September 26, 2017

The Honorable Richard Durbin The Honorable Lindsey Graham
711 Hart Senate Office Building 290 Russell Senate Office Building
Washington, D.C. 20002 Washington, D.C. 20510

The Honorable Ileana Ros-Lehtinen The Honorable Lucille Roybal-Allard
2206 Rayburn House Office Building 2083 Rayburn House Office Building
Washington, D.C. 20515 Washington, D.C. 20515

RE: PROVIDING RELIEF UNDER THE DREAM ACT FOR DREAMERS WITH EXPUNGED CONVICTIONS

Dear Senators Durbin and Graham and Representatives Roybal-Allard and Ros-Lehtinen:

On behalf of the 520 undersigned national, state, and local religious, civil rights, labor, ethnic, and immigration organizations, we respectfully ask that you: 1) ensure applicants with expunged convictions receive relief under the Dream Act of 2017; and 2) update the Dream Act’s misdemeanor bar to require imprisonment of more than one year. Specifically, we ask that you align the Dream Act’s treatment of expunged convictions with that of the criminal justice system by recognizing rehabilitation and excluding them as disqualifying convictions. We make this request in light of the Dream Act’s current language, which merely provides discretion to the Trump Administration to potentially waive expunged convictions. We also ask that you adopt more generous misdemeanor language, already present in multiple Republican Dream Act-like bills.

As you know, rehabilitative post-conviction remedies, colloquially known as “expungements,” require an individual to satisfy statutory requirements, such as successfully completing probation, court-ordered classes, or other judicial mandates. By meeting these requirements, expungements can erase a conviction for the purpose of the criminal justice system. Expungement often restores the rights of individuals in the context of employment, housing, and voting. However, due to the punitive nature of our nation’s immigration laws, expungement does not erase a conviction for the purposes of immigration relief, often leading to the deportation or denial of immigration benefits based on state convictions that the state’s own criminal justice or court system sealed, expunged, or otherwise erased.1

To partially address this issue, the current version of the Dream Act allows the Secretary of the U.S. Department of Homeland Security to elect to exercise discretion, on a case-by-case basis, for applicants with expunged convictions.3 Such discretion, while helpful, does not fully align

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3 Dream Act of 2017, S.1615, 115th Cong. § 3(b)(3) (2017) (“TREATMENT OF EXPUNGED CONVICTIONS.— . . . The Secretary shall evaluate expunged convictions on a case-by-case basis according to the nature and severity of the offense to determine whether, under the particular circumstances, the Secretary determines that the alien should...”)
the treatment of convictions with the criminal justice system. Specifically, at the direction of the Trump Administration, the Secretary could, after a cursory review, easily deny all applicants with expunged convictions. Moreover, the Dream Act’s current expungement language places the burden on U.S. Citizenship and Immigration Services (USCIS) to re-adjudicate an applicant’s expunged conviction, even though a state court judge already carefully and deliberately weighed the circumstances and concluded that a conviction merited expungement. Finally, many states, in addition or in lieu of the term “expungement,” employ a variety of legal terms that encompass post-conviction relief. Failing to specifically list these assorted terms will cause regulatory confusion and lead USCIS to erroneously deny applications, particularly under an Administration that may implement the Dream Act in a literal and inflexible manner.

Importantly, many states limit what offenses can be expunged, with states often precluding serious and violent offenses from expungement. For example, while Illinois provides post-conviction relief for a variety of offenses, it explicitly excludes most felony offenses and certain misdemeanors such as driving under the influence, domestic violence, sexual abuse, and violation of a protection order. 4 Similarly, South Carolina limits its post-conviction relief to first-time offenders and nonviolent offenses. 5 The requirements for expungements vary from state to state, with some allowing expungements only for misdemeanor convictions, while others allowing expungement for any non-prison sentence. All states, however, require that the individual successfully comply with the terms of probation and all other court-ordered mandates.

In light of the above, we ask that you adopt language similar to the non-controversial provisions that currently exist in the Recognizing America’s Children (RAC) Act, H.R.1468, which has over 30 Republican cosponsors. 6 We ask that you replace the Dream Act’s current expungement language with the following:

Treatment of Expunged Convictions.—For the purposes of cancellation of removal, adjustment to permanent resident status on a conditional basis, or other adjustment of status, the term “conviction” does not include an adjudication or judgment of guilt that has been dismissed, expunged, deferred, annulled, invalidated, withheld, sealed, vacated, pardoned, an order of probation without entry of judgment, or any similar rehabilitative disposition.

The Obama Administration, through Deferred Action for Childhood Arrivals (DACA), began to address this disparity by allowing applicants with expunged convictions to apply for and receive DACA. 7 Adopting the above language will ensure that the Dream Act does not subject these

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4 20 ILL. COMP. STAT. § 2630/5.2 (2016).
same individuals—those who successfully obtained DACA with expunged convictions—to the whims of the Trump Administration and the potential for an overly stringent implementation of the Dream Act’s eligibility requirements.

Finally, in light of the substantial Republican support of the RAC Act and its criminal background provisions, we ask that you adopt the RAC Act’s requirement that, to be disqualified from relief under the misdemeanor bar, an applicant must have been imprisoned for an aggregate of more than one year, up from the Dream Act’s current requirement of 90 days.\(^8\) This change would allow a greater number of applicants to apply for relief under the Dream Act and reflects our nation’s commitment to rehabilitation, family unity, and the de-stigmatization of communities of color who have had contact with the criminal justice system.\(^9\) Moreover, even the SUCCEED Act, which represents the most conservative and narrow version of the Dream Act introduced in the 115th Congress, contains a similar, one-year misdemeanor bar.\(^10\)

Thank you for your consideration of this request. If you have any questions, please contact Jose Magaña-Salgado at jmagana@ilrc.org or 202-777-8999.

Sincerely,

**National Organizations**

ACIT  
Adjunct Justice  
Advocating Opportunity  
African American Ministers In Action  
Alianza Americas  
America's Voice Education Fund  
American Civil Liberties Union (ACLU)  
American Federation of Teachers  
American-Arab Anti-Discrimination Committee  
Americans for Immigrant Justice  
Asian American Legal Defense and Education Fund (AALDEF)  
Asian American Psychological Association  
Asian Americans Advancing Justice - AAJC


\(^9\) We recommend the following, modified version of the RAC Act’s misdemeanor bar be included in the Dream Act of 2017: to be eligible, an applicant must “Not have been convicted of 3 or more offenses under Federal or State law, other than State offenses for which an essential element is the alien’s immigration status, for which the alien was convicted on different dates for each of the 3 offenses and imprisoned for an aggregate of more than 1 year.” This language incorporates the Dream Act and RAC Act’s requirement that an individual actually be imprisoned (e.g. excluding suspended sentences, which RAC accomplishes by collaterally stating that INA § 101(A)(48)(B) does not apply); the RAC Act’s requirement there must be an aggregate imprisonment of more than one year; and the Dream Act’s requirement that there be three or more separate offenses.

Asian Americans Advancing Justice-Los Angeles
Asian Pacific American Labor Alliance, AFL-CIO (APALA)
Black Alliance for Just Immigration
Campaign for Youth Justice
Casa de Esperanza: National Latin@ Network for Healthy Families and Communities
Casa Esperanza
Catholic Charities of Monterey
Catholic Charities of Trenton
Catholic Committee of the South
Center for Employment Training
Center for Law and Social Policy (CLASP)
Center for Popular Democracy
Central Pastoral Office for Hispanic Ministries-Christian Church (Disciples of Christ)
Centro de los Derechos del Migrante, Inc. (CDM)
CIVIC (Community Initiatives for Visiting Immigrants in Confinement)
Coalition for Juvenile Justice
CODEPINK
College and Community Fellowship
Columbia Law School Immigrants' Rights Clinic
Committee in Solidarity with the People of El Salvador (CISPES)
Congregation of Our Lady of Charity of the Good Shepherd, US Provinces
Council on American-Islamic Relations (CAIR)
Defending Rights & Dissent
Disciples Refugee and Immigration Ministries
Drug Policy Alliance
Educators for Fair Consideration, a project of Community Initiatives
Enlace
Esperanza
Faith in Public Life
Farmworker Justice
FedCURE
Franciscan Action Network
Friends Committee on National Legislation
Fuerza Mundial
Futures Without Violence
Glenmary Home Missioners
Global Exchange
Harm Reduction Coalition
Holy Spirit Missionary Sisters - USA, JPIC
Human Rights Campaign
Human Rights Watch
Immigrant Connection
Immigrant Defense Project
Immigrant Legal Resource Center
International Rescue Committee
InterReligious Task Force on Central America and Colombia
Japanese American Citizens League
Jewish Voice for Peace
Jewish Voice for Peace-Denver/Boulder
Just Foreign Policy
Justice Strategies
JustLeadershipUSA
KIPP Bay Area Schools
Lambda Legal
Laotian American National Alliance
Latino Commission on AIDS
Latino Initiative on Restorative Justice, Inc.
LatinJustice PRLDEF
Lawyers' Committee for Civil Rights
Leadership Conference of Women Religious
League of Women Voters of the United States
Legal Action Center
Life for Pot
Lutheran Immigration and Refugee Service
MALDEF
Marin Task Force on the Americas
Mennonite Central Committee U.S. Washington Office
Mi Familia Vota
Mission Asset Fund
MomsRising
Movement of Immigrants in America (Mia)
MoveOn.org Civic Action
MPower Change
Muslim Public Affairs Council
NAACP
NAFSA: Association of International Educators
National Advocacy Center of the Sisters of the Good Shepherd
National Asian Pacific American Women's Forum (NAPAWF)
National Association of Social Workers
National Black Justice Coalition
National Center for Lesbian Rights
National Center for Transgender Equality
National Coalition for Asian Pacific American Community Development (CAPACD)
National Council of Asian Pacific Americans (NCAPA)
National Council of Churches
National Council of Jewish Women
National Fair Housing Alliance
National Immigrant Justice Center
National Immigrant Solidarity Network
National Immigration Law Center
National Justice for Our Neighbors
National Juvenile Justice Network (NJN)
National Korean American Service & Education Consortium (NAKASEC)
National Latina/o Psychological Association
National LGBTQ Task Force Action Fund
National Organization for Women
National Partnership for New Americans (NPNA)
NETWORK Lobby for Catholic Social Justice
North Bay Jobs with Justice
NYU Immigrant Rights Clinic, Washington Square Legal Services
OCA - Asian Pacific American Advocates
Office of Peace, Justice, and Ecological Integrity, Sisters of Charity of Saint Elizabeth
Office of Social Justice, Christian Reformed Church in North America
PFLAG National
Pro Bono Net
Project South
Provincial Council Clerics of St. Viator (Viatorians)
Queer Palestinian Empowerment Network
Redwood Justice Fund
Refugee and Immigrant Center for Education and Legal Services (RAICES)
Root & Rebound
Sauti Yetu Center for African Women and Families
Sisters of Charity of the Blessed Virgin Mary
Sisters of Mercy South Central Community
South Asian Americans Leading Together (SAALT)
Southeast Asia Resource Action Center (SEARAC)
Southern Border Communities Coalition
SPAN-NJ
SparkAction
StoptheDrugWar.org
Students for Sensible Drug Policy
T’ruah: The Rabbinic Call for Human Rights
Teaching for Change
The Advocates for Human Rights
The Leadership Conference on Civil and Human Rights
The New American Leaders Project
The Queer Palestinian Empowerment Network
The United Methodist Church - General Board of Church and Society
UC Davis School of Law
Unitarian Universalist Association
Unitarian Universalist Service Committee (UUSC)
United We Dream
UURISE - Unitarian Universalist Refugee & Immigrant Services & Education
We Belong Together
Yemen Peace Project
State and Local Organizations
580 Cafe
AB 540 Ally Training Project
ABRAZAR Inc.
ACTIONN
Adelante Mujeres
Advocates for Basic Legal Equality, Inc.
African Advocacy Network
AFT Washington
Alabama Coalition for Immigrant Justice (ACIJ)
Aldea - The People's Justice Center
Alianza
Alliance for Multicultural Community Services
Alliance San Diego
American Friends Service Committee Colorado
American Gateways
Americans for Refugees and Immigrants
API Chaya
API RISE (Asian Pacific Islander Reentry & Support through Inclusion and Empowerment)
Apoyo Legal Migrante Asociado (ALMA)
Arab American Civil Rights League
Arkansas Justice Collective
Arkansas United Community Coalition
Asian & Pacific Islander American Vote - Michigan
Asian American Community Services
Asian Americans Advancing Justice - Atlanta
Asian Law Alliance
Asian Services In Action
Atlas: DIY
Ayuda
Beacon Unitarian Universalist Congregation
Black Children's Institute of Tennessee
Boat People SOS - Houston
Bonding Against Adversity.org
Brighton Park Neighborhood Council
Brooklyn Defender Services
Cabrini Immigrant Services of NYC
Canal Alliance
Capital Area Immigrants Rights Coalition
CARECEN DC
CASA
Casa Latina
Casa San Jose
Catholic Agency for Migration & Refugee Services
Catholic Charities of Diocese of Laredo
Catholic Charities of Paterson
Catholic Charities of West Tennessee
Causa Oregon
Center for Community Alternatives
Center for Gender & Refugee Studies - California
Center for NonProfit Legal Services
Central Florida AFL-CIO
Central Valley Immigrant Integration Collaborative (CVIIC)
Centro de Apoyo Comunitario
Centro de Informacion
Centro Del Inmigrante, Inc.
Centro Hispano Milwaukee
Centro La Familia Advocacy Services
Centro Laboral de Graton
Centro Latino Americano
Centro Legal de la Raza
Centro Romero
Chesapeake Multicultural Resource Center
Chicago Law and Education Foundation
Chicago Religious Leadership Network on Latin America - CRLN
Chinese Community Center, Houston
Church of Our Saviour/La Iglesia de Nuestro Salvador
Church Women United in New York State
CIEH- Comunidad de Inmigrantes East Haven
Clean Slate Mke
Cleveland Jobs with Justice
Coalicion de Lideres Latinos-CLILA
Coalition for Humane Immigrant Rights (CHIRLA)
Coalition of African Communities (AFRICOM)
Colorado Center on Law and Policy
Colorado Immigrant Rights Coalition (CIRC)
Colorado People’s Alliance
Comite Civico del Valle
Comunidades Unidas (CU) /Communities United
Community Legal Services in East Palo Alto
Community Service Society
Connecticut Legal Services, Inc.
Consejo de Federaciones Mexicanas (COFEM)
Council for the Spanish Speaking Inc. DBA Centro Hispano Milwaukee
CRLA Foundation
CT Students for a Dream
CT Working Families
Daya Inc.
DC-Maryland Justice for Our Neighbors
Delaware Civil Rights Coalition
Detained Migrant Solidarity Committee
Dolores Street Community Services
Dominican Sisters ~ Grand Rapids (MI)
Dominican Sisters of San Rafael
Dream Team Los Angeles (DTLA)
Dulles Justice Coalition
East Bay Community Law Center
East Bay Sanctuary Covenant
East Boston Ecumenical Community Council
Ecumenical Ministries of Oregon
El CENTRO de Igualdad y Derechos
El Centro Hispano, Inc.
End Domestic Abuse WI
Enlace Comunitario
Equal Access Legal Services
Equal Justice Center
Equality California
Equality New Mexico
Equality North Carolina
Equality Ohio
Equality Pennsylvania
Equality Texas
Erie Neighborhood House
Faith Action Network - Washington State
Faith In Action Bay Area
Faith in Florida
Fe y Justicia Worker Center
First Congregational UCC, Ypsilanti MI
First Congregational United Church of Christ - Portland, Oregon
First Unitarian Church, Portland, OR
Florida Immigrant Coalition
Franciscans for Justice
Frida Kahlo Community Organization
Friends of Broward Detainees
Georgia Latino Alliance for Human Rights
Gethsemane Lutheran Church
Gitana Productions Inc.
Global Unity Project
Greater New York Labor Religion Coalition
Greater Rochester Coalition for Immigration Justice
Greenville Multicultural
Grupo de Apoyo e Integración Hispanoamericano
HANA Center
Her Justice
Hermandad Mexicana Transnacional
Hispanic American Association of East Texas
Hispanic Interest Coalition of Alabama
Hispanic Services
Homie UP
Houston Immigration Legal Services Collaborative
Hudson Civic Action
Huerto de la Familia
Human Agenda
Idaho Community Action Network (ICAN)
Illinois Coalition for Immigrant and Refugee Rights
Immigrant Access to Justice Assistance
Immigrant Center of San Bernardino
Immigrant Connection- Greenville Multicultural
Immigrant Defenders Law Center
Immigrant Justice Action Group, First Unitarian Church, Portland, OR
Immigrant Legal Advocacy Project
Immigration Center for Women and Children
Immigration Project
Immigration Services of Mountain View
Immigration Taskforce, Southwestern PA Synod, ELCA
Indivisible Alta-Pasadena
Indivisible Indiana District 2
Inland Empire - Immigrant Youth Collective (IEIYC)
Inmigrantes Hispanos
Interfaith Action for Human Rights
Interfaith Impact of New York State
Interfaith Movement for Immigrant Justice - IMLrJ
Interfaith Refugee & Immigration Service (IRIS), Los Angeles
International Institute of Akron
International Institute of New England
International Institute of the Bay Area
Iowa Citizens for Community Improvement (ICCI)
Irish International Immigrant Center
Jewish Family Service of San Diego
Jobs With Justice of East Tennessee
Junta for Progressive Action
Juntos
Justice & Accountability Center of Louisiana
Justice Commission of the Sisters of the Presentation of the Blessed Virgin Mary
Justice for All
Justice for Our Neighbors Southeastern Michigan
Justice for Our Neighbors West Michigan
Kentucky Coalition for Immigrant and Refugee Rights
Kids for College
Kino Border Initiative
Kitsap Immigrant Assistance Center
Korean Presbyterian Church of St. Louis - English Ministry
Korean Resource Center
Kuya Ate Mentorship Program of San Diego
La Casa de Amistad
LA Center for Law and Justice
La Comunidad, Inc.
La Hermandad Hank Lacayo Family Center
La Raza Centro Legal
La Raza Community Resource Center
La Union del Pueblo Entero (LUPE)
La Union Hace La Fuerza
Lacey and Larkin Frontera Fund
Latin America Solidarity Committee
Latin American Coalition (LAC)
Latin American Legal Defense and Education Fund
Latino Community Center
Latinos United for a New America
Legal Aid Society of Santa Clara County
Legal Services for Children
Lemkin House
Lighthouse Immigrant Advocates
Long Beach Immigrant Rights Coalition
Long Island Wins
Lowcountry Immigration Coalition
Lutheran Advocacy Ministry-New Mexico
Maine People's Alliance
Make the Road CT
Make the Road New Jersey
Make the Road NY
Make the Road PA
Marist School
Massachusetts Immigrant and Refugee Advocacy Coalition
Mawushi Medical
Mcomb Immigrant Service Center
Michigan Immigrant Rights Center
Michigan United
Mid-Peninsula Human Rights Coalition
Migrant Center for Human Rights
Migrant Rights Collective
Mission Graduates
Mission Presbytery Immigration Task Force
Mississippi Center for Justice
Mixteco/Indigena Community Organizing Project
Montana Organizing Project (MOP)
Movement of Immigrant Leaders in Pennsylvania
Mujeres Latinas en Accion
My Sisters' Place
National Lawyers Guild - Los Angeles Chapter
NC Council of Churches
Nebraska Appleseed Center for Law in the Public Interest
NeighborCorps Re-Entry Services
Neighborhood Defender Service of Harlem
New Hampshire Alliance for Immigrant Rights-(NHAIR-MIRA)
New Jersey Alliance for Immigrant Justice
New Mexico Faith Coalition for Immigrant Justice
New Sanctuary Movement of Philadelphia
New York Justice For Our Neighbors
NH Conference UCC Immigration Working Group
Nicaragua Center for Community Action (NICCA)
NLG-SF Immigration Committee
NM Immigrant Law Center
North County Immigration Task Force
Northern Illinois Justice for Our Neighbors
Northern Manhattan Coalition for Immigrant Rights
Northwest Immigrant Rights Project
Nuestra Alianza de Willits
Oakland Law Collaborative
OCCORD
Occupy Bergen County (New Jersey)
Ohio Justice & Policy Center
One Michigan for Immigrant Rights
OneAmerica
OneJustice
Organize Florida
Orleans Public Defenders
OutFront Minnesota
Pennsylvania Immigration and Citizenship Coalition
Pennsylvania Immigration Resource Center
People Acting in Community Together
People's Action
Philadelphia Chapter JACL
Pierce County Labor Community Services Agency
Pilgrim United Church of Christ
Pineros y Campesinos Unidos del Noroeste (PCUN)
Pittsburgh LCLAA
Polonians Organized to Minister to Our Community, Inc. (POMOC)
Portland Central America Solidarity Committee (PCASC)
Progreso: Latino Progress
Progressive Jewish Voice of Central PA
Progressive Leadership Alliance of Nevada
Project IRENE
Promesa Boyle Heights
Promise Arizona (PAZ)
Proteus Inc. CA
Public Counsel
Public Law Center - Orange County
Puget Sound Advocates for Retirement Action (PSARA)
Queens Solidarity Coalition
Reedley Social Services, Inc.
Reformed Church of Highland Park
Refugio del Rio Grande
Rhode Island Interfaith Coalition to Reduce Poverty
Rubicon Programs
Sacred Heart Community Service
Safe Passage
San Antonio Region Justice For Our Neighbors
San Diego Immigrant Rights Consortium
San Diego Volunteer Lawyer Program, Inc.
Sanctuary for Families
Sanctuary Task Force for the Episcopal Diocese of Los Angeles
Santa Cruz Immigration Lawyers
Seattle Human Rights Commission
Services, Immigrant Rights, and Education Network (SIREN)
Sisters and Brothers of Immigrants
Sisters of Charity of New York Office of Peace, Justice and Integrity of Creation
Sisters of Mercy West Midwest Community
Sisters of Saint Joseph Welcome Center
Sisters of St. Joseph of Rochester Justice & Peace Office
Sisters of St. Francis, st. Francis Province
Skagit Immigrant Rights Council
SLV Immigrant Resource Center
SOMOS Mayfair
Somos Un Pueblo Unido (SOMOS)
South Asian Fund For Education, Scholarship and Training (SAFEST)
South Asian Network
South City Church
South Texas Human Rights Center
South Texas Immigration Council
Southwestern Law School Immigration Law Clinic
SPEAK (Students, Parents, and Educators Across Knox County)
Springfield Dominican Justice, Peace, & Integrity of Creation Committee
St. James Cathedral Immigrant Assistance
St. Louis Inter-Faith Committee on Latin America (IFCLA)
St. Mark's Presbyterian Church
St. Mary Hispanic Ministry
Stavros Immigration APC
STEP UP! Sacramento
Sunflower Community Action
Tacoma Community House
Tacoma Migrant Justice
Taos Refugee and Immigrant Network
Tapestry Ministries (Disciples of Christ) of Berkeley
Tennessee Immigrant and Refugee Rights Coalition
Texas Organizing Project
Thai Community Development Center
The Farmworker Association of Florida, Inc
The Florence Immigrant and Refugee Rights Project
The Guatemalan-Maya Center
The International Institute of Metropolitan Detroit
The New York Immigration Coalition (NYIC)
The Social Responsibilities Council of The Unitarian Society of Ridgewood
The Washington Bus
The Welcome Project
Transgender Resource Center of New Mexico
Trinity Episcopal Church
U-lead Athens
UC Irvine School of Law
Unitarian Universalist Legislative Ministry of New Jersey
Unitarian Universalist Mass Action Network
Unitarian Universalist Pennsylvania Legislative Advocacy Network (UUPLAN)
UNITE HERE LOCAL 30
United Services for Counseling
Universidad Popular California
University Leadership Initiative
University of San Francisco Immigration and Deportation Defense Clinic
UnLocal, Inc.
UNO Immigration Ministry
VietLead
Virginia Organizing
Voces de la Frontera (VOCES)
Voices for Utah Children
Volunteers of Legal Service
Walla Walla Immigrant Rights Coalition
Washington Defender Association Immigration Project
Washington State Coalition Against Domestic Violence (WSCADV)
Washington State Labor Council, AFL-CIO
Washington State Religious Campaign Against Torture
WashingtonCAN!
Washtenaw Interfaith Coalition for Immigrant Rights
Wayne Action for Racial Equality
Welcoming Center for New Pennsylvanians
Wesley Foundation Serving UCLA
Western State College of Law Immigration Clinic
Wilco Justice Alliance (Williamson County, TX)
Wind of the Spirit Immigrant Resource Center
Workers Defense Project
Youth Represent
YWCA Berkeley/Oakland
YWCA Greater Pittsburgh
YWCA of the University of Illinois
YWCA Olympia