

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

SD Student Doe #1 v. Noem

SD Student Doe #1 · No. 25-cv-926-RSH-BLM · Decided April 24, 2025

SUMMARY

The United States District Court for the Southern District of California granted an international F-1 student’s application for a temporary restraining order after ICE terminated the student’s SEVIS record based on a prior arrest and/or visa-related information. The court found that the plaintiff was likely to succeed on an Administrative Procedure Act claim and likely to suffer irreparable harm. The court ordered reinstatement of the SEVIS record, prohibited further termination action, and allowed the plaintiff to proceed under a pseudonym with identifying information filed under seal.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Robert S. Huie
JURISDICTION	United States District Court for the Southern District of California
DECIDED	April 24, 2025
DOCKET	25-cv-926-RSH-BLM
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff sought a temporary restraining order, permission to proceed under a pseudonym, and protective measures after ICE terminated his SEVIS record. The district court granted the TRO, permitted pseudonymous litigation and filing under seal, waived a bond, and construed the TRO application as a noticed motion for a preliminary injunction.
STANDARD OF REVIEW	A TRO requires a clear showing that the movant is entitled to extraordinary relief. The court applied the Winter factors: likelihood of success on the merits, likelihood of irreparable harm, balance of equities, and the public interest. The court reviewed the alleged agency action under the APA’s arbitrary-and-capricious standard.
PRECEDENTIAL VALUE	unpublished district court order; persuasive authority only

TOPICS

immigration

administrative procedure act

judicial review of agency action

agency adjudication

injunctions

PRACTICE AREAS

immigration law

administrative law

civil procedure

constitutional law

equitable relief

QUESTIONS PRESENTED

1. Whether plaintiff was entitled to a temporary restraining order under the Winter factors.
2. Whether termination of plaintiff's SEVIS record was likely unlawful under the APA because the agency failed to show compliance with the governing regulations.
3. Whether termination of the SEVIS record constituted final agency action reviewable under the APA.
4. Whether the Privacy Act supplied an exclusive and adequate alternative remedy barring plaintiff's APA claim.
5. Whether plaintiff could proceed under a pseudonym and file identifying information under seal.
6. Whether the court should require a bond under Federal Rule of Civil Procedure 65(c).

HOLDINGS

1. Plaintiff established the Winter factors and was entitled to a TRO preserving his SEVIS record and protecting him from specified immigration enforcement actions pending further proceedings.
2. Plaintiff was likely to succeed on his APA claim because the record did not show that ICE terminated his SEVIS record for a reason authorized by the applicable statutes and regulations.
3. Termination of plaintiff's SEVIS record was final agency action reviewable under the APA.
4. The Privacy Act did not provide an exclusive or adequate alternative remedy and therefore did not bar plaintiff's APA claim.
5. Plaintiff was permitted to proceed under the pseudonym SD Student Doe No. 1, and identifying information was required to be redacted from public filings and lodged under seal.
6. The court waived the Rule 65(c) bond requirement because there was no realistic likelihood of harm to defendants from the injunction.

KEY QUOTATIONS

"The Court concludes that the termination was a final agency action." (III.A.2)

"For the above reasons, the Court determines Plaintiff has established he is likely to succeed on the allegation that Defendants' termination of his SEVIS record was a violation of the APA." (III.A.2)

"Defendants shall reinstate Plaintiff's SEVIS record, retroactive to April 4, 2025." (IV.1)

"Defendants are enjoined from taking any further action to terminate Plaintiff's SEVIS record." (IV.1)

FACTUAL BACKGROUND

Plaintiff is an international graduate student who had studied in San Diego under F-1 status since September 2022. He had previously been arrested for a misdemeanor domestic-violence offense, but no charges were brought and he was not convicted; after receiving a new visa in 2023, he returned to the United States and resumed his studies. ICE terminated his SEVIS record on April 4, 2025, citing a criminal-record identification and/or visa revocation, which threatened his education, graduate-study employment, and ability to remain in the United States.

PROCEDURAL HISTORY

Plaintiff filed the action on April 18, 2025, asserting Administrative Procedure Act and procedural-due-process claims arising from termination of his SEVIS record. He filed the TRO application on April 21 and an amended complaint the same day. The court denied defendants' venue-transfer motion as moot after the amended pleading, held a TRO hearing on April 24, and granted the requested preliminary relief.

DISPOSITION

other

CASES CITED

- Wash. All. of Tech. Workers v. United States Dep't of Homeland Sec., 50 F.4th 164, 169, 196 (D.C. Cir. 2022)
- Jie Fang v. Dir. United States Immigration & Customs Enf't, 935 F.3d 172, 175, 182, 185 n.100 (3d Cir. 2019)
- Awuku-Asare v. Garland, 991 F.3d 1123, 1126 (10th Cir. 2021)
- King v. Cty. of Los Angeles
- Villegas Lopez v. Brewer, 680 F.3d 1068, 1072 (9th Cir. 2012)
- Babaria v. Jaddou, 87 F.4th 963, 976 (9th Cir. 2023)
- Winter v. NRDC, Inc., 555 U.S. 7, 20 (2008)
- Wallace v. Christensen, 802 F.2d 1539, 1552 n.8 (9th Cir. 1986)
- Zhuoer Chen v. Noem, No. 25-CV-03292-SI, 2025 WL 1150697, at *5 (N.D. Cal. Apr. 18, 2025)
- Doe v. Noem, No. 2:25-CV-00633-DGE, 2025 WL 1141279, at *5, *7–9 (W.D. Wash. Apr. 17, 2025)
- Doe v. Noem, 2025 WL 1134977, at *6 (E.D. Cal. Apr. 17, 2025)
- Daou v. Noem, No. 8:25-cv-976-MSS-AEP, 2025 WL 1148687, at *2 (M.D. Fla. Apr. 18, 2025)
- Roe v. Noem, No. CV 25-40-BU-DLC, 2025 WL 1114694, at *3–4 (D. Mont. Apr. 15, 2025)
- Int'l Bhd. of Teamsters v. United States DOT, 861 F.3d 944, 952 (9th Cir. 2017)
- Bennett v. Spear, 520 U.S. 154, 177–78 (1997)
- United Aeronautical Corp. v. United States A.F., 80 F.4th 1017, 1022 (9th Cir. 2023)
- All. for Retired Americans v. Bessent, No. CV 25-0313 (CKK), 2025 WL 740401, at *19 (D.D.C. Mar. 7, 2025)
- Yunwei Chen v. Noem, No. 1:25-CV-00733-TWP-MG, 2025 WL 1163653, at *5 (S.D. Ind. Apr. 21, 2025)
- Soto v. United States Dep't of State, 244 F. Supp. 3d 207, 208 (D.D.C. 2017)
- Raven v. Panama Canal Co., 583 F.2d 169, 171 (5th Cir. 1978)

- Baird v. Bonta, 81 F.4th 1036, 1040 (9th Cir. 2023)
- Nken v. Holder, 556 U.S. 418, 435 (2009)
- Jorgensen v. Cassiday, 320 F.3d 906, 919 (9th Cir. 2003)
- Doe v. Kamehameha Sch., 596 F.3d 1036, 1042 (9th Cir. 2010)
- Does I thru XXIII v. Advanced Textile Corp., 214 F.3d 1058, 1067–68 (9th Cir. 2000)
- Ctr. for Auto Safety v. Chrysler Grp., LLC, 809 F.3d 1092, 1095 (9th Cir. 2016)
- Roe v. Noem, No. CV 25-40-BU-DLC, 2025 WL 1114694, at *4 (D. Mont. Apr. 15, 2025)
- W.B. v. Noem, No. 25-cv-3407-EMC, 2025 WL 1180296, at *1 n.1 (N.D. Cal. Apr. 23, 2025)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 SD STUDENT DOE #1, Case No.: 25-cv-926-RSH-BLM Plaintiff, 12
ORDER GRANTING v. 13 PLAINTIFF’S APPLICATION KRISTI NOEM, in her official
capacity as FOR TEMPORARY 14 Secretary of Homeland Security; the RESTRAINING ORDER
15 DEPARTMENT OF HOMELAND SECURITY; and TODD LYONS, in his [ECF No. 3] 16
official capacity as Acting Director of U.S. 17 Immigration and Customs Enforcement,
Defendants.

18 19 20 21 Before the Court is a motion to proceed by pseudonym, for a protective order, and 22
for a temporary restraining order (“TRO”) filed by Plaintiff Doe. ECF No. 3. Plaintiff 23 moves
for a TRO enjoining the termination of his Student and Exchange Visitor 24 Information System
(“SEVIS”) record maintained by Immigration and Customs 25 Enforcement (“ICE”).

On April 24, 2025, the Court held a hearing on Plaintiff’s motion. 26 For the reasons stated on the
record and below, the Court grants Plaintiff’s motion. 27 /// 28 /// 1 I. BACKGROUND 2 A.
Statutory and Regulatory Background 3 1. F-1 Visas 4 The Immigration and Nationality Act
(“INA”) “sets the terms on which consular 5 officers at U.S. embassies and consulates abroad may
issue visas to both prospective 6 ‘immigrants’ and ‘nonimmigrants.’” Wash. All. of Tech.

Workers v. United States Dep’t of 7 Homeland Sec., 50 F.4th 164, 169 (D.C. Cir. 2022) (citing 8
U.S.C. § 1201(a)(1)). 8 “‘Immigrant’ visas are issued to foreign nationals intending to move to the
United States 9 permanently.” Id. “‘Nonimmigrant’ visas are for foreign nationals seeking to come
into the 10 country temporarily for an identified purpose.” Id. 11 Under the INA, an F-1 foreign
student visa may be issued to: 12 [A]n alien having a residence in a foreign country which he has
no 13 intention of abandoning, who is a bona fide student qualified to pursue a full course of study
and who seeks to enter the United States 14 temporarily and solely for the purpose of pursuing
such a course of 15 study... at an established college, university, seminary, conservatory, academic
high school, elementary school, or other academic institution 16 or in an accredited language
training program in the United States, 17 particularly designated by him and approved by the
Attorney General after consultation with the Secretary of Education, which institution or 18 place

of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student, and if any such institution of learning or place of study fails to make reports promptly the approval shall be withdrawn....

8 USCS § 1101(a)(15)(F)(i). “Like other visa classes defined in section 1101(a)(15), F-1 identifies entry conditions but is silent as to any controls to which these aliens will be subject after they arrive in this country.” Wash. All. of Tech. Workers, 50 F.4th at 169. (internal quotation marks omitted). Instead, under 8 U.S.C. § 1184(a)(1), “[t]he admission to the United States of any alien as a nonimmigrant shall be for such time and under such conditions as the Attorney General may by regulations prescribe[.]” 12.

SEVP and SEVIS ICE, part of the U.S. Department of Homeland Security (“DHS”), administers the F-1 visa system “through its Student and Exchange Visitor Program (‘SEVP’).” Jie Fang v. Dir. United States Immigration & Customs Enf’t, 935 F.3d 172, 175 (3d Cir. 2019). SEVP monitors F-1 students “while in the United States to ensure that rules and regulations are followed by international students.”¹ SEVP also manages SEVIS, an “internet-based system” that “contains information on international students, as well as the schools that enroll them.” Id. SEVIS is used “to help monitor students and schools for compliance with U.S. laws.” Id. 10 3.

F-1 Visa Status Under the Code of Federal Regulations, F-1 students are admitted for “duration of status” which is “defined as the time during which an F-1 student is pursuing a full course of study at an educational institution certified by SEVP for attendance by foreign students, or engaging in authorized practical training following completion of studies[.]” 8 C.F.R. § 214.2(f)(5)(i); see also Wash. All. of Tech.

Workers, 50 F.4th at 196; Awuku-Asare v. Garland, 991 F.3d 1123, 1126 (10th Cir. 2021). To maintain status, a F-1 student may not engage in certain activities specified by regulation, which include engaging in unauthorized unemployment, willfully failing “to provide full and truthful information requested by DHS,” and certain criminal activity. 8 C.F.R. § 214.1(e)-(g).

A student who fails to maintain F-1 status is removable. 8 U.S.C. § 1227(a)(1)(C)(i). Separately, the Code of Federal Regulations permits the termination of nonimmigrant status in three specific circumstances: (1) “by the revocation of a waiver 1 See DHS, Who is SEVP?, <https://studyinthestates.dhs.gov/2015/01/who-sevp> (last accessed April 22, 2025).

The Court may “take judicial notice of the undisputed and publicly available information displayed on government websites.” King v. Cty. of Los Angeles, 2018 WL 1123, at *1 (9th Cir. 2018) (quoting 8 U.S.C. § 1182(d)(3) or (4)]; (2) “by the introduction of a private bill to confer permanent resident status on such alien”; or (3) “pursuant to notification in the Federal Register, on the basis of national security, diplomatic, or public safety reasons.” 8 C.F.R. § 214.1(d); see also Jie Fang, 935 F.3d at 185 n.100 (“[T]he ability to terminate an F-1 visa is limited by § 214.1(d).”).

6 B. Plaintiff's Allegations 7 The instant case arises from the alleged termination of Plaintiff's SEVIS record. 8 Plaintiff's Amended Complaint alleges as follows. 9 Plaintiff is an international graduate student who has been studying in San Diego 10 under a F-1 visa since September 2022. ECF Nos. 3-2 at 6; 6 ¶¶ 1, 27, 29.

In 2002, Plaintiff 11 was arrested for a misdemeanor domestic violence offense. ECF Nos. 3-2 at 6; 6 ¶ 30. No 12 charges were brought against him, and he was not convicted of any crime. ECF No. 6 ¶ 30. 13 Plaintiff's F-1 visa expired after his arrest and he departed the United States. Id. ¶ 31.

In 14 2023, the U.S. Consulate issued Plaintiff a new visa despite being aware of his arrest. Id. 15 Following the issuance of his new visa, Plaintiff returned to the United States to resume 16 his graduate studies. Id. ¶ 32. Plaintiff's new visa has now expired. Id. 17 On April 4, 2025, Plaintiff's SEVIS record was terminated. Id. ¶ 33. Plaintiff was 18 notified of this termination four days later.

ECF No. 3-2 at 6; 6 ¶ 33. The reason provided 19 for the termination was: "OTHERWISE FAILING TO MAINTAIN STATUS – Individual 20 identified in criminal records check and/or has had their VISA revoked. SEVIS record has 21 been terminated." ECF No. 6 ¶ 33.

As a result of this termination, Plaintiff alleges he may 22 no longer be employed in connection with his graduate studies and has experienced "high 23 levels of stress and anxiety." Id. ¶¶ 36, 38. 24 Defendants do not dispute that Plaintiff disclosed his prior arrest at the time he 25 applied for his new visa, or that the new visa was appropriately granted.

ECF No. 12 at 3. 26 Defendants state that they have no evidence that Plaintiff engaged in criminal activity 27 subsequent to the 2022 arrest. Id. Defendants also state that, although Plaintiff's new visa 28 expired on June 26, 2024, "he remains in lawful status as long as he maintains student 1 status." Id. at 2. 2 C. Procedural Background 3 On April 18, 2025, Plaintiff initiated the instant lawsuit against Kristi Noem, in her 4 official capacity as Secretary of DHS, DHS, and Todd Lyons, in his official capacity as 5 Acting Director of ICE.

ECF No. 1. 6 On April 21, 2015, just after 4:00 pm, Plaintiff filed the instant motion. ECF No. 3. 7 On the same day, Defendants filed a motion to transfer venue [ECF No. 5] and Plaintiff 8 subsequently filed an Amended Complaint [ECF No. 6].

The Amended Complaint, like the 9 original pleading, asserts claims for violations of the Administrative Procedure Act 10 ("APA") and procedural due process in connection with the termination of Plaintiff's 11 SEVIS record. ECF No. 6 ¶¶ 41–56. Later in the same evening, Defendants filed an ex 12 parte application requesting that the Court address their motion to transfer venue prior to 13 ruling on Plaintiff's TRO application.

Plaintiff filed an opposition to the application, and 14 Defendants filed a reply. See ECF Nos. 7–9. 15 On the following day, April 22, 2025, the Court denied Defendants’ motion to 16 transfer venue as moot in light of the amended pleading and denied Defendants’ ex parte 17 application requesting that the Court address the motion to transfer venue on an expedited 18 basis.

ECF No. 10. The Court issued a briefing schedule on Plaintiff’s TRO application 19 and set the matter for a hearing on April 24, 2025. Id. at 2. Defendants filed a response to 20 Plaintiff’s TRO application on April 23, 2025. ECF No. 12. Plaintiff filed a reply brief. 21 ECF No. 13.

The Court subsequently held a hearing on Plaintiff’s application on April 24, 22 2025. 23 II. LEGAL STANDARD 24 Federal Rule of Civil Procedure 65(b) governs the issuance of a TRO. Generally, a 25 TRO is “an extraordinary and drastic remedy, one that should not be granted unless the 26 movant, by a clear showing, carries the burden of persuasion.” *Villegas Lopez v. Brewer*, 27 680 F.3d 1068, 1072 (9th Cir.

2012). “[T]he legal standards applicable to TROs and 28 preliminary injunctions are substantially identical.” *Babaria v. Jaddou*, 87 F.4th 963, 976 1 (9th Cir. 2023). To obtain injunctive relief, the moving party “must establish that he is 2 likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of 3 preliminary relief, that the balance of equities tips in his favor, and that an injunction is in 4 the public interest.” *Winter v. NRDC, Inc.*, 555 U.S. 7, 20 (2008).

5 III. ANALYSIS 6 A. Request for Temporary Restraining Order 7 Plaintiff moves for a temporary restraining order: (1) enjoining Defendants’ 8 termination of Plaintiff’s SEVIS record and staying any legal effects resulting from this 9 termination; (2) prohibiting Defendants from directly or indirectly implementing, 10 enforcing, or otherwise taking action as a result of their decision to terminate Plaintiff’s 11 SEVIS record; and (3) enjoining Defendants from arresting, detaining, or transferring 12 Plaintiff outside the jurisdiction of this District.

ECF No. 3-1 at 2–3. 13 1. Venue 14 Defendants argues, as a threshold matter, that “[t]his case should be transferred to 15 the U.S. District Court for the District of Columbia where the complained-of action was 16 taken by SEVP.” ECF No. 12 at 5.

After Plaintiff amended his venue allegations, this Court 17 previously denied without prejudice Defendants’ motion to transfer venue; Defendants 18 have not re-filed a motion to transfer, and thus no such motion is pending. If Defendants 19 file such a motion, the Court will address it.

The Court is not required to rule on venue 20 prior considering a TRO application. See *Polymer80, Inc. v. Garland*, No. 4:23-CV-00029- 21 O, 2023 WL 3605430, at *5 (N.D. Tex. Mar. 19, 2023) (reserving question on venue until 22 after ruling on TRO); *Kremen v. Cohen*, No. 5:11-CV-05411-LHK, 2011 WL 6113198, at 23 *8 (N.D. Cal. Dec. 7, 2011) (finding the issuance of a TRO was appropriate even in light 24 of potential improper venue concerns).

Additionally, Defendants offer no factual support 25 for the assertion that “the complained-of action” was taken in Washington, D.C., and they 26 do not meaningfully respond to the venue allegations in the Amended Complaint. 27 Accordingly, the Court turns to the merits of the TRO application. 28 /// 1 2. Likelihood of Success on the Merits 2 Turning to the first Winter factor, Plaintiff alleges the termination of his SEVIS 3 record violated both the APA and the Due Process Clause of the Fifth Amendment.

ECF 4 No. 6 ¶¶ 41–56. Based on the current record, the Court finds Plaintiff has established a 5 likelihood of success as to the merits of his APA claim. 6 a. APA Framework 7 “The APA ‘sets forth the procedures by which federal agencies are accountable to 8 the public and their actions subject to review by the courts.’” *Dep’t of Homeland Sec. v. 9 Regents of the Univ. of Cal.*, 591 U.S. 1, 16 (2020) (quoting *Franklin v. Massachusetts*, 10 505 U.S. 788, 796 (1992)). “It requires agencies to engage in ‘reasoned decisionmaking,’ 11 and directs that agency actions be ‘set aside’ if they are ‘arbitrary’ or ‘capricious[.]’” *Id.* 12 (internal citations omitted); 5 U.S.C.S. § 706(2)(A). “Under this narrow standard of review, 13... a court is not to substitute its judgment for that of the agency, but instead to assess only 14 whether the decision was based on a consideration of the relevant factors and whether there 15 has been a clear error of judgment[.]” *Id.* (internal quotation marks and citations omitted).

16 b. Application of the APA 17 Here, the record indicates Plaintiff’s SEVIS record was terminated on April 4, 2025. 18 ECF No. 3-2 at 13. The only explanation provided for the termination of Plaintiff’s SEVIS 19 record reads: “Individual identified in criminal records check and/or has had their VISA 20 revoked.” *Id.* There is no evidence in the record, however, that the termination of Plaintiff’s 21 SEVIS record complied with the applicable regulations.

See *Wallace v. Christensen*, 802 22 F.2d 1539, 1552 n.8 (9th Cir. 1986) (an agency is “bound by its own regulations so long as 23 they remain in force.”). 24 First, there is no evidence Plaintiff’s SEVIS record was terminated as a result of his 25 failure to maintain his F-1 status. An international student F-1 student may fail to maintain 26 status, amongst other reasons, by engaging in certain “criminal activity.” 8 C.F.R. § 27 214.1(g).

Specifically, “[a] nonimmigrant’s conviction in a jurisdiction in the United States 28 for a crime of violence for which a sentence of more than one year imprisonment may be 1 imposed (regardless of whether such sentence is in fact imposed) constitutes a failure to 2 maintain status[.]” 8 C.F.R. § 214.1(g) (emphasis added).

However, in this case, while 3 Plaintiff was arrested for a misdemeanor domestic violence offense, he was never charged 4 or convicted. ECF No. 3-2 at 6, 9. 5 Plaintiff would likely succeed on an argument his mere arrest would not constitute 6 a failure to maintain status. See *Zhuoer Chen v. Noem*, No. 25-CV-03292-SI, 2025 WL 7 1150697, at *5 (N.D. Cal. Apr.

18, 2025) (holding there was no evidence plaintiffs failed 8 to maintain F-1 status where “three of the four plaintiffs” had been arrested but none had 9 “any convictions on their record, let alone a conviction for a crime of violence with a term 10 of imprisonment that exceeds one year.”); Doe v. Noem, No. 2:25-CV-00633-DGE, 2025 11 WL 1141279, at *5 (W.D.

Wash. Apr. 17, 2025) (holding plaintiff’s DUI arrest did not 12 meet the criteria for losing F-1 status as he had not been convicted of any crime, but had 13 only been arrested and charged). “To the extent that Defendants terminated Plaintiff’s 14 SEVIS record merely because his name appeared in a criminal records check, that is 15 inconsistent with their own regulation.” Doe v. Noem, 2025 WL 1141279, at *5.

16 Second, there is no evidence Plaintiff’s SEVIS record was terminated based on a 17 termination of his status under one of the three enumerated circumstances set forth in the 18 Code of Federal Regulations. See 8 C.F.R. § 214.1(d). Specifically, there is no evidence 19 there was a waiver authorized on Plaintiff’s behalf that was revoked, that a private bill was 20 introduced conferring permanent resident status on him, or that DHS published a 21 notification in the Federal Register.

See *id.* Defendants have also not proffered any 22 regulation or legal authority suggesting that the expiration of Plaintiff’s F-1 visa is a 23 permitted reason for terminating his SEVIS record. See Doe v. Noem, 2025 WL 1134977, 24 at *6 (“Revocation of plaintiff’s F-1 visa is not among the permitted reasons for terminating 25 his F-1 visa status in the SEVIS system.”); see also Daou v. Noem, No. 8:25-cv-976-MSS- 26 AEP, 2025 WL 1148687, at *2 (M.D.

Fla. Apr. 18, 2025) (“Section 214.1(d) does not 27 provide statutory or regulatory authority to terminate F-1 student status in SEVIS based 28 upon revocation of a visa.”); Roe v. Noem, No. CV 25-40-BU-DLC, 2025 WL 1114694, at 1 *3 (D. Mont. Apr. 15, 2025) (same). 2 c. Finality of Agency Action 3 Defendants assert that the termination of Plaintiff’s SEVIS record was not a “final” 4 agency decision reviewable by this Court under the APA.

Specifically, Defendants argue 5 there is no evidence Plaintiff made a request to have his SEVIS record amended either 6 “directly” or by contacting his university’s Designated School Official (“DSO”).² ECF No. 7 12 at 6–7. 8 “Section 704 of the APA provides for judicial review of ‘[a]gency action made 9 reviewable by statute and final agency action for which there is no other adequate remedy 10 in a court.’” *Int’l Bhd. of Teamsters v. United States DOT*, 861 F.3d 944, 952 (9th Cir.

11 2017) (quoting 5 U.S.C. § 704). “The Supreme Court has identified two conditions for 12 agency action to be deemed final within the meaning of § 704.” *Id.* “First, ‘the action must 13 mark the consummation of the agency’s decisionmaking process.’” *Id.* (quoting *Bennett v. 14 Spear*, 520 U.S. 154, 177–78 (1997)). “Second, ‘the action must be one by which rights or 15

obligations have been determined, or from which legal consequences will flow.’” Id. 16 (quoting Bennett, 520 U.S. at 178).

17 The Third Circuit’s decision in *Jie Fang v. Dir. United States Immigration & 18 Customs Enf’t*, 935 F.3d 172, 182 (3d Cir. 2019), is instructive here. In *Jie Fang*, the Third 19 Circuit held ICE’s decision to terminate plaintiffs’ F-1 visa statuses was a final decision 20 under the APA for two reasons: 21 First, there is no statutory or regulatory requirement that a student seek 22 reinstatement after his or her F-1 visa has been terminated.

Moreover, 23 even if the students attempt to pursue the administrative procedures for reinstatement, there is no mechanism to review the propriety of the 24 original termination order. Second, the students need not wait for 25 26 2 To be SEVP-certified, a school must have dedicated employees for assisting enrolled 27 F-1 visa students, known as Designated School Officials (“DSOs”).

See DHS, Designated School Official, [https://studyinthestates.dhs.gov/schools/get-started/designated-school-](https://studyinthestates.dhs.gov/schools/get-started/designated-school-28) 28 1 removal proceedings to be instituted. 2 935 F.3d at 182. Similarly, Defendants here fail to identify any statute or regulation 3 requiring a student to seek the reinstatement of his SEVIS record. Additionally, Defendants 4 do not describe any formal mechanism by which a student can seek review.

ECF No. 12 at 5 7. The Court concludes that the termination was a final agency action. 6 d. Privacy Act 7 Defendants also argue that Plaintiff is barred from bringing a claim under the APA, 8 because the Privacy Act provides Plaintiff with the exclusive means to bring a suit to 9 correct his SEVIS record. ECF No. 12 at 7. 10 The APA waives sovereign immunity for actions in federal court by “a person 11 suffering legal wrong because of agency action.” 5 U.S.C. § 702.

The waiver “is subject to 12 three limitations: (1) the plaintiff must ‘seek[] relief other than money damages’; (2) the 13 plaintiff must have ‘no other adequate remedy’; and (3) the plaintiff’s action must not be 14 ‘expressly or impliedly forbid[den]’ by ‘any other statute.’” *United Aeronautical Corp. v. 15 United States A.F.*, 80 F.4th 1017, 1022 (9th Cir.

2023). Defendants argue that, under the 16 second limitation, that Plaintiff possesses an adequate and exclusive remedy in the Privacy 17 Act. See ECF No. 12 at 7. Defendants provide no authority interpreting the Privacy Act as 18 providing an exclusive remedy for correcting a record in a government database, and 19 indeed, courts have rejected Defendants’ interpretation.

See *All. for Retired Americans v. 20 Bessent*, No. CV 25-0313 (CKK), 2025 WL 740401, at *19 (D.D.C. Mar. 7, 2025) 21 (“Congress did not intend for the Privacy Act to be an “exclusive” source of claims or 22 remedies for alleged mishandling of records about individuals that impliedly forbids other 23 relief under the APA.”); *Yunwei Chen v. Noem*, No. 1:25-CV-00733-TWP-MG, 2025 WL 24 1163653, at *5 (S.D.

Ind. Apr. 21, 2025) (“[T]he Privacy Act is not the exclusive means 25 of challenging the mishandling of federal records, so the Privacy Act does not forbid 26 [plaintiff’s] APA claims.”). 27 Furthermore, as Defendants concede, as someone who is not a U.S. citizen or lawful 28 permanent resident, Plaintiff cannot bring suit under the Privacy Act. ECF No. 12 at 7; see 1 *Soto v. United States Dep’t of State*, 244 F. Supp. 3d 207, 208 (D.D.C.

2017) (holding that 2 foreign nationals who were denied visas were not entitled to bring suit under the Privacy 3 Act); *Raven v. Panama Canal Co.*, 583 F.2d 169, 171 (5th Cir. 1978) (“[B]y its use of a 4 narrow definition of the word ‘individual,’ Congress displayed its intention to 5 exclude foreign national and nonresident aliens from the Privacy Act.”).

The Privacy Act 6 would not, therefore, provide Plaintiff with an adequate alternative remedy. 7 For the above reasons, the Court determines Plaintiff has established he is likely to 8 succeed on the allegation that Defendants’ termination of his SEVIS record was a violation 9 of the APA.³ 10 3. Irreparable Harm 11 Turning to the second Winter factor, Plaintiff argues that the termination of his 12 SEVIS record threatens his ability to remain in the United States and continue his education 13 and ancillary employment.

ECF No. 3 at 3. In support, Plaintiff states he has a fellowship 14 to work as a graduate student and does not expect to complete his studies in the United 15 States until June 2028. ECF Nos. 3-2 at 6; 6 ¶ 32. Plaintiff further contends that he has 16 been left “apprehensive” about his circumstances as the result of this termination and has 17 been experiencing high levels of stress and anxiety.

ECF Nos. 3 at 12; 6 ¶ 38. 18 The Court holds Plaintiff has demonstrated a likelihood of irreparable harm based 19 on the loss of his ability to be employed as part of his graduate studies, the interruption of 20 his educational progress, and the threat of detention and deportation. See *Zhuoer*, 2025 WL 21 1150697, at *5 (holding plaintiffs had demonstrated a likelihood of irreparable harm based 22 on the interruption of their education and concerns about immediate arrest and detention); 23 *Doe v. Noem*, 2025 WL 1141279, at *7–8 (holding irreparable harm factor was met where 24 plaintiff faced harm of being unable to complete his doctoral program while being faced 25 with the prospect of detention and deportation).

26 27 3 Because the Court determines that Plaintiff is likely to succeed on his APA cause of 28 1 4. Balancing of Equities/Public Interest 2 Finally, with respect to the remaining Winter factors, “[w]hen, like here, the 3 nonmovant is the government, the last two Winter factors ‘merge.’” *Baird v. Bonta*, 81 4 F.4th 1036, 1040 (9th Cir. 2023) (quoting *Nken v. Holder*, 556 U.S. 418, 435 (2009)).

5 As noted above, Defendants’ termination of Plaintiff’s SEVIS record is likely to 6 cause Plaintiff irreparable harm. In contrast, Defendants have argued that they would suffer 7 injury from the

requested TRO. Defendants state the general proposition that “[t]here is an 8 obvious strong public interest in enforcing immigration laws,” ECF No. 12-8, but do not 9 articulate any interest implicated by the termination of Plaintiff’s SEVIS record; instead, 10 Defendants characterize that termination as “only an alleged, correctable administrative 11 error.” ECF No. 12 at 1.

12 On balance, the Court finds that the equities weigh in Plaintiff’s favor at this 13 preliminary stage of the proceedings. See *Roe v. Noem*, 2025 WL 1114694, at *4 (holding 14 that balance of equities tipped in plaintiff’s favor where a TRO would “preserve the status 15 quo for the short duration until a hearing” could be held); *Zhuoer*, 2025 WL 1150697, at 16 *5 (“The public interest is best served through a fair and thorough hearing of plaintiffs’ 17 claims, absent any distraction or confusion that would result should the government detain 18 any of the plaintiffs.”); *Doe v. Noem*, No. 2:25-CV-00633-DGE, 2025 WL 1141279, at *9 19 (W.D.

Wash. Apr. 17, 2025) (“[T]his is a set of circumstances where the government and 20 its decision-making processes will be best served by judicial review of a decision—and 21 maintenance of the status quo during that review.”). 22 For all the reasons above, the Court grants Plaintiff’s request for a TRO. 23 5. Bond 24 Pursuant to Rule 65(c) of the Federal Rules of Civil Procedure, a successful movant 25 for a TRO must post security “to pay the costs and damages sustained by any party found 26 to have been wrongfully enjoined or restrained.” Fed.

R. Civ. P. 65(c). As it is unlikely 27 Defendants will be harmed as a result of this TRO, the Court exercises its discretion and 28 waives the bond requirement. See *Jorgensen v. Cassidy*, 320 F.3d 906, 919 (9th Cir. 2003) 1 (“The district court may dispense with the filing of a bond when it concludes there is no 2 realistic likelihood of harm to the defendant from enjoining his or her conduct.”).

3 B. Request for Protective Measures 4 Plaintiff’s application also requests various protective measures: (1) allowing him to 5 proceed in this action under the pseudonym “SD Student Doe No. 1,” and (2) requiring the 6 Parties to redact or file any information identifying Plaintiff under seal. ECF No. 3. Plaintiff 7 asserts that, if his identity is publicized, he faces harassment or blacklisting from third 8 parties for filing this lawsuit.

ECF No. 3 at 15–17. Plaintiff’s identity is now known to 9 Defendants. ECF No. 12 at 2 n.4. Defendants’ brief does not oppose either request. 10 “The normal presumption in litigation is that parties must use their real names.” *Doe 11 v. Kamehameha Sch.*, 596 F.3d 1036, 1042 (9th Cir. 2010); see Fed. R. Civ. P. 10(a) (“The 12 title of the complaint must name all the parties[.]”). “This presumption is loosely related to 13 the public’s right to open courts, and the right of private individuals to confront their 14 accusers[.]” *Id.* (internal citations omitted).

Parties may proceed pseudonymously only “in 15 the unusual case when nondisclosure of the party’s identity is necessary... to protect a 16 person from harassment, injury, ridicule or personal

embarrassment.” Does I thru XXIII v. 17 Advanced Textile Corp., 214 F.3d 1058, 1067–68 (9th Cir. 2000). “[I]n cases where, as 18 here, pseudonyms are used to shield the anonymous party from retaliation, the district court 19 should determine the need for anonymity by evaluating the following factors: (1) the 20 severity of the threatened harm, (2) the reasonableness of the anonymous party’s fears, and 21 (3) the anonymous party’s vulnerability to such retaliation.” Id. at 1068 22 Here, Plaintiff submits news article reflecting instances where enforcement actions 23 by ICE have been accompanied by harassment or doxing of foreign students who opposed 24 the U.S. government.

ECF No. 3 at 15. Plaintiff has filed a declaration attesting to his fear 25 of similar retaliation. ECF No. 3-2 ¶¶ 10–11. Some other courts have permitted plaintiffs 26 to proceed pseudonymously in cases similar to this one. See, e.g., Doe v. Noem, No. 2:25- 27 cv-01103-DAD-AC, 2025 WL 1134977, at *6 (E.D. Cal. Apr. 17, 2025); W.B. v. Noem, 28 No. 25-cv-3407-EMC, 2025 WL 1180296 at *1 n.1 (N.D.

Cal. Apr. 23, 2025). As 1 previously stated, Defendants have not opposed this request. At this preliminary stage of 2 the proceedings, given Plaintiff’s asserted and uncontested risk of harm, the applicable 3 factors favor granting Plaintiff leave to proceed under a pseudonym. 4 Consistent with this ruling, the Court finds compelling reasons to allow Plaintiff’s 5 identifying information to be filed under seal.

See generally Ctr. for Auto Safety v. Chrysler 6 Grp., LLC, 809 F.3d 1092, 1095 (9th Cir. 2016) (“[O]rdinarily a party must show 7 ‘compelling reasons’ to keep a court document under seal.”). Accordingly, any documents 8 filed with the Court shall have Plaintiff’s name and other identifiers redacted from the 9 publicly filed version, and shall lodge an unredacted version of such document for filing 10 under seal pursuant to Section 2(j) of the Electronic Case Filing Administrative Policies 11 and Procedures Manual.

Although Plaintiff’s brief requests relief that goes beyond that 12 specified in his notice of motion, the Court declines to order broader protective measures 13 at this time. The Parties are encouraged to meet and confer to determine whether a more 14 detailed protective order is warranted in this case, and should direct any jointly proposed 15 protective order to U.S. Magistrate Judge Barbara L. Major.

16 IV. CONCLUSION 17 For the foregoing reasons: 18 1. Plaintiff’s application for a temporary restraining order is GRANTED. 19 Pending the hearing and determination of a motion for preliminary injunction, Defendants 20 are enjoined as follows: 21 a. Defendants shall reinstate Plaintiff’s SEVIS record, retroactive to April 22 4, 2025. 23 b. Defendants are enjoined from taking any further action to terminate 24 Plaintiff’s SEVIS record.

25 c. Defendants are enjoined from arresting or detaining Plaintiff on the 26 basis of his immigration status, or initiating removal proceedings 27 against Plaintiff, or removing Plaintiff from the United States, without 28 1 first providing adequate notice to both this Court and Plaintiff's counsel 2 as well as appropriate time to contest any such action. 3 2.

Plaintiff is GRANTED leave to proceed under the pseudonym "SD Student 4 ||Doe No. 1." Any documents filed with the Court shall have Plaintiff's name and other 5 ||identifiers redacted from the publicly filed version, and shall lodge an unredacted version 6 || of such document for filing under seal pursuant to Section 2(j) of the Electronic Case Filing 7 || Administrative Policies and Procedures Manual.

8 3. Plaintiff's application for a TRO shall be construed as a noticed motion for a 9 preliminary injunction, for which the Court sets the following schedule, to which the 10 || Parties agreed at the hearing 11 a. Defendants shall file their opposition by May 15, 2025; 12 b. Plaintiff shall file any reply by May 22, 2025; 13 c. The motion for preliminary injunction will be heard on June 12, 2025 14 1:30pm in Courtroom 3B.

15 4. No bond under Rule 65(c) is required. 16 IT IS SO ORDERED. Dated: April 24, 2025 hut ¢ Lone 19 Hon. Robert S. Huie United States District Judge 20 21 22 23 24 25 26 27 28 te