individuals to take the bar exam and practice law, according to LatinoJustice.

In its brief, the ACLU argued that the Utah Supreme Court can make a law declaring undocumented immigrants eligible for bar admission and is “the only entity” that can make such laws, in effect opting out of the federal law.

And the court should, the ACLU wrote, because “[i]mmigrants like the petitioners are no different than any other barred attorney in Utah. They have lived in the United States for decades, put down roots in Utah, obtained law degrees, and been admitted to the bar of another [s]tate. There is no reason to deny them the ability to practice their profession and support their families in their home [s]tate.”

While the four groups who filed briefs to the Supreme Court agreed it was appropriate for the Supreme Court to allow undocumented immigrants to take the bar, the Utah Minority Bar Association disagreed with the others as to how.

Instead of opting out of the federal law itself and creating a “judicial rule masquerading as state law,” attorneys for the association argue the court should instead find the federal statute unconstitutional and opt out that way.

As far as the question of undocumented immigrant’s eligibility to be admitted to the state bar: “Unequivocally yes.”

Editor’s note • Utah Supreme Court Justice John Pearce is the husband of Salt Lake Tribune Editor Jennifer Napier-Pearce.