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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

JEAN KASHIKOV, Plaintiff, v. **KRISTI NOEM**, in her official capacity as Secretary of the U.S. Department of Homeland Security; and **TODD LYONS**, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement Defendants.	Case No. 3:25-cv-81

MEMORANDUM IN SUPPORT OF PLAINTIFF'S EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

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ISSUES PRESENTED

1. Have Defendants likely violated Plaintiff's Fifth Amendment due process rights by terminating his F-1 student status without notifying him of the termination decision and the reasons for it, without providing him with adverse evidence and an opportunity to respond to it, and without providing him with an individualized hearing before an impartial adjudicator?

2. Was Defendants' sudden and unilateral termination of Plaintiff's F-1 student status likely arbitrary and capricious, not in accordance with law, and/or contrary to constitutional right, all in violation of the Administrative Procedure Act?

3. Assuming the Court finds that Defendants' actions are likely unconstitutional or unlawful for any of the reasons stated in issues (1)– (2), should a temporary restraining order issue?

INTRODUCTION

Plaintiff Jean Kashikov is a recent graduate of the University of Alaska Anchorage, where he earned a Bachelor of Sciences in Mathematics and an Associate of Applied Science in Professional Piloting, *magna cum laude*. As an international student, Mr. Kashikov is currently within his optional practical training period (OPT), a 14-month period of temporary employment directly related to his major area of study that is authorized by his F-1 status. Recently, Plaintiff learned—not through the federal government, but through his school—that Defendants had terminated his F-1 student status, suddenly leaving him without lawful status to remain in the United States. Neither he nor his school was given advance notice or a meaningful explanation for the termination. In the absence of any information pertaining to his status termination, Plaintiff's school advised him to confer with an attorney to decide whether he should depart the United States as soon as possible and informed him that all employment authorization incident to F-1 status ended immediately when his F-1 student status was terminated.

Mr. Kashikov is a victim of Defendants' nationwide dragnet of nonimmigrant international students. Earlier this month, Defendants started terminating the Student and Exchange Visitor Information System (SEVIS) records of hundreds of international students nationwide. Since April 5, 2025, *Inside Higher Ed*, an industry publication, had documented more than 1,700

status terminations at over 265 colleges and universities nationwide.[1] So far, Defendants have yet to explain the purpose of their actions. Throughout the federal judiciary, motions for emergency relief have been sought and granted on behalf of impacted students. *See, e.g*. Order, *Liu v. Noem*, No. 25-cv-133 (D.N.H. April 10, 2025), ECF No. 13; Temporary Restraining Order, *Wu v. Lyons,* No. 25-cv-01979 (E.D.N.Y. April 11, 2025), ECF No. 9; Temporary Restraining Order, *Zheng v. Lyons,* No. 25-cv-10893 (D. Mass April 11, 2025), ECF No. 8; Order Granting Plaintiff's Application for Temporary Restraining Order, *Zhou v. Lyons,* No. 2:25-cv-02994 (C.D. Cal. April 15, 2025), ECF No. 19; Memorandum Opinion, *Hinge v. Lyons,* No. 25-cv-1097 (D.D.C. April 15, 2025), ECF No. 10; Opinion and Order, *Isserdasani v. Noem*, No. 25-cv-283 (W.D. Wis. April 15, 2025), ECF No. 7; Order, *Doe v. Bondi,* No. 25-cv-01998 (N.D. Ga. April 18, 2025), ECF No. 23.

Similarly, Plaintiff filed the Verified Complaint, ECF No. 1, and this emergency motion. Pursuant to Counts 1 and 2 of the Verified Complaint, Plaintiff hereby seeks the emergency relief described in his motion restoring his F-1 status and allowing him to resume his life safe from unlawful government retaliation.

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[1] Ashley Mowreader, *What We've Learned So Far From Tracking Student Visa Data,* Insider Higher Ed (Apr. 21, 2025), https://www.insidehighered.com/news/global/international-students-us/2025/04/21/five-key-takeaways-tracking-student-visa; Ashley Mowreader, *International Student Visas Revoked,* Inside Higher Ed, https://www.insidehighered.com/news/global/international-students-us/2025/04/07/where-students-have-had-their-visas-revoked (last visited April 22, 2025).

To be clear, Plaintiff does not challenge the revocation of his F-1 *visa* in this case.[2] Instead, Plaintiff brings this lawsuit to challenge Defendants' unlawful and arbitrary termination of his F-1 student *status* in SEVIS without the procedural safeguards required by the U.S. Constitution.

FACTUAL BACKGROUND

I. Background on F-1 Student Visa and Status

Under the Immigration and Nationality Act ("INA"), noncitizens can enroll in government-approved academic institutions as F-1 students. *See* 8 U.S.C. § 1101 (a)(15)(F). Admitted students living abroad enter the United States on an F-1 visa issued by the U.S. Department of State, and, once they enter, are granted F-1 student status and permitted to remain in the United States for the duration of their program, so long as the student continues to meet the requirements established by the regulations governing the student's visa classification in 8 C.F.R. § 214.2(f). As students, F-1 visa holders must maintain a full course of study; for a period to time after graduation, their visa also allows them to engage in job training, called Optional Practical Training (OPT). DHS's Student and Exchange Visitor Program ("SEVP") administers the F-1 student program and tracks information on students with F-1 student status.

[2] There is a difference between a F-1 visa and F-1 student status. The F-1 visa refers only to the document noncitizen students receive to enter the United States, whereas F-1 student status refers to students' formal immigration classification in the United States once they enter the country.

An academic institution must obtain formal approval from DHS before it may sponsor a student's F-1 status. An institution must apply for School Certification through the SEVIS system, a SEVP-managed internet-based system used to track and monitor schools and noncitizen students in the United States. *See* 8 C.F.R. § 214.3. The University of Alaska Anchorage has been formally approved to sponsor F-1 students and has a Designated School Official ("DSO") who advises and oversees the students attending that school.

F-1 students must maintain a full course of study while enrolled. 8 C.F.R. § 214.2(f)(5-6). After completing their studies, F-1 status allows recent graduates to remain in the United States while engaging in authorized practical training in approved employment settings. *See generally* 8 C.F.R. § 214.2(f)(10). This includes Optional Practical Training ("OPT"), which consists of temporary employment that is "directly related to the student's major area of study." 8 C.F.R. § 214.2 (f)(10)(ii). OPT usually occurs at the end of the student's course of study (i.e., after graduation) and must be completed within 14 months of completing degree requirements. 8 CFR 214.2(f)(10)(ii)(A)(3).

Once a student has completed their course of study and any accompanying CPT or OPT, they generally have sixty days to either depart the United States or transfer to another accredited academic institution. 8 C.F.R. § 214.2 (f)(5)(iv). If a student has been approved to transfer to another school (including to pursue a higher degree), they are authorized to remain in the United States for up to five

months while awaiting matriculation at the transfer institution. 8 C.F.R § 214.2(f)(8)(i). If a student voluntarily withdraws from the F-1 program, "he or she has fifteen days to leave the United States." *Id*. Finally, a student who fails to maintain status must leave the country immediately or seek reinstatement of their status. *Id*.

II. Termination of F-1 Student Status

Termination of F-1 student status in SEVIS is governed by SEVP regulations. The regulations distinguish between two separate ways a student may fall out of status: (1) a student may "fail to maintain status"; or (2) an agency may initiate a "termination of status." *See* 8 C.F.R. § 214.2(f). Students fail to maintain their F-1 student status when they do not comply with the regulatory requirements of F-1 status. 8 C.F.R. § 214.2(f). In addition, 8 C.F.R. § 214.1(e)-(g) outlines specific circumstances where certain conduct by any nonimmigrant visa holder, such as engaging in unauthorized employment, providing false information to DHS, or being convicted of a crime of violence with a potential sentence of more than a year, "constitute a failure to maintain status." DSOs at schools must report to SEVP, via SEVIS, when a student fails to maintain status. *See* 8 C.F.R. § 214.3(g)(2).

DHS's ability to initiate the termination of F-1 student status "is limited by [8 C.F.R.] § 214.1(d)." *Jie Fang v. Director U.S. Immigration & Customs Enforcement*, 935 F.3d 172, 185 n.100 (3d Cir. 2019). Under this regulation, DHS may terminate F-1 student status under the SEVIS system ***only*** when: (1) a

previously granted waiver under 8 U.S.C. § 1182(d)(3) or (4) is revoked; (2) a private bill to confer lawful permanent residence is introduced in Congress; or (3) DHS publishes a notification in the Federal Register identifying national security, diplomatic, or public safety reasons for termination. *See* 8 C.F.R. § 214.1(d).

The revocation of an F-1 visa does *not* serve as a basis for agency-initiated termination of F-1 student status in SEVIS. In DHS's own words, "[v]isa revocation is not, in itself, a cause for termination of the student's SEVIS record." ICE Policy Guidance 1004-04 – Visa Revocations (June 7, 2010),[3] attached hereto as Exhibit 2.

Rather, if an F-1 visa is revoked after admission, the student is permitted to pursue their course of study, including OPT, uninterrupted. Once that student completes their study and/or OPT and departs from the United States, the SEVIS record would then be terminated, and the student would need to obtain a new visa from a consulate or embassy abroad before he could return legally to the United States. *See* Guidance Directive 2016-03, 9 FAM 403.11-3 – VISA REVOCATION (Sept. 12, 2016),[4] attached hereto as Exhibit 3.

While a visa revocation can be charged as a ground of deportability in removal proceedings, deportability (and the revocation of the visa) can expressly

[3] *Available at* https://www.ice.gov/doclib/sevis/pdf/visa_revocations_1004_04.pdf.
[4] *Available at* https://www.aila.org/library/dos-guidance-directive-2016-03-on-visa-revocation.

be contested in such proceedings. *See* 8 U.S.C. § 1227(a)(1)(B); 8 U.S.C. § 1201(i). An immigration judge may also dismiss removal proceedings where a visa is revoked, so long as a student is able to remain in valid status or otherwise is reinstated to F-1 student status. *See* 8 C.F.R. § 1003.18(d)(ii). On the other hand, an immigration judge has no ability to review the termination of F-1 student status in SEVIS because that process is collateral to removal proceedings. *See Jie Fang*, 935 F.3d at 183.

III. Termination of Plaintiff's F-1 Student Status

Plaintiff Jean Kashikov is a 24-year-old graduate from UAA; he currently resides in Wasilla. Verified Compl., ECF No. 1, ¶19. He is a citizen of Kazakhstan. *Id.* He initially entered the United States on an F-1 visa in August 2019. *Id.* Kashikov earned a Bachelor of Sciences in Mathematics, magna cum laude, in May 2024, and an Associate of Applied Science in Professional Piloting, magna cum laude, in December 2024. *Id.* Before his F-1 status was terminated, he was self-employed as a flight instructor under his Optional Practical Training (OPT) period, which allows a graduate to engage in temporary employment that is directly related to an F-1 student's major area of study. *Id.* He planned to accrue enough flight hours through his OPT period to qualify for a high-level airplane pilot position upon completion of his practical training period. *Id.*

On April 10, 2025, UAA informed Kashikov that his F-1 student status in SEVIS had been terminated. *Id.* ¶36. Specifically, he received an email stating:

> "your record was marked as "terminated" by SEVP, indicating that the U.S. government believes you have violated your status. Please note that all employment authorization, including OPT, ends immediately when you fall out of valid status, and that unauthorized employment will make you ineligible for immigration reinstatement, so please cease any employment immediately."

Exhibit B to Verified Compl., ECF No. 1. On April 11, 2025, UAA followed up via email to inform Kashikov that the reason cited in his SEVIS record was "OTHER - Individual identified in criminal records check and/or has had their VISA revoked. SEVIS record has been terminated." Exhibit C to Verified Compl., ECF No. 1.

Only conviction of certain crimes can lawfully form the basis for an F-1 status termination. *See* 8 C.F.R. § 214.1(g) Kashikov has never been convicted of a crime. Verified Compl., ECF No. 1, ¶38. In 2022, he was charged with disorderly conduct, obstruction of a highway or public thoroughfare, and criminal trespass in Scottsdale, Arizona, arising out of an attempt to board a city bus that the driver alleged was out of service. *Id*. All three charges were dismissed at the request of the city attorney. *Id.* More recently, in August 2024, Kashikov received a traffic citation in Hahira, Georgia, for driving in excess of the speed limit, which was also dismissed *nolle prosequi* by the prosecutor. *Id*. Kashikov has never violated any immigration law. *Id*.

While Kashikov did receive notice on April 14, 2025, from the Department of State that his F-1 visa has been revoked, the revocation of a visa is not a regulatory ground for termination of F-1 student status. Exhibit E to Verified

Compl., ECF No. 1. Kashikov has complied with all rules and regulations as someone with F-1 student status. Verified Compl., ECF No. 1, ¶41. He does not know why his F-1 student status in SEVIS was terminated. *Id.*

LEGAL STANDARD

To warrant a TRO, Plaintiff must show (1) he is "likely to succeed on the merits," (2) he is "likely to suffer irreparable harm in the absence of preliminary relief," (3) "the balance of equities tips in [Petitioner's] favor," and (4) "an injunction is in the public interest." *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)); *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting the analyses for issuing a temporary restraining order and a preliminary injunction are substantially the same). Even if Plaintiff raises only "serious questions" as to the merits of his claims, the court may grant relief if the balance of hardships tips "sharply" in Plaintiff's favor, and the remaining equitable factors are satisfied. *All. for the Wild Rockies*, 632 F.3d at 1135. As explained below, Plaintiff is likely to succeed on the merits of his claims, he faces irreparable harm absent injunctive relief, the equities balance in his favor, and injunctive relief is in the public interest. Indeed, numerous federal courts have issued temporary restraining orders similar to the one sought here, and on similar legal theories. This includes Federal district courts in New Hampshire, Wisconsin, New York, Massachusetts, D.C., and California, have all issued temporary

restraining orders similar to the one sought here, and on similar legal theories. *See,* Verified Compl., ECF No. 1, at fn 11 (collecting sources). These orders are attached hereto as Exhibit 1.

ARGUMENT

I. Plaintiff Is Likely to Prevail on His Claims That the Termination of His F-1 Student Status Was Unlawful.

Defendants' termination of Plaintiff's F-1 student status in SEVIS was unlawful for two independent reasons: First, it violates the Due Process Clause of the Fifth Amendment, U.S. Const. amend. V; and second, it violates the Administrative Procedure Act (APA), 5 U.S.C. § 706(2)(A) as arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with the law, including the regulatory regime at 8 C.F.R. § 214.1(d). Relatedly, final agency action contrary to a constitutional right—in this case due process—also violates the APA. 5 U.S.C. § 706(2)(B).

A. The status termination violates the Fifth Amendment's Due Process Clause (Count 1).

Defendants' abrupt termination of Plaintiff's F-1 student status straightforwardly violates the Fifth Amendment's Due Process Clause. As a noncitizen student already admitted to and living in the United States, Plaintiff has due process rights. *See Washington v. Trump,* 847 F.3d 1151, 1165 (9th Cir. 2017) ("The procedural protections provided by the Fifth Amendment's Due Process Clause are not limited to citizens. Rather, they "appl[y] to all "persons" within the

United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.'" *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001)). The "touchstone of due process is notice and an opportunity to be heard." *Arizmendi-Medina v. Garland,* 69 F.4th 1043, 1055 (9th Cir. 2023); s*ee also Fuentes v. Shevin*, 407 U.S. 67, 80 (1972); *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) ("The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'").

In this case, Defendants failed to satisfy even this basic principle of due process. Defendants did not provide *any* notice to Plaintiff or his school about the decision to terminate Plaintiff's F-1 student status. Instead, Plaintiff learned about his status termination only because his school discovered it during the school's periodic inspection of SEVIS records. *See, e.g*. Verified Compl., ECF No. 1 ¶36.

Nor did Defendants comply with the due process clause's requirements to provide adequate explanation and a meaningful opportunity to respond. Defendants recorded a vague boilerplate reason for terminating Plaintiff's F-1 student status in SEVIS: "OTHER - Individual identified in criminal records check and/or has had their VISA revoked. SEVIS record has been terminated." *See* Ex. C to Verified Compl., ECF No. 1. This brief boilerplate language cannot satisfy the requirements of the Due Process Clause for the simple reason that none of its (disjointed) phrases describes Plaintiff's circumstances. Plaintiff has closely followed all applicable rules and regulations to maintain his F-1 student status. *See*

Verified Compl., ECF No. 1, ¶3; *see also id.* ¶29 (explaining the regulatory requirements for maintaining F-1 status). Thus, the "failure to maintain status" charge cannot apply to Plaintiff, even though that is the phrase SEVIS uses. Plaintiff also has never been convicted of a crime. Verified Compl., ECF No. 1, ¶38. Thus, the criminal record check or failure to maintain student status could not serve as the basis for terminating Plaintiff's F-1 student status. Finally, although Plaintiff subsequently received notice from the State Department that his expired F-1 visa has been revoked, *Id.* at ¶40, the revocation of an F-1 visa does ***not*** constitute a failure to maintain F-1 student status and, therefore, cannot serve as a basis for termination of F-1 student status in SEVIS. *See* 8 C.F.R. § 214.1(d).

As a result, Plaintiff is left to wonder what the basis or explanation for his status termination is. He had no meaningful opportunity to defend himself against hollow and inapplicable boilerplate charges.

Accordingly, Defendants' failure to provide notice, adequate explanations, and meaningful opportunity to contest the termination of Plaintiff's F-1 student status violated the Due Process Clause.

B. The status terminations violate the Administrative Procedure Act (Count 2).

Defendants' termination of Plaintiff's F-1 student status under the SEVIS system also violated the Administrative Procedure Act (APA) in multiple ways. As a preliminary matter, Defendants termination of Plaintiff's F-1 student status is a

final agency action which this Court has jurisdiction to review under the APA. *See Jie Fang v. Director U.S. Immigration & Customs Enforcement*, 935 F.3d 172, 182 (3d Cir. 2019) ("[t]he order terminating these students' F-1 visas marked the consummation of the agency's decision-making process, and is therefore a final order"). Defendants provided no opportunity for Plaintiff to seek administrative review of DHS's unilateral termination.

As to the substantive APA violations, the termination of Plaintiff's F-1 student status based solely on the potential revocation of a visa was (1) not in accordance with law (including regulation), (2) arbitrary and capricious, and (3) contrary to a constitutional right. *See* 5 U.S.C. § 706(2).

Not in accordance with law. Defendants' termination of Plaintiff's F-1 student status was "not in accordance with law." 5 U.S.C. § 706(2)(A). DHS's ability "to terminate an F-1 [student status] is limited by [8 C.F.R.] § 214.1(d)." *Jie Fang*, 935 F.3d at 185 n.100. Under this regulation, DHS can terminate student status ***only*** when: (1) a previously granted waiver under 8 U.S.C. § 1182(d)(3) or (4) is revoked; (2) a private bill to confer lawful permanent residence is introduced in Congress; or (3) DHS publishes a notification in the Federal Register identifying national security, diplomatic, or public safety reasons for termination.[5] 8 C.F.R. § 214.1(d). Noticeably, the revocation of a visa is not a regulatory ground for

[5] A search of the Federal Register at www.federalregister.gov indicates that no notices have been filed in the Federal Register regarding Plaintiff.

termination of F-1 student status. DHS and the State Department—the two federal agencies most involved in F-1 visa and status determinations—have both confirmed this point: DHS's own policy guidance confirms that "[v]isa revocation is not, in itself, a cause for termination of the student's SEVIS record." Exhibit 2. The State Department's Foreign Affairs Manual clarifies that, if an F-1 visa is revoked, the student is permitted to pursue his course of study or OPT uninterrupted, and only upon the student's ultimate post-graduation departure from the United States does their F-1 student status in SEVIS terminate. *See* Exhibit 3.

The regulatory framework governing F-1 status terminations reflects common sense: visas grant individuals permission to *enter* the United States, but once admitted to the United States, that individual's permission to *remain* is governed not by the visa, but by the relevant requirements set out in federal regulations. In the case of F-1 students, those requirements are set out in 8 C.F.R. § 214.2(f) and 8 C.F.R. § 214.1(e)(g). Plaintiff has complied with all requirements listed in these regulatory provisions. Verified Compl., ECF No. 1, ¶3. For example, he has maintained a satisfactory course of study, 8 C.F.R. § 214.2(f)(6) and § 214.2(f)(16)(i)(C); has not engaged in unauthorized employment, 8 C.F.R. § 214.1(e) and § 214.2(f)(16)(i)(C); has provided "full and truthful information" to DHS, 8 C.F.R. § 214.1(f); and has not been convicted of "a crime of violence for

which a sentence of more than one year imprisonment may be imposed," 8 C.F.R. § 214.1(g).

Because Defendants terminated Plaintiff's F-1 student status without a reason authorized by statute or regulation, Defendants' terminations violate 5 U.S.C. § 706(2)(A) as not in accordance with the law, including 8 C.F.R. § 214.1(d).

Arbitrary and capricious. Defendants' termination of Plaintiff's F-1 student status was "arbitrary [and] capricious." 5 U.S.C. § 706(2)(A). Agency action is arbitrary and capricious if the agency cannot "'articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made.'" *Providence Yakima Medical Center v. Sebelius,* 661 F.3d 1181, 1190 (9th Cir. 2010) (quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc., v. State Farm Mut. Auto Ins. Co.*, 463 U.S. 29, 43 (1983)). This requirement obligates the government to engage in an individualized, fact-based examination of a status holder's conduct and explain how it supports the decision to terminate his status.

Here, there appears to have been no such analysis, and no rational connection between the facts and the Government's choices is apparent. In fact, there is no connection at all: Defendants appear to have reflexively initiated a wave of F-1 student status terminations without even considering Plaintiff's individual circumstances. Instead, regardless of individual circumstances, Plaintiff received the same decision with the same paper-thin boilerplate explanation as did many other students across the country. *See, e.g.* Complaint, *Isserdasani v. Noem*, No.

25-cv-283 (W.D. Wis. April 15, 2025), ECF No. 1; Complaint, *Doe v. Bondi*, No. 25-cv-01998 (N.D. Ga. April 18, 2025), ECF No.1. Such a confounding decision is precisely the type of arbitrary and capricious agency action that the APA exists to prohibit.

Contrary to constitutional right. As explained above, Defendants failed to provide Plaintiff with adequate notice and a meaningful opportunity to be heard, in violation of the Due Process Clause, *See* Section I.A. *supra*. The APA prohibits agency actions that are "contrary to constitutional right." 5 U.S.C. § 706(2)(B). *See Citizens to Pres. Overton Park, Inc. v. Volpe*, 401 U.S. 402, 414 (1971), *abrogated on other grounds by Califano v. Sanders*, 430 U.S. 99 (1977) (§ 706(2)(B) is violated "if the [agency] action failed to meet . . . constitutional requirements."); *Dep't of Com. v. New York*, 588 U.S. 752, 792 n.5 (2019) (describing § 706(2)(B) as "addressing agency actions that violate 'constitutional' . . . requirements"). Because Defendants violated Plaintiff's constitutional right to due process of law, the termination of Plaintiff's F-1 student status also necessarily violated the APA for this separate reason.

In conclusion, Defendants' termination of Plaintiff's F-1 student status violated the U.S. Constitution and the APA. Defendants provided no notice, adequate explanation, or meaningful opportunity to respond. Regardless, either with or without notice, Defendants have no statutory or regulatory authority to terminate Plaintiff's F-1 student status, including under 8 C.F.R. § 214.1(d).

Accordingly, Defendants acted arbitrarily, capriciously, and contrary to constitutional right—all in violation of the APA. Plaintiff is therefore likely to prevail on his claims that the termination of his F-1 student status must be set aside and enjoined.

II. Plaintiff Is Facing Irreparable Harm and Will Continue to Do So Absent Emergency Injunctive Relief.

Plaintiff will suffer irreparable harm if Defendants' termination of his F-1 student status is not set aside and enjoined. "It is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'" *Hernandez v. Sessions*, 872 F.3d 976, 994–95 (9th Cir. 2017). "When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary." *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) (internal quotation marks omitted). Plaintiff's due process rights, guaranteed by the Fifth Amendment, are being impaired. *See* Section I.A *supra*.

In addition to the constitutional injury itself, the government's actions also place Plaintiff at serious risk for unlawful detention and deportation because he no longer has lawful status to remain in the United States. *See* Verified Compl., ECF No. 1, ¶43. Visa revocation can be charged as a ground of deportability in removal proceedings. *See* 8 U.S.C. § 1227(a)(1)(B); 8 U.S.C. § 1201(i). However, the immigration judge may dismiss removal proceedings where a visa is revoked, so

long as a student remains in valid status or otherwise reinstates to F-1 student status. *See* 8 C.F.R. § 1003.18(d)(ii). The Defendants decision to abruptly terminate Plaintiff's F-1 status under SEVIS without due cause puts Plaintiff at risk of removal from the United States under INA 237(a)(1)(C). "[D]eportation is a drastic measure and at times the equivalent of banishment of exile." *Fong Haw Tan v. Phelan*, 333 U.S. 6, 10 (1948).

Furthermore, Plaintiff is at risk of losing substantial progress made in his career aspirations. Deportation may "visit as great a hardship as the deprivation of the right to pursue a vocation or calling." *Bridges v. Wixon*, 326 U.S. 135, 147(1945). Kashikov is no longer able to gain flight hours as an instructor through OPT. *See* Verified Compl., ECF No. 1, ¶42. The upcoming summer months are a critical opportunity to log considerable flight hours during the high season in Alaska. *Id*. Because OPT is only available for 14 months following completion of a student's course of study, every sunny day in Alaska is hours of missed flight time during the only summer season when he will be eligible to work in this country under OPT. *Id.* If he were required to return to Kazakhstan, he would face significant barriers in accruing flight hours because his FAA flight instructor certificate is not recognized in Kazakhstan and because the flight instruction sector is virtually non-existent. *Id.*

III. The Balance of Equities and Public Interest Strongly Favor Plaintiff.

The requested emergency relief would restore Plaintiff's ability to safely remain in the United States so that he can complete his OPT and accrue substantial flight hours to launch his pilot career.

By contrast, Defendants have advanced no substantial interest in terminating Plaintiff's F-1 student status. Indeed, granting emergency relief would merely maintain the status quo that has been in place for the many years that the Plaintiff has been in the United States as a rules-following F-1 student. Defendants also cannot have a legitimate interest in enforcing an unconstitutional and unlawful action. "It is always in the public interest to prevent the violation of a party's constitutional rights." *Riley's Am. Heritage Farms v. Elsasser,* 32 F.4th 707, 731 (9th Cir. 2022) (quoting *Sammartano v. First Judicial District Court*, 303 F.3d 959, 974 (9th Cir. 2002) (internal quotation marks omitted)).

Thus, the balance of equities and the public interest strongly favor a temporary restraining order.

IV. Security

Based on the equities and the public interest, the Court should also exercise its discretion not to require Plaintiff to post a security bond under Fed. R. Civ. P. 65(c) in connection with the injunctive relief sought. Courts "may dispense with the filing of a bond when," as here, "there is no realistic likelihood of harm to the defendant from enjoining his or her conduct." *Jorgensen v. Cassiday*, 320 F.3d 906, 919 (9th Cir. 2003). Plaintiff's showing of a high likelihood of success on the

merits supports the Court's waiving bond in this case. *See, e.g., People of State of Cal. ex rel. Van De Kamp* v. *Tahoe Reg'l Plan. Agency*, 766 F.2d 1319, 1325 (9th Cir. 1985), amended, 775 F.2d 998 (9th Cir. 1985).

CONCLUSION AND RELIEF REQUESTED

For the reasons stated above, this Court should issue a temporary restraining order, followed by a preliminary injunction, as requested in Plaintiff's motion, to protect the status quo and ensure that Plaintiff is able to continue OPT free from the government's arbitrary and unconstitutional actions that have so abruptly upended Plaintiff's law-abiding life.

Respectfully submitted this 23 day of April, 2025.

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