

FOR IMMEDIATE RELEASE

Media Contact:
Professor Mitt Regan
regan@georgetown.edu

Lawyers Defending American Democracy Backs Constitutional Limits on Federal Power

Boston, MA — October 10, 2025— Lawyers Defending American Democracy (LDAD) has filed an [amicus brief](#) in *United States v. Texas* warning that the federal government’s attempt to block Texas’s in-state tuition law crosses a constitutional line—using federal immigration authority to control state education law. The brief argues that this violates basic principles of federalism reflected in the Tenth Amendment because it seeks to conscript Texas into enforcing federal immigration policy.

At issue in *United States v. Texas* is whether a provision of federal immigration law, 8 U.S.C. §1623(a), preempts a law commonly known as the Texas Dream Act. That law, in place since 2001, allows certain students who have grown up and attended school in Texas—regardless of immigration status—to pay the same tuition as their classmates.

The Department of Justice (DOJ) and Texas Attorney General Ken Paxton arranged for the federal government to sue Texas shortly after the state legislature declined to repeal the Dream Act. Within hours of the suit being filed, DOJ and Texas obtained a court order blocking the law—without any notice to, or hearing for, the students, families, and colleges directly affected. Those groups, represented by four intervenors, are now appealing the ruling.

LDAD’s brief focuses on the Tenth Amendment and the constitutional principle that the federal government cannot commandeer states to carry out federal policy. While Congress has authority over immigration, LDAD argues that power does not extend to controlling how states manage their own education systems. Allowing the federal government to dictate who qualifies for in-state tuition would force state education employees to act as immigration enforcement agents—something the Constitution does not permit.

“Federal power is not unlimited,” said Georgetown Law Center Professor Mitt Regan, a principal author of the amicus brief. “While the Constitution permits the federal government to preempt state law concerning immigration, it does not authorize using federal immigration law to rewrite state education law.”

The brief also underscores the importance of due process and transparency in judicial proceedings. LDAD notes that the lower court’s decision—entered without any adversarial hearing or opportunity for affected students and institutions to be heard—undermines public confidence in the rule of law.

The LDAD team included volunteer lawyers Lisa Healy, Carla McKain, and Gideon Newmark; Professor Robert Mikos of Vanderbilt Law School, an expert on the Tenth Amendment;

**LAWYERS
DEFENDING
AMERICAN
DEMOCRACY**

Georgetown Law students Cadence Kupfner and Gladwin An; and Georgetown Law Professors Brian Wolfman and Mitt Regan.

###

About Lawyers Defending American Democracy

Lawyers Defending American Democracy (LDAD) is a nonpartisan organization of lawyers committed to defending the rule of law, democratic principles, and constitutional government.

<https://ldad.org/>