

Utah moves toward allowing undocumented ‘Dreamers’ to practice law in the state

Salt Lake Tribune

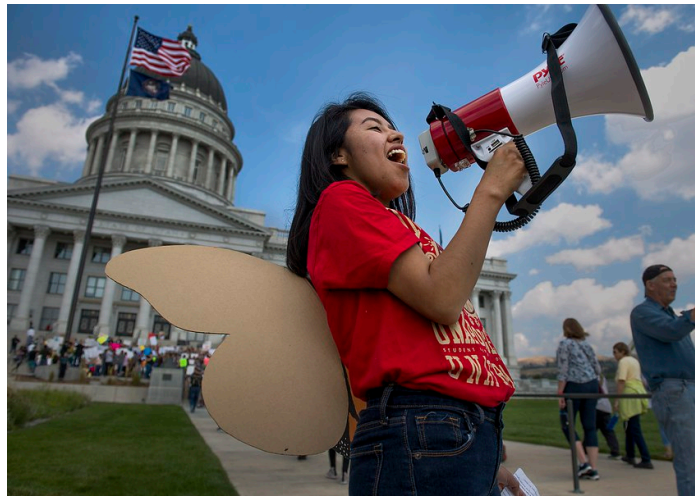
<https://www.sltrib.com/news/2019/12/09/utah-moves-toward/>

Sean P. Means

By Scott D. Pierce

December 9, 2019

The Utah Supreme Court is moving toward making it possible for undocumented immigrants who have qualified for DREAM Act protection to apply for admission to the state bar, proposing a new rule Monday that would explicitly put the policy in place. In October, two women — one who graduated from the University of Utah’s law school, the other from Brigham Young University’s law school — petitioned the court for a Utah State Bar rule change to allow undocumented immigrants to take the bar exam and



practice law in the state. Both women, identified as Jane Doe and Mary Doe, were brought to the United States as children and have been granted Deferred Action for Childhood Arrivals status; both have been admitted to the bar in California.

In their petition to the Utah Supreme Court, the women’s lawyers argued that they “lacked the intent to violate the immigration laws, have become productive members of our society and attended United States schools, colleges and law schools. ... Like many such individuals, both petitioners are otherwise eligible for admission to the Utah Bar.”

The petition went on to assert that “undocumented status does not conflict with an individual’s ability to take and uphold Utah’s oath of honesty, fidelity, professionalism and civility or promise to uphold the Utah and United States Constitutions.”

The Utah Supreme Court issued a statement Monday that it is “beyond dispute” that the court “possesses the constitutional authority to govern the practice of law” in the state; said it will “move forward on the petition for a rule change;” and called for “public comment on a proposed rule.” (It will accept public comments until Jan. 23.)

The proposed wording for a new rule explicitly allows DACA recipients to apply for admission to the bar if they meet all other requirements. Currently, a statement from the court said, the Utah bar does not limit admission to U.S. citizens, but it denies admission “to those who cannot establish that they are legally present.”


Anthony Kaye, the attorney representing the two bar applicants, said the court “interpreted the federal statute, and said it wouldn’t interfere with the court’s ability to regulate the practice of law in Utah.”

Usually, Kaye said, comment periods for new rules draw only technical comments from other lawyers.

Kaye pointed out that the University of Utah allows undocumented students to attend its schools, including the S.J. Quinney College of Law, and allows them to pay in-state tuition.

“The system has been set up already to educate people to become lawyers,” Kaye said. The status of DACA itself is uncertain. In November, the U.S. Supreme Court heard arguments on President Donald Trump’s decision to end DACA, which was announced by President Barack Obama in June 2012 and took effect in August of that year.

Three federal appeals courts have ruled that Trump cannot end the program, which shields almost 670,000 immigrants who came to the U.S. as children from deportation, but — during oral arguments — the Supreme Court’s conservative majority appeared to favor allowing the Trump administration to abolish the program. A decision is expected in June.



"We are thrilled that the Utah Supreme Court has proposed a rule allowing qualified DACA recipients, who are already permitted to attend college and law school in Utah, to become members of the bar."

"We continue to believe the Court’s authority to allow bar admission extends to any qualified applicant regardless of immigration status. Once this rule goes into effect, it will allow the petitioners and other DACA recipients to realize the professional aspirations they have pursued for many years."

John Mejia
ACLU of Utah Legal Director