United States District Court
District of Connecticut

Yan Du, Elika Shams, Mengni He, and **Stephen Azu**, on behalf of themselves and others similarly situated, *Plaintiffs*,

v.

No. 25-cv-_____

United States Department of Homeland Security,

April 24, 2025

Kristi Noem, Secretary of the Department of Homeland Security, and

Todd Lyons, Acting Director of Immigration and Customs Enforcement, *Defendants*.

Motion for a Temporary Restraining Order

Student-plaintiffs Yan Du, Elika Shams, Mengni He, Stephen Azu ("Plaintiffs") and their fellow class members are foreign citizens who were granted permission to study in the United States under its F-1 status program. Through their affiliation with various Connecticut universities, they have applied themselves to their studies and engaged in rigorous coursework in a variety of fields, as well as related practical training. But over the last few weeks, they have been subjected – without notice, warning, or explanation – to the sudden termination of their F-1 student status. At least 53 students in Connecticut are in their shoes[1], not to mention thousands across the country.[2]

[1] Emilia Otte, "More than 50 visas revoked at CT Colleges and Universities," *CT Mirror* (Apr. 14, 2025) (Ex. 1).
[2] Carroll Alvarado, Javon Huynh and Amanda Musa, "More than 1,000 international students and graduates in the US have had their visas revoked or statuses terminated," *CNN* (Apr. 17, 2025) (Ex. 2).

At the time of their F-1 status termination, Plaintiffs and their fellow class members were in good standing with their affiliated universities. None has committed any act that could justify the loss of their F-1 status under current law, and none of the three reasons why the government may terminate F-1 status on its own accord has transpired.

Nonetheless, over the past few weeks, Plaintiffs and other members of the potential class received urgent calls and emails from the universities at which they study or work. For each plaintiff and potential class member, the reason for the call was identical: The universities had discovered that the defendants to this action had terminated the students' records in SEVIS, the authoritative system used to authorize and track foreign students. What's more, Defendants had not notified Plaintiffs, given them a chance to be heard, or provided them with any meaningful explanation short of a generic one-liner, give or take a few words.

The abrupt loss of their student status has created an avalanche of repercussions for Plaintiffs and the members of the putative class. The termination means Plaintiffs no longer have lawful immigration status. Their academic, educational, and professional opportunities have been permanently disrupted. They cannot work, even if work is required for their courses of study – or indeed, if they are on OPT and thus mandated to work. They are also threatened with removal from the United States, as well as ICE arrest and detention as a precursor to removal. DHS's own website on the termination of SEVIS states that "[w]hen an F-1/M-1 SEVIS record is terminated[,]" international students "lose[] all on-and/or off-campus employment authorization[,]" "cannot re-enter the United States on the terminated SEVIS record[,]" ICE "agents may investigate to confirm the departure of the student[,]" and students' associated dependent records

are terminated. Homeland Security, "TERMINATE A STUDENT," *the Department of Homeland Security* (Nov. 7, 2024) (Ex. 3). Finally, because the terminations have caused the universities to bar Plaintiffs from completing what is necessary for their coursework or training, this will in short order cause the defendants to deem them as violating immigration law if the defendants have not already done so.

As a result of the unilateral termination of their F-1 status, plaintiffs and the putative class members find themselves in a nerve-wracking limbo. They cannot move forward in their academic and professional lives. Instead, they are being forced to forfeit all that they have invested in their American educations—under threat of arrest, detention, and removal.

Because they are all in the same boat, Plaintiffs also seek expedited class certification. While Defendants have refused to provide meaningful reasons for these mass terminations of student status, what is clear is that these terminations—across the board—defy the applicable regulations governing student status termination (*see* 8 C.F.R. § 214.1(d)) and the regulations governing failure to maintain student status (*see* 8 C.F.R. § 214.1(e)-(g), 8 C.F.R § 214.2(f)). Indeed, for the entire class, the applicable regulatory criteria has never been satisfied. The mass terminations were also taken without warning, notice, meaningful explanation, or the ability to be heard.

The terminations were patently unlawful. Plaintiffs accordingly seek a temporary restraining order keeping the parties at their pre-termination peaceable status until the Court issues a final judgment in this action.

1. Facts

1.1. F-1 status for foreign students.

F-1 status is codified at Immigration and Nationality Act at 8 U.S.C. § 1101(F)(*i*). It is for people who do not intend to permanently reside in America (so-called 'non-immigrants'), but are granted permission to remain in the United States while "pursu[ing] a full course of study . . . at an established . . . university" that has been approved to enroll the student. 8 U.S.C. § 1101(F)(i).

That course of study may include or lead to permissible employment periods including "optional practical training" (OPT), which supplements the classroom with hands-on experience. *See generally* 8 C.F.R. § 214.2(f)(10). OPT typically occurs at the end of the completion of a student's studies, and may be paid or unpaid. *Id.* In addition, "[c]ertain F-1 students who receive science, technology, engineering, and mathematics (STEM) degrees may apply for a 24-month extension of their post-completion" OPT. USCIS, *Optional Practical Training Extension for STEM Students (STEM OPT)*[3].

1.2. F-1 status is distinct from an F-1 visa.

Critically, the ability to lawfully remain in the United States is separate from the ability to enter it.[4] So while there is a F-1 visa program, F-1 status does not depend on current possession of an F-1 visa. A person whose F-1 visa is revoked remains lawfully present in the United States; they simply may be denied re-entry if they exit and attempt

[3] https://www.uscis.gov/working-in-the-united-states/students-and-exchange-visitors/optional-practical-training-extension-for-stem-students-stem-opt. (Ex. 4)

[4] Entry into the United States is a distinct subject. *E.g.*, *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). A person trying to enter the country "requests a privilege and has no constitutional rights regarding his application, for the power to admit or exclude aliens is a sovereign prerogative." *Landon v. Plasencia*, 459 U.S. 21, 32 (1982). Once present, though, "the legal circumstance changes, for the Due Process Clause applies to all persons within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 679.

to return. See 22 C.F.R. § 41.122 (setting forth visa revocation criteria and procedures, but not listing any effect upon status); ICE, Policy Guidance 1004-04 – Visa Revocations 3 (June 7, 2010) (instructing designated school officials that "[v]isa revocation is not, in itself, a cause for termination of the student's SEVIS record."). Thus, a person who loses an F-1 visa retains F-1 status and is under no compulsion to leave.

For the elimination of doubt, Plaintiffs and proposed class members do not challenge the revocation of any F-1 visa, assuming that their visas were actually revoked. Instead, Plaintiffs and class members bring this lawsuit to challenge Defendants' unlawful termination of their F-1 student status.

1.3. There are two categories of permissible reasons why F-1 status may be terminated.

As with other non-immigrants, students granted F-1 status "must also agree to depart the United States at the expiration of his or her authorized period of admission," 8 C.F.R. § 214.1(a)(3)(*i*). F-1 status typically expires upon completion of that course. "Once a student has completed his or her course of study and any accompanying practical training, he or she has sixty days to either depart the United States or transfer to another accredited academic institution and seek a transfer of the F-1 visa." *Jie Fang*, 935 F.3d at 175 (citing 8 C.F.R.§ 214.2(f)(5)(iv)).

It is possible that F-1 status holders can also lose F-1 student status before completing their course of study, but only within certain explicitly defined parameters. Permissible status-ending reasons fall into two buckets: student-driven, or agency-driven.

The first bucket comprises acts or omissions by the *student*, collectively referred to as 'failure to maintain status.' There are four acts or omissions in this bucket. Under

8 C.F.R. § 214.2(f)(5), a student fails to maintain status if they do not make "normal progress toward completing a course of study." 8 C.F.R § 214.2(f)(5)(i). A student may also fail to maintain status by undertaking "[a]ny unauthorized employment[,]" by "willful[ly] fail[ing] to provide full and truthful information requested by DHS[,]" or by suffering "conviction in a jurisdiction in the United States for a crime of violence for which a sentence of more than one year imprisonment may be imposed." 8 C.F.R. § 214.1(e)-(g).

The second bucket comprises the three acts by which the *government* may terminate F-1 status, collectively known as "student status termination." It may do so (1) when a previously granted waiver under 8 U.S.C. § 1182(d)(3) or (4) is revoked; (2) if "a private bill to confer permanent resident status on such alien" is introduced in Congress; or (3) after "notification in the Federal Register," it ends the student's status on the basis of "national security, diplomatic, or public safety reasons." 8 C.F.R. § 214.1(d).

Notably, neither of the two buckets of permissible status termination reasons refers to a visa revocation. This is because, as described above, 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.

1.4. SEVIS: the government's electronic system for tracking and managing F-1 status holders, and communicating with their universities.

In 1996, Congress mandated the creation of a digital system through which the government and F-1-authorized educational institutions could enter and track data reflecting the existence and status of the nation's myriad F-1 students. Pub. L. 104-208,

§ 641. That system is the "Student and Exchange Visitor Information System," or SEVIS. The system "enables the Secretary of Homeland Security to monitor the progress and status of lawfully admitted F, M, and J visa category nonimmigrants residing in the United States, and to analyze all the information gathered for purposes of homeland security, law enforcement, immigration control and other mission-related functions." Dep't of Homeland Security, *Notice of Privacy Act System of Records*, 70 Fed. Reg. 14477, 14478 (Mar. 22, 2005).[5]

Participation in SEVIS is mandatory, and its data "shall be provided by institutions of higher education, other approved educational institutions, or exchange visitor programs as a condition of" the continued ability to enroll F-1 students. 8 U.S.C. § 1372(d)(1). SEVIS is the sole method by which universities issue F-1 students their physical proof of status, the Form I-20. 8 C.F.R. § 214.2(1)(iii).

Through SEVIS, schools may apply for authorization to sponsor each F-1 student, and must report to the government things like "[a]ny student who has failed to maintain status or complete his or her program," "[a]ny student who has graduated early or prior to the program end date listed on SEVIS Form I–20," or "[a]ny disciplinary action taken by the school against the student as a result of the student being convicted of a crime." 8 C.F.R. § 214.3(g)(2)(ii).

The government, on the other hand, uses SEVIS to "monitor the progress and status of lawfully admitted F/M/J nonimmigrants residing in the United States, to

[5] The Privacy Act of 1974 obligates federal agencies to "publish in the Federal Register upon establishment or revision a notice of the existence and character of" certain record systems, including "the categories of records maintained in the system" and "each routine use of the records contained in the system, including the categories of users and the purpose of such use." 5 U.S.C. § 552a(e)(4). Privacy Act notices are tremendously useful sources of descriptive information about government data systems, but neither the Act nor any privacy notice forms the basis of the plaintiffs' claims in this suit.

ensure they comply with the obligations of their U.S. admittance," and, "to identify and *act on potential violations* by schools, sponsors, and F, M, or J nonimmigrants." Dep't of Homeland Security, *Notice of Privacy Act System of Records*, 75 Fed. Reg. 412, 413 (Jan. 5, 2010) (updating Privacy Act notice to disclose next-generation SEVIS release, which "propose[d] the collection of additional information on students") (emphasis added). The defendants also use SEVIS to communicate the approval or denial of schools' certifications and periodic re-certifications to participate in the F-1 program. 8 C.F.R. § 214.3(e).

SEVIS is just a data system, not a substantive source of rights or the basis of any of the plaintiffs' claims here. But it is an authoritative way that the government and participating universities communicate with each other on the subject of F-1 status, and so plays the same role that, say, a brokerage firm's website does for an investor: it is how transactions are conclusively effectuated.

1.5. Termination of Plaintiffs' F-1 Student Status.

Each plaintiff in this action had their status suddenly terminated in SEVIS in April 2025, and was notified by their respective universities. Each Plaintiff was surprised and confused: They have been given no meaningful explanation or justification, and there is none. And each Plaintiff now finds themselves in limbo, with their studies, career aspirations, and lives on an untenable hold.

Yan Du

Yan Du is an F-1 student at Yale University who is on the brink of completing a Ph.D. program in Chemical and Environmental Engineering. She is a citizen and national of China. Yan came to the United States on an F-1 visa to enroll in

undergraduate studies at the University of Michigan. She studies water use and the energy grid, and recently defended her dissertation successfully. Du F1 visa (Ex. 5).

As a Ph.D. student at Yale, in spring 2022, Yan returned home to visit family. While there, she fell ill, and a miscommunication with Yale resulted in Yale mistakenly terminating her status in SEVIS. Working with the university, Yan was able to rectify the mistake, and Yan's status was restored in December 2022. She resumed her studies.

Yan is slated to graduate in winter 2025, at which point she hopes to remain in the United States on OPT and work in her chosen field. She is actively applying for jobs. After a 12-month OPT term, she would likely also be eligible for the STEM OPT extension, which allows students in certain STEM fields to extend their OPT for another 24 months.

On April 4, 2025, Yan received a call from Yale's Office of International Students & Scholars (OISS). OISS staff told Yan her F-1 student status in SEVIS had been terminated. She was shocked. The following day, she received a follow-up email from Yale, stating that the reason for the status termination in SEVIS was "OTHERWISE FAILING TO MAINTAIN STATUS - Individual identified in criminal records check and/or has had their VISA revoked. SEVIS record has been terminated." Email from OISS to Du (Apr. 5, 2025) (Ex. 6).

To her knowledge, Yan's visa has not been revoked. And Yan received zero notice, explanation, or information from the government as to why her F-1 status had been terminated—including how her previous, mistaken SEVIS status termination, which was corrected and her status reinstated, would be sufficient to terminate her status now (if that even is the reason).

Yan hopes to be able to graduate as scheduled, but in light of the termination of her F-1 student status, she is not sure. This has caused her tremendous stress and anxiety at what should be a happy time: the successful defense of her dissertation and the cusp of obtaining a hard-earned Ph.D. Her future plans rested entirely on OPT, but her eligibility for OPT is now in jeopardy. Instead of celebrating, she is deeply anxious and afraid, and unsure whether she will be able to realize her career aspirations. On top of this, given her loss of status, she is concerned about being either detained or deported. *See* Declaration of Yan Du (Ex. 7)

Elika Shams

Elika Shams is an F-1 student at UCONN, currently in her second year of a biomedical engineering Ph.D. program. Shams F1 VISA (Ex. 8) She is a citizen and national of Iran.

Elika came to the United States on an F-1 visa to study at UCONN in December 2023. As part of Elika's Ph.D. program, she works as a graduate research assistant in a biomedical engineering lab, doing public health- and medical-related research. Her doctoral stipend is her sole income.

Elika has never been arrested. Prior to her current F-1 student visa, she had another F-1 student visa which was canceled by CBP at the Boston airport based on a misunderstanding that was later cleared by Elika at the US Consulate in Ankara, Turkey, and that resulted in a new F-1 student visa to attempt UCONN. She has had one interaction with law enforcement since coming to the United States in December 2023. On December 31, 2024, Elika was rushing to meet a connecting flight when Frontier Airlines staff refused to let her board unless she paid $100 for a carry-on bag. When she questioned this, Frontier staff shut

the gateway door. Elika attempted to open the door to explain she would pay, resulting in a warning from TSA. Frontier later issued Elika an apology for their staff's behavior.

Elika was enrolled in six credits for the spring semester, along with her graduate research assistant labwork. Less than a month before her semester was to end, on April 10, 2025, Elika received an email from UCONN's office of International Student & Scholar Services ("ISSS"). The email notified her that "[DHS] has terminated your SEVIS record." The message stated the reason DHS entered on SEVIS as "OTHER: Individual identified in criminal records check and/or has had their VISA revoked. SEVIS record has been terminated." The university emphasized that these actions were DHS's, not the university's: "Please note that we did not make this change." Email from ISSS to Shams (Apr. 10, 2025) (Ex. 9).

UCONN's email set out several alarming-sounding courses of action for Elika in light of the termination, including that she "[c]ontact [he]r immigration attorney," and update the university with the contact information of a point person to call "in the event you are unavailable." (Ex. 9). It further told Elika to "STOP WORKING," as "any prior work authorization/eligibility has ended." *Id.*

On April 15, Elika was further informed by UCONN that that she "may not engage in UConn academic activity while your SEVIS record is in terminated status," including by "log[ging in] to Husky CT to access coursework," or "actively engag[ing] in academic work for your degree program." Email from Rae Alexander to Shams (Apr. 15, 2025), (Ex. 10).

Without the ability to continue her studies and research, Elika risks actually being out of compliance with her program, and thus forcibly losing her F-1 status. She is

distressed, anxious, and feels as though all her hopes and dreams for her career have been destroyed. *See* Declaration of Elika Shams (Ex. 11).

Mengni He

Mengni He is an F-1 student Yale University, currently in her fourth year of an Experimental Pathology Ph.D. program. She is a citizen of China.

Mengni came to the United States on an F-1 visa initially to study as an undergraduate at the University of Rochester. Following her graduation from the University of Rochester, Mengni completed a master's degree at Johns Hopkins University and subsequently worked in a lab at Johns Hopkins on OPT.

Mengni began her Ph.D. program at Yale in 2021, with a research focus on cancer biomarker evaluations and clinical assay developments. The aim of Mengni's research is to assist physicians in making decisions on novel cancer therapies for patients with advanced stage diseases. Mengni has completed all coursework required for her degree, as well as her required teaching assistant duties, and is now conducting research in order to write and defend her dissertation.

Nearly ten years ago, as an undergraduate, Mengni received a driving-related violation in New York state that was not a criminal charge. She paid a fine, had a brief license suspension, and completed programming. She has had no other interactions with law enforcement in the nine years since.

Around the same time, she returned home to visit China. Her visa was revoked, but she was soon able to get it reinstated. Mengni returned to the United States in July 2016 and resumed her studies. Between then and January 2020, she traveled in and out of the United States five times using the reinstated visa, with no issues.

On April 9, 2025, Mengni received a phone call from the Designated Student Officer (DSO) at Yale's Office of International Students & Scholars. The DSO informed Mengni that her F-1 student status had been terminated. In a follow-up email the next, day, the DSO reiterated that the termination was not Yale's doing and that Mengi's "SEVIS record ha[d] been terminated by the Department of Homeland Security." The reason given in SEVIS was "OTHER: Individual identified in criminal records check and/or has had their VISA revoked. SEVIS record has been terminated." Email from OISS to He (Apr. 10, 2025) (Ex. 12).

Since April 10, 2025, Mengni has not been permitted to continue her research. Nor can she receive her doctoral stipend, which is her only source of income. The termination of her F-1 status has therefore caused Mengni to suffer extreme distress about whether she will be able to complete her Ph.D. program. Mengni is also afraid she may be detained and removed from the United States. *See* Declaration of Mengni He (Ex. 13).

Stephen Azu

Stephen Azu works at UCONN as a Research Scholar in the Goldenson Center for Actuarial Science. He is a citizen and native of Ghana. He came to the United States on an F-1 visa in August 2022 in order to study at UCONN. Azu F1 Visa (Ex. 14) He successfully completed his studies, and received his master's degree in Actuarial Science from UCONN in August 2024.

In November 2022, Stephen was driving an inebriated friend home when police stopped Stephen for speeding. Stephen had a valid driver's license from Ghana, but was not carrying it. When he saw a judge the following day, the judge confirmed with Stephen that Stephen intended to get a U.S. license – which he immediately did – and

asked Stephen to pay $100, which he also did. That was the end of his interaction with the court.

Other than this, Stephen has received one speeding ticket and one parking ticket. Using his visa, he re-entered the United States twice since he first arrived, without any issue. Most recently, he entered the United States in the summer of 2024, after a trip home to Ghana.

Through the 12-month Optional Practical Training (OPT) program, Stephen has been employed at UCONN as an analyst, an unpaid position, since the fall of 2024. His employment was for one year, and was scheduled to end in late September 2025. Stephen is actively seeking paid employment through the 24-month OPT STEM extension. He has also been admitted to UCONN's Ph.D. program in statistics. If he does not get a job, his plan is to begin his Ph.D. this fall.

On April 9, 2025, Stephen received an email from UCONN's Office of International Student & Scholar Services. The email notified him that "[DHS] has terminated your SEVIS record." The message stated the reason DHS entered on SEVIS as "OTHER: Individual identified in criminal records check and/or has had their VISA revoked. SEVIS record has been terminated." Email from ISSS to Azu (Apr. 9, 2025) (Ex. 15).

Stephen had no idea why his F-1 status would be terminated. He was given no meaningful reason or explanation, including whether his experience in November 2022 would be sufficient for a status termination, if indeed that was the reason. He was particularly surprised given that he had recently re-entered the United States after a trip to Ghana without any issue.

As a result of the status termination, UCONN staff informed Stephen that he must stop working. He did.

On April 14, Stephen received an email from the U.S. consulate in Accra telling him that his visa had been revoked. The message strongly suggested that Stephen could be deported, and added: "Please note that deportation can take place at a time that does not allow the person being deported to secure possessions or conclude affairs in the United States. Persons being deported may be sent to countries other than their countries of origin." Email from Consulate to Azu (Apr. 14, 2025) (Ex. 16).

All of Stephen's career plans are in jeopardy, and he is unsure what to do. *See* Declaration of Stephen Azu (Ex. 17). In addition, and particularly given the alarming language in the e-mail he received, he fears being detained and placed in removal proceedings.

1.6. Defendants are responsible for Plaintiffs' student status termination.

There is no question that Defendants are responsible for the termination of Plaintiffs' student status in SEVIS. Plaintiffs and potential class members have all received identical or closely similar notices, with the OTHER reason indicated as the reason for their status termination. And the defendants' own SEVIS user manual for school administrators explains what the OTHER termination reason entered on Plaintiffs' SEVIS termination transactions mean:

Other	A SEVIS adjudicator uses this termination reason when no other reasons apply.

Dep't of Homeland Security, *SEVIS Help Hub: Termination Reasons, https*://studyinthestates.dhs.gov/sevis-help-hub/student-records/completions-and-terminations/termination-reasons#student_termination_reasons_available_in_sevis_to_dsos (last visited Apr. 21, 2025) (Ex. 18). The OTHER termination reason is an "SEVP-Only Termination Reason[]," meaning that only the government can enter it when terminating a student's SEVIS record. *Id.*[6]

The same manual sets out that UCONN, Yale, and other schools lack the power to revivify terminated SEVIS records. "While school officials can change the status of some records (for example, the principal designated school official (PDSO) change from Canceled to Initial within 15 days), the Student and Exchange Visitor Program (SEVP) must approve most status changes."[7] To request that a terminated record be changed back to active status, a school administrator must request the change on SEVIS, upload a narrative of reasons for the change with supporting evidence, and then submit the request to DHS.[8] DHS assigns the request to a Student and Exchange Visitor Program "analyst," who scrutinizes the request and issues a decision.[9]

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As a result of the impossible limbo in which they now find themselves – jeopardizing their ability to complete hard-earned degrees, continue their professional

[6] SEVP is the Department of Homeland Security's Student and Exchange Visitor Program, which administers the F-1 program and SEVIS.
[7] Dep't of Homeland Security, *SEVIS Help Hub: Correct Student SEVIS Status*, https://studyinthestates.dhs.gov/sevis-help-hub/student-records/corrections-and-correction-requests/correction-requests/correct-1 (last visited Apr. 21, 2025) (Ex. 19).
[8] *Id.*
[9] Dep't of Homeland Security, *SEVIS Help Hub: Correction Requests Overview*, https://studyinthestates.dhs.gov/sevis-help-hub/student-records/corrections-and-correction-requests/correction-requests-overview (last visited Apr. 21, 2025) (Ex. 20).

training, realize career aspirations, and even remain in the country without the fear of detention and/or deportation, or even rendition – Plaintiffs were compelled to file this action, along with a motion for expedited class certification. They now seek a temporary restraining order to keep the last peaceable positions of the parties prior to their F-1 status termination in place until the Court issues a final judgment.

ARGUMENT

2. Immediate preliminary relief should issue to spare the plaintiffs from removal from the United States or loss of F-1 status owing to the defendants' unlawful termination of the students' records on the authoritative system used to verify status.

Pre-judgment relief under Fed. R. Civ. P. 65 is adjudicated under a single standard, whether sought in the form of a preliminary injunction or temporary restraining order. *E.g.*, *Fairfield County Med. Ass'n v. United Healthcare of New England*, 985 F. Supp. 2d 262, 270 (D. Conn. 2013).

Entry of either is warranted where the moving party demonstrates (1) a likelihood of success on the merits, (2) a likelihood of irreparable harm in the absence of preliminary relief, and (3) that an injunction is in the public interest. *New York v. United States Dep't of Homeland Sec.*, 969 F.3d 42, 58–59 (2d Cir. 2020) (holding that, where the government or its official capacity employees are the defendants, the final two factors of the private-party injunction standard merge into a single public interest inquiry). To garner relief, a movant need not show that likelihood as to all their claims, but only "a likelihood of success on the merits of at least one of their claims." *L.V.M. v.*

Lloyd, 318 F. Supp. 3d 601, 618 (S.D.N.Y. 2018) (cleaned up). The plaintiffs having demonstrated such, a temporary restraining order restoring their SEVIS records should immediately enter.

2.1. Preserving the pre-termination relationship between the plaintiff class and the defendants requires only the usual preliminary injunction showing.

The familiar Rule 65 relief standard governs where, as here, the order sought preserves the *status quo ante* between the parties: a so-called prohibitory injunction. *E.g.*, *Mastrovincenzo v. City of New York*, 435 F.3d 78, 89 (2d Cir. 2006).

Defendants Noem and Lyons could be expected to cast the plaintiffs' desired relief instead as the harder-to-obtain mandatory injunction, that is, one altering the relations between the parties because relief would change their already-accomplished marking of the SEVIS system. That contention would be hollow, because this Court deems the *status quo ante* to be "the last actual, peaceable uncontested status which preceded [this] controversy." *Mastrio v. Sebelius*, 768 F.3d 116, 120 (2d Cir. 2014) (cleaned up). The last uncontested posture of the parties here was the one existing in the hour before the defendants terminated their SEVIS records.

That understanding is reflected in our Circuit's treatment of preliminary relief restoring a government-terminated benefit to which the movant otherwise had a continuing right. For example, relief granting permission to resume school attendance in the face of a contested suspension preserves the positions of the parties before the school suspended the student, rather than altering it by pausing the suspension. *Garcia v. Yonkers Sch. Dist.*, 561 F.3d 97, 107 (2d Cir. 2009); *Christopher P. v. Marcus*, 915 F.2d 794, 805 (2d Cir. 1990). So does a TRO reinstating benefits payments to a plaintiff alleging their wrongful stoppage: the last uncontested status of the parties was the

defendant regularly paying those benefits to the plaintiff. *Mastrio v. Sebelius*, 768 F.3d 116, 121 (2d Cir. 2014).

The Court of Appeals places special emphasis on the *ante* consideration of what a prohibitory injunction would restore. Ignoring—as Noem and Lyons may urge—their contested actions and pretending that the plaintiffs' newfound F-1 deprivation is the baseline from which this Court should proceed succumbs to equity's mandate that courts "shut[] out defendants seeking shelter under a current 'status quo' precipitated by their wrongdoing." *N. Am. Soccer League v. U.S. Soccer Federation*, 883 F.3d 32, 37 n.5 (2d Cir. 2018). *Accord Daileader v. Certain Underwriters at Lloyds London Syndicate 1861*, 96 F.4th 351, 357 n. 5 (2d Cir. 2024) (noting that the circumstances of an alleged deprivation procured illegally or in bad faith ought not "be viewed as either 'peaceable' or 'uncontested.'"). Here, the defendants may not hide behind the heightened mandatory injunction standard on account of their own illegality. The situation *before* they terminated the plaintiffs' F-1 status is the one that a TRO from this Court must preserve until it issues a final judgment on the merits.

2.2. The students are highly likely to succeed on the merits of their APA claim because Defendants Noem and Lyons have terminated their status records in the authoritative electronic system used by universities to track eligibility, and that termination was wholly outside of their lawful authority.

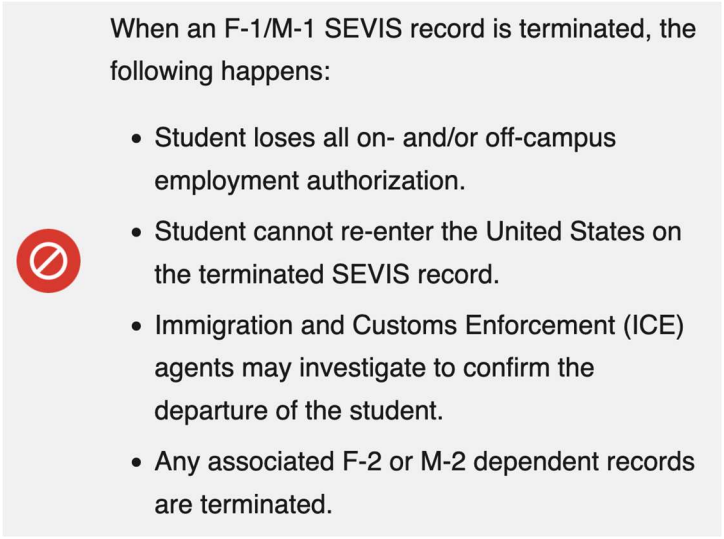
Count One of Plaintiffs' complaint contends that the defendants violated the Administrative Procedures Act (APA) by terminating their SEVIS records without a lawful basis to do so. Anyone "suffering legal wrong because of agency action . . . is entitled to judicial review" in this Court, 5 U.S.C. § 702, provided that the action complained of is "final agency action." *Id.* § 704. The phrase "is meant to cover

comprehensively every manner in which an agency may exercise its power," *Whitman v. Am. Trucking Associations*, 531 U.S. 457, 478 (2001), in whatever form the agency's acts or omissions are reified. An action is "final"—and therefore ready for review in this Court without any further administrative proceedings—where no "statute or [regulation] requires appeal before review and the administrative action is made inoperative pending that review." *Darby v. Cisneros*, 509 U.S. 137, 142 (1993). Final agency action that is "not in accordance with law," 5 U.S.C. § 706(2)(A), is to be "h[e]ld unlawful and set aside." *Id.* § 706(2).

2.2.1. Noem and Lyons terminated the plaintiff class's SEVIS records and caused their universities to bar them from necessary studies and training, illegally inducing them to lose status.

Like all the putative class members, Plaintiffs have unquestionably (1) lost their SEVIS records (2) based on the defendants' acts, not their own or their respective university's. The defendants' termination of Plaintiffs' SEVIS records will ineluctably cause Plaintiffs' failure to maintain F-1 status. For example, Elika cannot make "normal progress toward completing a course of study" as required, 8 C.F.R. § 214.2(f)(5), when she is barred from her graduate assistant job and her coursework. Nor would slyly resuming her graduate assistant work help, since engaging in "[a]ny unauthorized employment" comprises a failure to maintain F-1 status. 8 C.F.R. § 214.1(e). The same is true for Stephen Azu, who is on OPT: He can no longer work, which is the entire basis of his OPT. As for Menghi, her labwork is part and parcel of her program – she has completed her coursework and she cannot complete her Ph.D. course of study without performing research in her lab.

And, Plaintiffs and her class counterparts are lying low, because they fear that their loss of F-1 status renders them subject to immediate arrest and placement into removal proceedings for being in the United States without authorization. *See* 8 U.S.C. § 1227(a)(1)(C) ("Any alien who was admitted as a nonimmigrant and who has failed to maintain the nonimmigrant status in which the alien was admitted . . . is deportable."). The Department of Homeland Security's own SEVIS manual for school administrators confirms the dire effects that termination of a student's record has:



When an F-1/M-1 SEVIS record is terminated, the following happens:

- Student loses all on- and/or off-campus employment authorization.
- Student cannot re-enter the United States on the terminated SEVIS record.
- Immigration and Customs Enforcement (ICE) agents may investigate to confirm the departure of the student.
- Any associated F-2 or M-2 dependent records are terminated.

Dep't of Homeland Security, *SEVIS Help Hub: Terminate a Student*, https://studyinthestates.dhs.gov/sevis-help-hub/student-records/completions-and-terminations/terminate-a-student#h2162 (last visited Apr. 18, 2025) (Ex. 21). And so no class member is attempting to go to the lab, to class, or much of anywhere when the SEVIS site itself instructs school administrators that, "[i]f an F or M student record is terminated because the student failed to maintain status," such a student "must file for reinstatement with USCIS or *depart the United States immediately*."[10] Nor are they

[10] Dep't of Homeland Security, *Questions from D[esignated] S[school] O[fficial]s: What is the Difference Between a Reinstatement and a Correction Request?*,

keen to visit the grocery store when the United States is currently warning those without status that they may be detained at any time and put into removal proceedings. *See*, *e.g.*, Video, Dept't of Homeland Security, *Warning*, at 0:15 (Mar. 15, 2025) (Defendant Noem stating the "clear message" that "aliens [who] are in our country illegally" should "leave now," and if they do not, "we will find you and we will deport you.").[11] An email from the Department of State to a Stephen Azu, for example, notified him that his F-1 visa had been revoked, and then made threats about the loss of his F-1 *status*:

> Remaining in the United States without a lawful immigration status can result in fines, detention, and/or deportation . . . Please note that deportation can take place at a time that does not allow the person being deported to secure possessions or conclude affairs in the United States. Persons being deported may be sent to countries other than their countries of origin.

(Ex. 16). Multiple potential class members have been sent this email.

The defendants' warnings of those consequences render their termination of SEVIS records a final agency action reviewable by this Court. *See Ipsen Biopharmaceuticals, Inc. v. Azar*, 943 F.3d 953, 957 (D.C. Cir. 2019) (APA's functional approach to finality rendered agency warning letter 'final' because of its warned "increased risk of prosecution and penalties," and because its existence "refutes any colorable argument [the regulated entity] might have in an enforcement action that it was acting without knowledge of [the agency]'s position"); *Army Corps of Engineers v. Hawkes Co.*, 578 U.S. 590, 600 (2016) (jurisdictional determination of discharge petition was final for "not only depriv[ing] respondents of a five-year safe harbor from liability under the [Clean Water] Act, but warn[ing] that if they discharge pollutants

https://studyinthestates.dhs.gov/2018/09/questions-dsos-what-difference-between-reinstatement-and-correction-request (Sep. 27, 2018) (attached as Exhibit 22).

[11] *Available at* https://www.dhs.gov/medialibrary/assets/videos/58918.

onto their property without obtaining a permit from the Corps, they do so at the risk of significant criminal and civil penalties.").

2.2.2. The defendants are the ones who have broken the law here, not the students, the students' universities, or the SEVIS system itself.

Nothing about F-1 participating universities' mandated role as intermediaries diminish Noem's or Lyons's responsibility. F-1 schools must abide by the relevant restrictions upon the program. And so, when UCONN got SEVIS notice that Elika Shams's status was terminated, it issued her a letter stating in relevant part that she must stop working immediately. The legal impediment to the class members completing their course requirements is not a letter from their university informing them of the defendants' SEVIS termination. It is the defendants' SEVIS notification to their schools marking the class members as lacking status.

In that way, this dispute is identical to other ones in which the law compels an intermediary to enforce a government deprivation. The government officials who place a person on DHS's No-Fly List are the ones sued for doing so, even though it falls to an airline to turn the person away at the gate. *E.g.*, *Tanvir v. Tanzin*, 120 F.4th 1049, 1056 (2d Cir. 2024). So is a state regulatory agency that denies a police officer a required certification, even though it is his municipal employer that is compelled by law to limit the employee to dispatch duties for want of certification. *Cullen v. Mello*, No. 21-cv-617, 2023 WL 2346496, at *2 (D. Conn. Mar. 3, 2023).

Plaintiffs and the potential class members have been barred from necessary academic activities because the defendants used the authoritative electronic system for F-1 management to mark them as no longer having F-1 status. It may be that the

defendants possess some secret record showing that Ms. Doe and her counterparts continue to possess F-1 status, but if so, the defendants have not shown that record to the schools and countermanded what is on SEVIS.

Functionally, blaming SEVIS without unreservedly telling UCONN, Yale, and other Connecticut institutions that the class members are, in fact, in-status is the same as broadcasting the students' loss of F-1 status, because the schools will treat the students as lacking status in either case. The APA's "'pragmatic' approach" to finality, *Hawkes Co.*, 578 U.S. at 599, thus deems the SEVIS record termination to be final. *See*, *e.g.*, *Frozen Food Express v. United States*, 351 U.S. 40, 43–44 (1956) (agency ruling exempting certain agricultural products from its regulatory ambit was final for APA purposes as having "an immediate and practical impact" on both the regulated entities (motor carriers) and their non-regulated customers (shippers), because carriers were bound to refuse shippers' requests to transport certain items, or to charge shippers more for the transport of other items).

2.2.3. Because there are no mandatory administrative remedies prescribed by statute or rule, Plaintiffs needed to take no further action before filing suit in this Court.

As they—or their predecessors—have argued unsuccessfully in other venues, Noem and Lyons may parry this motion for preliminary relief with the assertion that SEVIS termination is merely the first step in some unspecified process, and hence, they have not taken final agency action. Elsewhere, the defendants have contended that a terminated student ought to await institution of removal proceedings against them (and therefore, possible arrest and incarceration in another state or even rendition without recourse to another country) to raise their claims here as defenses there. They

have also contented that a terminated student might petition for reinstatement of their F-1 status even though that would paradoxically require proof "to the satisfaction of USCIS, by a detailed showing, either that . . . [t]he violation of status resulted from circumstances beyond the student' control," or "relates to a reduction in the student's course load." 8 C.F.R. § 214.2(f)(16)(*i*)(F).). Of note, USCIS is a subagency of Defendant DHS, the same agency that terminated Plaintiffs' SEVIS.

The proposition makes no sense as a matter of logic or administrative law. Were the Connecticut Supreme Court to email the Department of Justice a notice that Noem and Lyons's counsel had been unlawfully and summarily stricken from the roll of attorneys, those lawyers would not be confined to just keep practicing while meekly waiting for an unlicensed practice prosecution and/or professional conduct presentment. *Cf. MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118, 128-29 (2007) ("[W]here threatened action by government is concerned, we do not require a plaintiff to expose himself to liability before bringing suit to challenge the basis for the threat."). The finality of such a notice—like Plaintiffs' student status termination in SEVIS—puts beyond question the issue of whether one ought to wait for further agency deliberations. *See Sharkey v. Quarantillo*, 541 F.3d 75, 89 (2d Cir. 2008) (reversing dismissal for lack of jurisdiction, and holding that—if true—allegation that ICE crossed out relevant stamp on plaintiff's passport and wrote "cancelled with prejudice" showed the consummation of ICE's decision-making).[12]

The same conclusion follows if the question is analyzed as a matter of administrative procedure. The termination of SEVIS records carries no mandatory

[12] Any suggestion that Plaintiffs must attempt to reinstate their status falls especially flat for Stephen Azu and others who are on OPT, as there is no petition for reinstatement of OPT.

avenue of administrative review that Plaintiffs or their fellow class members must initiate. They have exhausted any "administrative remedies expressly prescribed by statute or agency rule"–there being none—and the SEVIS termination is "final for the purposes of" 5 U.S.C. § 702's judicial review provision. *Darby v. Cisneros*, 509 U.S. 137, 146 (1993).

As the Third Circuit succinctly put it, termination of a SEVIS record is 'final' because "there is no statutory or regulatory requirement that a student seek reinstatement after his or her F-1 visa has been terminated," and "the students need not wait for removal proceedings to be instituted" when the government may never do so. *Jie Fang v. Director of ICE*, 935 F.3d 172, 182 (3d Cir. 2019) (reversing dismissal of class SEVIS termination action).

Any assertion that the plaintiffs wait for removal proceedings against them is additionally bewildering because such proceedings would be based upon the very F-1 status termination litigated here. *See* 8 U.S.C. § 1227(a)(1)(C) ("Any alien who was admitted as a nonimmigrant and who has failed to maintain the nonimmigrant status in which the alien was admitted . . . is deportable."). If a SEVIS termination means nothing and is not final, then a terminated student cannot be removed on its account. The government would have the student-plaintiffs wait for it to start a proceeding that it lacks a *prima facie* case to plead.

2.2.4. The defendants' termination of the class's SEVIS records was illegal because none of the statutory bases for status-loss has transpired.

On the merits, the defendants are destined to lose. There are only two categories of reasons why F-1 status may be terminated, and none of them has

transpired here. The defendants have acted entirely outside of the statutes and regulations constraining their actions, and the F-1 status terminations in SEVIS must be "h[e]ld unlawful and set aside." 5 U.S.C. § 706(2).

To begin with what the defendants may do unilaterally, their authority "to terminate an F-1 [status] is limited by [8 C.F.R.] § 214.1(d)." *Jie Fang*, 935 F.3d at 185 n.100. That regulation permits the defendants to terminate only where (1) a previously granted waiver under 8 U.S.C. § 1182(d)(3) or (4) is revoked;[13] (2) if "a private bill to confer permanent resident status on such alien" is introduced in Congress; or (3) after it publishes its intent to do so in the Federal Register, the defendants end a person's student status for "national security, diplomatic, or public safety reasons." 8 C.F.R. § 214.1(d). None of the three conditions occurred here. None of the plaintiffs or class members are in the United States pursuant to a 8 U.S.C. § 1182(d) waiver, none have had a private Congressional bill introduced to confer residency, and none were the subject of a Federal Register notice to strip student status.

The only shelter that leaves Lyons and Noem is to claim that the student-plaintiffs caused their own loss of status. But none has done anything to trigger any of the four permissible ways to forfeit status. As of the date that the defendants altered their SEVIS records and caused their universities to treat them as having lost F-1 status, no class member had failed to make "normal progress toward completing [their] course of study." 8 C.F.R. § 214.2(f)(5). None had undertaken "[a]ny unauthorized employment," 8 C.F.R. 214.1(e), or "willful[ly] fail[ed] to provide full and truthful information requested by DHS." *Id.* § 214.1(f). Nor had any student-plaintiff been

[13] Those subsections are provisions for the catch-all "[t]emporary admission of nonimmigrants," by which the Attorney General may admit a person to the country for a variety of reasons notwithstanding the person's being otherwise inadmissible.

convicted in the United States "for a crime of violence for which a sentence of more than one year imprisonment may be imposed." *Id.* § 214.1(g). If an arrest, or prosecution *not* ending in a conviction, surfaced "in [a] criminal records check" of each class member, (Ex. 9), that is of no help to Noem and Lyons. They are not free to unilaterally rewrite § 214.1(g)'s express requirement of a conclusive guilt determination—and for a specific crime.

Visas are no help to the defendants, either, even though they were mentioned in the ambiguous termination reasons noted by the defendants in the plaintiffs' SEVIS records. According to the reason entered by Lyons and Noem with the OTHER termination code, each plaintiff was "identified in criminal records check and/or has had their VISA revoked." (Ex. 9). Were the defendants to stake their termination case on any of the class's visas having been revoked, they would lose. The visa revocation regulation says nothing about status revocation. 22 C.F.R. § 41.122. And the general non-immigrant, and specific F-1, regulations limit status loss to the two categories discussed above. Neither category contains visa revocation. 8 C.F.R. § 214.1(d) (permissible reasons for government to terminate); *id.* §§ 214.1(e)-(g), 214.2(f)(5) (permissible ways for a student's acts or omissions to cause loss). *Accord* ICE, *Policy Guidance 1004-04 – Visa Revocations* 3 (June 7, 2010) (instructing designated school officials that "[v]isa revocation is not, in itself, a cause for termination of the student's SEVIS record.") (Ex. 23).

2.3. The student-plaintiffs merit an injunction to prevent removal from the United States, loss of educational opportunity, and imminent loss of status via failure to progress towards completion of their studies or training.

As is patent from their recitation of the facts and applicable law, the plaintiff class faces two irreparable harms meriting an order freezing the parties in their pre-termination postures until judgment. First, the students are at peril of removal from the United States. Loss of status subjects a non-immigrant to removal proceedings, 8 U.S.C. § 1227(a)(1)(C), and detention pending a removal order, 8 U.S.C. § 1226(a). The defendants' own guidance for F-1 school administrators instructs that a person who loses F-1 status should leave the country "immediately."[14] And the defendants' statements to the public and to class members themselves threaten that those without status will be found and deported,[15] without warning and possibly ending in rendition to a third country.[16] Once the defendants terminated the plaintiff class's status records in the very electronic system that ICE uses to enforce the immigration laws applicable to foreign students, it put them in continuing peril of removal proceedings and detention, a tool ICE uses to ensure that non-immigrants accused of violating their status are promptly removed upon a removal order. 8 U.S.C. § 1226(a).

Second, the defendants' marking the plaintiffs in SEVIS as lacking status is causing the plaintiffs to miss vital coursework, exams, lab time, research, and employment required for their authorized courses of study. They are in the United States to complete their educational courses, and the defendants' decisions to terminate

[14] Dep't of Homeland Security, *Questions from D[esignated] S[school] O[fficial]s: What is the Difference Between a Reinstatement and a Correction Request?,* https://studyinthestates.dhs.gov/2018/09/questions-dsos-what-difference-between-reinstatement-and-correction-request (Sep. 27, 2018) (Ex. 22).
[15] Video, Dept't of Homeland Security, *Warning*, at 0:15 (Mar. 15, 2025).
[16] *See, e.g.*, Ex. 16.

the plaintiffs' SEVIS records interrupts that very goal. Worse, the defendants' inducing the treatment of the students as if they have now lack status will, itself, cause the plaintiffs to lose status in the near future. The students have already begun missing coursework or practical training requirements because of the termination of their F-1 status in SEVIS. The failure to progress will trigger the schools' affirmative duty to report on SEVIS "[a]ny student who has failed to maintain status or complete his or her program." 8 C.F.R. § 214.3(g)(2)(ii). In short, the defendants' unlawful action has left the plaintiffs in both immediate and imminent irreparable harm easily avoided by a temporary restraining order restoring the parties to their pre-SEVIS termination state.

2.4. A temporary restraining order is in the public interest because it ensures that the defendants follow the Code of Federal Regulations, and adherence to the law imposes no hardship on government officials.

"A preliminary injunction is "in the public interest" if [it] would not "cause harm to the public interest." *Local 1159 of Council 4 AFSCME v. City of Bridgeport*, 435 F. Supp. 3d 400, 415–16 (D. Conn. 2020) (quoting *S.E.C. v. Citigroup Global Markets*, 673 F. 3d 158, 163 n.1 (2d Cir. 2012)). The public, of course, has a paramount interest in "ensuring that the government complies with its obligations under the law and follows its own procedures." *Medina v. Dep't of Homeland Security*, 313 F. Supp. 3d 1237, 1252 (W.D. Wash. 2018).

Moreover, preliminary relief holding the parties at their respective positions imposes no hardship on the defendants. "[A] general requirement to follow the law," in this case the Code of Federal Regulations, "does not impose a hardship" on the government. *Disability Rts. New York v. New York State Dep't of Corr. & Community*

Supervision, No. 21-cv-739, 2022 WL 484368, at *13 (N.D.N.Y. Feb. 17, 2022). As Defendant Noem aptly put it, in America, "follow the law and you'll find opportunity. Break it, and you'll find consequences." DHS, *Warning* 0:45-0:52. She and the other defendants have broken the law here, and as a consequence the Court must preserve the class in the position it was in before the defendants violated the law, pending litigation on the merits.

3. Plaintiffs Have Demonstrated Eligibility for Class Certification for Purposes of this Temporary Restraining Order.

As detailed in Plaintiffs' separate Motion for Expedited Class Certification, Plaintiffs seek relief on their own behalf, as well as for a class consisting of:

All current or future students at (and Optional Practical Training participants affiliated with) any educational institutions (including colleges and universities) in Connecticut who had their F-1 student status terminated and had their SEVIS immigration record correspondingly terminated by Defendants on or after March 1, 2025 where either:

(1) Defendants' student status termination was neither
(i) based on the criteria set forth in 8 C.F.R. § 214.1(d),
(ii) because the student failed to maintain student status based on the criteria set forth in 8 C.F.R. § 214.1(e)-(g), nor
(iii) because the student failed to make normal progress toward completing a course of study under 8 C.F.R § 214.2(f)(5)(i)

Or

(2) Defendants
(i) did not directly notify the students of the reason for the termination of F-1 status;
(ii) did not specify the specific factual reason for the termination under the regulations governing student status termination (see 8 C.F.R. § 214.1(d)) or the regulations governing failure to maintain student status (see 8 C.F.R. § 214.1(e)-(g), 8 C.F.R § 214.2(f)); or
(iii) did not provide the students/graduates with an opportunity to challenge the termination of student status.

Immediate certification will allow this Court to provide comprehensive, equitable relief to the more than 53 students affiliated with Connecticut institutions of higher education, all of whom have suffered the same injury when their status was terminated.

4. Conclusion

Accordingly, Plaintiffs respectfully request that the Court grant this motion for a Temporary Restraining Order.

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