UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

PARTH ATUL CHATWANI, Plaintiff, v. KRISTI NOEM, in her official capacity as Secretary of Homeland Security, *et al.*, Defendants.	)	No. 25 C 4024 Judge Coleman

DEFENDANTS' MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION FOR A TEMPORARY RESTRAINING ORDER

This case involves an international student who seeks emergency injunctive relief requiring the United States Department of Homeland Security ("DHS") and its sub-agency, U.S. Immigration and Customs Enforcement ("ICE"), to change an entry in the latter's Student and Exchange Visitor Information System ("SEVIS") to reflect that plaintiff Parth Atul Chatwani has lawful nonimmigrant status as a foreign student. *See generally* Dkt. 1 ("Compl."). To that end, Chatwani seeks a temporary restraining order ("TRO") compelling defendants to alter its SEVIS record for him and to "enjoin Defendants from detaining him and transferring him outside the jurisdiction of this Court." Dkt. 8; *see also* Dkt. 8-1 (hereinafter, "Plaintiff's Motion" or "Pl.'s Mot."). But the court should deny Chatwani's motion because it is both procedurally and substantively improper. This is because an emergency motion for a TRO may only be used to maintain the status quo; it cannot be used to obtain the ultimate relief a plaintiff seeks in their case. *Compare* Compl. at 15–16 (requesting the same relief as the TRO), *with W.A. Mack, Inc. v. Gen. Motors Corp.*, 260 F.2d 886, 890 (7th Cir. 1958) ("A preliminary injunction does not issue which gives to a plaintiff the actual advantage which would be obtained in a final decree.").

In addition, the premise of plaintiff's claims is incorrect—SEVIS does not control or even necessarily reflect whether a student has lawful nonimmigrant status, therefore, the plaintiff is unlikely to succeed on the merits of his claims. Similarly, Mr. Chatwani has not met his burden of demonstrating a likelihood of irreparable harm or that a TRO would serve the public interest. Finally, even if the court were to enter a TRO, defendants request that the court require plaintiff to provide adequate security—which would prevent this case's mootness.

Background

I. Statutory and Regulatory History

A. The F-1 Nonimmigrant Program

The Immigration and Nationality Act ("INA") establishes the framework for foreign nationals[1] who wish to temporarily come to the United States to pursue their studies. *See Wash. All. of Tech. Workers v. DHS*, 50 F.4th 164, 169–72 (D.C. Cir. 2022). More specifically, the INA allows for the entry of a foreign national, who "is a bona fide student qualified to pursue a full course of study and who seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study. . . at an established college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in an accredited language training program in the United States." 8 U.S.C. § 1101(a)(15)(F)(i) (hereinafter, "F-1 status"). To be admitted in F-1 status, an applicant must present a Form I-20, Certificate of Eligibility for Nonimmigrant Student Status, issued by a certified school in the student's name; present documentary evidence of financial support; demonstrate he or she intends to attend the school specified on the student's visa; and, if the student attends a public secondary school, demonstrate that he or she has reimbursed the local educational agency administering the school

[1] This brief uses the term "foreign national" as equivalent to the statutory term of "alien."

for the full, unsubsidized per capita cost of providing education at the school for the period of the student's attendance. 8 C.F.R. § 214.2(f)(1)(i). To maintain F-1 status, an alien must "pursue a full course of study" or "engage in authorized practical training[.]" *Id.* § 214.2(f)(5)(i).

During their studies, foreign students may also elect to study in the United States via "Optional Practical Training" ("OPT"), which must be "directly related to [a student's] major area of study" in order to qualify as authorized training. *Id.* § 214.2(f)(10). OPT allows eligible students to obtain temporary employment that is directly related to a foreign national's major area of study. *Id.* § 214.2(f)(10)(ii). And foreign nationals in F-1 status, who received a science, technology, engineering, or mathematics ("STEM") degree may extend participation in the OPT program for up to an additional two years. *Id.* § 214.2(f)(10)(ii)(C); *see also Wash. All. of Tech. Workers v. DHS*, 50 F.4th 164, 173 (D.C. Cir. 2022). Further, OPT can occur while a student is still "in school," during breaks, or after a student has completed their course of study. *Id.* § 214.2(f)(10)(ii)(A)(1)–(3). While in school, a foreign national's status is based on that student pursuing a degree and need not be routinely renewed. *Id.* § 214.2(f)(7). For post-degree completion OPT, there are limits on how long an individual can be unemployed. In particular, foreign nationals in F-1 status may not accrue more than ninety days of unemployment unless granted a twenty-four-month STEM OPT extension, in which case they may not accrue more than a total of 150 days of unemployment. *Id.* § 214.2(f)(10)(ii)(E). Periods of unemployment longer than those authorized by regulation may be considered a failure to maintain status. *Id.*

B. The SEVIS Database

Congress required that "[t]he [Secretary of Homeland Security], in consultation with the Secretary of State and the Secretary of Education, . . develop and conduct a program to collect [certain information] from approved institutions of higher education, other approved educational

institutions, and designated exchange visitor programs in the United States [certain information] with respect to aliens who have the status, or are applying for the status, of nonimmigrants under subparagraph (F), (J), or (M) of section 1101(a)(15) of this title."[2] 8 U.S.C. § 1372(a)(1). Accordingly, the Secretary of Homeland Security created SEVIS, "which is a web-based system that the U.S. Department of Homeland Security (DHS) uses to maintain information on Student and Exchange Visitor Program-certified schools, F-1 and M-1 students who come to the United States to attend those schools, U.S. Department of State-designated Exchange Visitor Program sponsors and J-1 visa Exchange Visitor Program participants." ICE, *Student and Exchange Visitor Information System*, https://www.ice.gov/sevis/overview (last visited Apr. 16, 2025); *see also Young Dong Kim v. Holder*, 737 F.3d 1181, 1182 n.2 (7th Cir. 2013) (describing SEVIS).

In short, "DHS/ICE uses, collects, and maintains information on nonimmigrant students and exchange visitors, and their dependents, admitted to the United States under an F, M, or J class of admission, and the schools and exchange visitor program sponsors that host these individuals in the United States." United States Department of Homeland Security, *Privacy Act of 1974; System of Records*, 86 Fed. Reg. 69,663 (Dec. 8, 2021); *see also Yunsong Zhao v. Va. Polytechnic Inst. & State Univ.*, 770 F. App'x 136, 136 (4th Cir. 2019). And schools are required to update SEVIS with information about foreign students in their programs. 8 C.F.R. § 214.3(g)(1).

II. Factual And Procedural History

According to the complaint, Chatwani is an Indian national with F-1 status who graduated from Northwestern University in December 2024 with a master's degree in engineering management. Compl. ¶¶ 10, 25, 28. He has since been in the United States through the OPT

[2] Many provisions of the INA still refer to the Attorney General, but in 2002, Congress transferred much of the INA's authority to the Secretary of Homeland Security. *See* 6 U.S.C. § 557; 8 U.S.C. § 1103; *see also Nielsen v. Preap*, 586 U.S. 392, 397 n.2 (2019).

program, is working as a graduate assistant at Northwestern's school of management, and has F-1 status through February 2026. *See id.* at ¶¶ 10, 28; *see also* 13; Declaration of Andre Watson ("Watson Decl.") at ¶¶ 7, 10. "[O]n April 5, 2025, he was informed by Northwestern that his SEVIS record had been terminated[.]" Compl. ¶ 29. ICE made this termination "[b]ased on CHATWANI's encounter with CBP" in September 2022, Watson Decl. ¶ 8; *see also* Compl. ¶¶ 25–26 (discussing this event), where he was "encountered by U.S. Customs and Border Protection (CBP) . . . at a Port of Entry, seeking admission . . . . [And] was found inadmissible under Section 212 of the Immigration and Nationality Act," Watson Decl. ¶ 7.

Although Chatwani still retains his F-1 nonimmigrant status, *see* Watson Decl. ¶ 10, he insists that his employment plans have been frustrated and that he "fears being unlawfully and forcefully abducted, detained, and deported without due process," Compl. ¶ 32. He filed his complaint on April 14, 2025, Dkt. 1. To that end, he brings four claims: (1) a claim arguing that ICE's termination of their SEVIS record for Chatwani violated due process because it was done without notice or an opportunity to be heard, *see* Compl. ¶¶ 34–37; (2) a similar claim arguing that the termination was arbitrary and capricious in violation of the Administrative Procedure Act, *see id.* at ¶¶ 38–43; (3) a claim that he is unlawfully detained in violation of the Fifth Amendment, *see id.* at ¶¶ 44–46; and (4) a habeas claim to the same effect, *see id.* at ¶¶ 47–50. He filed his motion for a TRO on April 15, 2025. Dkt. 8.

Legal Standard

Under Federal Rule of Civil Procedure 65, a district court may issue a temporary restraining order or preliminary injunction. Here, Chatwani's motion seeks a TRO. As alluded to above, however, such relief is meant to preserve the status quo pending a final, legal determination on the merits of the case. *See Univ. of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981). "The standard for issuing a TRO is the same one that governs issuance of a preliminary injunction," *Inventus Power,*

Inc. v. Shenzhen Ace Battery Co., Ltd., No. 20 C 3375, 2020 WL 3960451, at *4 (N.D. Ill. July 13, 2020), which is "never awarded as of right," *Munaf v. Geren*, 553 U.S. 674, 690 (2008), and "is an extraordinary and drastic remedy, one that should not be granted unless the movant, *by a clear showing*, carries the burden of persuasion," *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (cleaned up). More specifically, a plaintiff "must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

As the Seventh Circuit has explained, an "applicant must make a strong showing that he is likely to succeed on the merits." *Ill. Republican Party v. Pritzker*, 973 F.3d 760, 762 (7th Cir. 2020). "[A] possibility of success is not enough. Neither is a 'better than negligible' chance." *Id.* Movants must also demonstrate clearly, and through specific factual allegations, that immediate and irreparable injury will result to them absent the order. *City of Los Angeles v. Lyons*, 461 U.S. 95, 101–02 (1983) (citations omitted). Only if the movant meets their burden of showing both a likelihood of success on the merits and an imminent risk of irreparable harm will courts then engage in further analysis. *See Christian Legal Soc'y v. Walker*, 453 F.3d 853, 859 (7th Cir. 2006).

Argument

I. Plaintiff's Motion Should Be Denied Because His Claims Have No Likelihood of Success.

A. Plaintiff's Unlawful Detention and Habeas Claims Are Meritless.

As a preliminary matter, Chatwani's unlawful detention, Compl. ¶¶ 44–46, and habeas claim, *id.* at ¶¶ 47–50, should be dismissed for lack of standing because they are entirely speculative and thus unripe, *see* Fed. R. Civ. P. 12(h)(3). This is because his unlawful-detention and habeas claims are premised on the assertion that he *may*, at some uncertain point in the future,

be placed into removal proceedings and then be detained by ICE. *See* Pl. Mot. at 10 ("Mr. Chatwani's detention *could* happen . . . ." (emphasis added)); Compl. ¶ 46 ("Plaintiff is *at risk* of abrupt detention without prior notice" (emphasis added)). But a "claim is not ripe for adjudication if it rests upon contingent future events that may not occur as anticipated, or that may not occur at all." *Citizens for Appropriate Rural Roads v. Foxx*, 815 F.3d 1068, 1079 (7th Cir. 2016).

The plaintiff here is not presently in *any* sort of ICE custody or detention—he only complains of his "apparent lack of lawful status and employment authorization," which he insists "constrain[] his physical mobility to a sufficient extent to consider him to be in custody already." *Id.* at 10. Even accepting Chatwani's assertions that he lacks lawful status and work authorization as true (which defendants do not agree with), there are literally *millions* of foreign nationals presently within the United States who are both (1) here without lawful status and (2) lack employment authorization. That does not mean those persons are currently detained or within ICE's custody such that they might each have viable habeas claims wherever they may be located within the United States. Instead, either actual or constructive custody is required—which means physical limits on someone's ability to move freely. *Cossio v. Air Force Ct. of Crim. App.*, 129 F.4th 1013, 1019–20 (7th Cir. 2025) (requiring direct, and not collateral, consequences to satisfy "in custody" requirement for habeas). Put another way, habeas is "a means to secure release from unlawful detention" not "to obtain authorization to stay in this country." *DHS v. Thuraissigiam*, 591 U.S. 103, 107 (2020). In sum, because plaintiff is neither in custody, nor attempting to secure release from custody, his unlawful-detention and habeas claims are both unripe and meritless.

B. Plaintiff's Due Process Claim Is Equally Meritless.

Similarly, Chatwani's due process claim fails because foreign nationals lack any sort of property or liberty interest in SEVIS records. *See* Compl. ¶¶ 34–37; *see also* Pl. Mot. at 7–8. As the Seventh Circuit has explained, "[i]n order to make out a claim for a violation of due process, a

claimant must have a liberty or property interest in the outcome of the proceedings." *Dave v. Ashcroft*, 363 F.3d 649, 652–53 (7th Cir. 2004). Neither such interest exists here. *See, e.g., Doe 1 v. DHS*, No. 20-cv-9654, 2020 WL 6826200, at *4 n.3 (C.D. Cal. Nov. 20, 2020), *aff'd sub. nom., Does 1–16 v. DHS*, 843 F. App'x 849, 852 (9th Cir. 2021) ("[T]he Student-Athletes do not cite any legal authority to support their position that this interest amounts to a protected property interest. We also find none. Without a protected liberty or property interest at stake, the Student-Athletes do not have a viable due process claim." (internal citation omitted)).

In fact, case law is clear that foreign students do not have a protected interest in SEVIS records. *See, e.g., Yunsong Zhao v. Va. Polytechnic Inst. & State Univ.*, No. 18-cv-189, 2018 WL 5018487, at *6 (W.D. Va. Oct. 16, 2018); *Fenghui Fan v. Brewer*, No. 08-cv-3524, 2009 WL 1743824, at *8 (S.D. Tex. June 17, 2009), *aff'd*, 377 F. App'x 366, 368 (5th Cir. 2010). This is because the SEVIS database is simply an administrative tool that does not affect the lawfulness of someone's nonimmigrant status. *See Yunsong Zhao*, 2018 WL 5018487, at *4–5; Watson Decl. ¶ 10. For example, regulations permit universities to terminate a SEVIS record, but the plaintiff does not argue that universities have the authority to revoke his immigration status.

Further, even there were such a protected interest, the processes afforded to plaintiff would satisfy the Fifth Amendment. *See Mathews v. Eldridge*, 424 U.S. 319, 339–40 (1976). This is because the review procedures available to plaintiff (in the event the plaintiff had actually lost his lawful nonimmigrant F-1 status) would allow him to seek reinstatement administratively from U.S. Citizenship and Immigration Services ("USCIS"). 8 C.F.R. 214.2(f)(16). And even if there were a reason to believe that Chatwani was likely to be placed into removal proceedings, the procedures available to him in immigration court comply with the Fifth Amendment. *See* 8 U.S.C. § 1229a.

C. Plaintiff's APA Claim Likewise Fails.

Chatwani is similarly unlikely to succeed on his claim under the APA. Compl. ¶¶ 38–43; *see also* Pl. Mot. at 8–10. As a preliminary matter, the Privacy Act—not the APA—controls agencies' procedures vis-à-vis governmental records. This is important because "[t]he doctrine of sovereign immunity removes subject matter jurisdiction in lawsuits against the United States unless the government has consented to suit." *Beamon v. Brown*, 125 F.3d 965, 967 (6th Cir. 1997). "Although the APA provides a broad waiver of sovereign immunity, codified at 5 U.S.C. § 702, the waiver is limited by . . . § 701(a)(1) [which] provides that Chapter 7 of the APA, including § 702's waiver of sovereign immunity, does not apply to cases in which 'statutes preclude judicial review.'" *Id.* Applied here, the Privacy Act displaces plaintiffs' APA claim, as it is directly on point and allows only individuals to challenge data contained in a government system of records in federal court and establishes a comprehensive scheme for such claims. *See* 5 U.S.C. § 552a(g)(1); *see also Chichakli v. Kerry*, 203 F. Supp. 3d 48, 57 (D.D.C. 2016) (dismissing claims because claims related to unauthorized disclosure of records must be brought pursuant to Privacy Act). Specifically, the Privacy Act *prohibits* most foreign nationals from filing suit challenging records. *See* 5 U.S.C. § 552a(a)(2). As such, the United States has not waived its sovereign immunity here regarding SEVIS. *See* 5 U.S.C. § 701(a)(1); *Durrani v. USCIS*, 596 F. Supp. 2d 24, 28 (D.D.C. 2009); *Cudzich v. INS*, 886 F. Supp. 101, 105 (D.D.C. 1995); *Raven v. Panama Canal Co.*, 583 F.2d 169, 171 (5th Cir. 1978) ("[I]t would be error for this Court to allow plaintiff, a Panamanian citizen, to assert a claim under the Privacy Act."). Moreover, this court would lack jurisdiction over any such claim because Chatwani has not exhausted his administrative remedies. *Cf. Refurble, Inc. v. Julie Su*, No. 24 C 287, 2024 WL 4647862, at *3 (N.D. Ill. Oct. 31, 2024) (requiring administrative exhaustion); *Dickson v. Off. of Pers. Mgmt.*, 828 F.2d 32, 41 (D.C.

Cir. 1987) (no jurisdiction over claims under the Privacy Act until a plaintiff presents them to the agency). In sum, the United States has not waived its sovereign immunity here.

Even if the court were to conclude that sovereign immunity has been waived, however, there has been no "final agency action" under the APA in this matter. Agency action must be "final" to be reviewable under the APA. 5 U.S.C. § 704. And action is final under the APA only if (1) it marks "the consummation of the agency's decisionmaking process" and (2) is "one by which rights or obligations have been determined, or from which legal consequences flow." *Bennett v. Spear*, 520 U.S. 154, 177–78 (1997). Here, even if plaintiff's nonimmigrant status (rather than only his SEVIS record) was at issue in this case, he could administratively challenge the relevant agency decisions. *See* 8 C.F.R. § 214.2(f)(16); 22 C.F.R. § 41.122(b).

This means there has been no "consummation" of anything because the plaintiff's later opportunity to pursue the administrative process and seek reinstatement is critical under Seventh Circuit APA case law. *See, e.g.*, *Dhakal v. Sessions*, 895 F.3d 532, 539–40 (7th Cir. 2018) (denial of an affirmative asylum application was not a final agency action because plaintiff still had Temporary Protected Status, and the decision could be reviewed once more in removal proceedings); *McBrearty v. Perryman*, 212 F.3d 985, 987 (7th Cir. 2000) (plaintiff failed to exhaust administrative remedies because review would be available if and when a removal proceeding was initiated). Chatwani's motion overlooks these decisions in favor of a Third Circuit decision, *see* Pl. Mot. at 8–10, but that decision is not binding and is in significant tension with

both *Dhakal* and *McBrearty*.[3] Alternatively, even if the court were to conclude that termination of a SEVIS record is a "consummation of the agency's decisionmaking process," there is still no final agency action because there are no legal consequences to the termination of a SEVIS record.

II. Plaintiff Has Not Shown Irreparable Harm.

This court should also deny Chatwani's motion because he has not carried his burden to show that he is likely to suffer imminent, irreparable harm. *See Int'l Union, Allied Indus. Workers of Am., AFL–CIO v. Local Union No. 589*, 693 F.2d 666, 674 (7th Cir. 1982). To start, Chatwani asserts that he is irreparably injured because he fears deportation. Pl. Mot. at 10. But any claims related to the possibility of removal proceedings do not constitute irreparable injury. *See Nken v. Holder*, 556 U.S. 418, 435 (2009) ("[T]he burden of removal alone cannot constitute the requisite irreparable injury."). Moreover, Chatwani is free to depart the United States on his own. *See Bennett v. Isagenix Int'l LLC*, 118 F.4th 1120, 1129 (9th Cir. 2024). Thus, a subjective fear of deportation is not irreparable injury where, as explained above, Chatwani has nowhere

[3] To the extent Chatwani's motion relies on *Jie Fang v. Director of ICE*, 935 F.3d 172 (3d Cir. 2019), to argue that the termination of a SEVIS record is final agency action the APA, that reliance is misguided because it conflicts with cases such as *McBrearty*. *See* Pl.'s Mot. at 3 & 8–9. In *Jie Fang*, DHS conducted a sting operation to catch fraudulent student visa brokers. 935 F.3d at 173–74. During that process, several foreign students were granted nonimmigrant visas and entered the United States only to have their immigration status revoked by DHS at the conclusion of the investigation. *Id.* Because their status had been revoked, the plaintiffs were placed into removal proceedings. *Id.* at 178–79. On appeal, the Third Circuit concluded that the regulation providing for reinstatement of F-1 nonimmigrant status, 8 C.F.R. § 214.2(f)(16), was not mandatory and that the regulatory appeal procedure was not reviewable in immigration proceedings. *Id.* at 177–78. But the relevant issue in *Jie Fang* was not a SEVIS record; it was the revocation of lawful nonimmigrant status, which led to the students being placed into removal proceedings. *See id.* at 178–79. Indeed, the Ninth Circuit came to the opposite conclusion for former F-1 students involved in a separate sting operation who challenged a SEVIS termination. *See Yerrapareddypeddireddy v. Albence*, No. 20-cv-1476, 2021 WL 5324894, at *7 (D. Ariz. Nov. 16, 2021) ("Plaintiffs have produced no evidence showing that there was a finding of visa fraud, and have thus identified no agency action, much less a final agency action, that is subject to judicial review."), *aff'd*, No. 21-17070, 2022 WL 17484323, at *1 (9th Cir. Dec. 7, 2022)

demonstrated that removal proceedings against him are anywhere close to imminent. *See Jelena Liu v. Noem*, No. 25-cv-716, Dkt. 24, slip op. at 6 (S.D. Ind. Apr. 17, 2025) (Exhibit 1).

Chatwani also asserts that he is irreparably injured because he will lose "all that makes life worth living," because it prevents him "from continuing to work in his field of study or earn a living." Pl. Mot. at 11. Relatedly, he claims "extreme financial and academic hardship" because he claims he is "unable to work until [this] is resolved and . . . is on unpaid leave from his employment with Northwestern." *Id.* But Chatwani can continue to work pursuant to work authorization (issued by USCIS—not ICE) and can, of course, continue to work outside of the United States. If Northwestern does not wish to employ him, that is the choice of a third party, not defendants. *See Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 415 n.5 (2013) ("[P]laintiffs bear the burden of pleading and proving concrete facts showing that the defendant's actual action has caused the substantial risk of harm. Plaintiffs cannot rely on speculation about the unfettered choices made by independent actors not before the court." (cleaned up)). Moreover, it is a foundational requirement for F-1 status that students demonstrate the ability to independently cover all costs while present in the United States. *See* 8 C.F.R. § 214.2(f)(1)(i)(B). Chatwani's claim that his academics will suffer is equally off base because he admits that he is a former student who is no longer attending academic classes. *See* Pl.'s Mot. at 1; *see also Jelena Liu*, slip op. at 7 (denying TRO motion for lack of "evidence showing that [plaintiffs] would not be able to resume and complete their academic programs if they prevail on the merits").

Finally, Chatwani's assertion that "his inability to work . . . may cause him to accrue more than 90 days of unemployment," Pl. Mot. at 11, is wrong because he is still in F-1 status, and ICE's termination of a record in SEVIS does not affect someone's work authorization (which is issued/controlled by USCIS), *see* Watson Decl. at ¶ 10. Indeed, F-1 students begin to accrue

unlawful presence only after USCIS or an immigration judge has instituted administrative action against them. *See* U.S. Citizenship and Immigration Services, *Interoffice Memorandum of May 6, 2009*,[4]; *see also* 8 C.F.R. § 239.3. Chatwani's motion should thus be denied.

II. The Balance of Equities and the Public Interest Favor Defendants.

The balance of equities and public interest factors "merge when the Government is the opposing party." *Nken*, 556 U.S. at 435. A court "'should pay particular regard for the public consequences'" of injunctive relief. *Winter*, 555 U.S. at 24 (quoting *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982)). Chatwani's motion asserts that the defendants have "no substantial interest in terminating Mr. Chatwani's SEVIS record" and simply reiterates the false claims that the defendants are engaging "in unlawful conduct." Pl. Mot. at 12. But this factor favors defendants because it is ICE's database that Chatwani wishes for this court to superintend. That is a separation-of-powers concern that Chatwani is oblivious to even where, as here, courts have acknowledged that "[c]ontrol over immigration is a sovereign prerogative" reserved for the political branches and not the courts. *El Rescate Legal Servs., Inc. v. EOIR*, 959 F.2d 742, 750 (9th Cir. 1992). This is also why the public interest in enforcement of immigration laws is significant. *See United States v. Martinez-Fuerte*, 428 U.S. 543, 556–58 (1976).

In fact, Congress has delegated to the Secretary of Homeland Security significant authority to administer and enforce U.S. immigration laws, including those governing the conditions of admission of foreign students. *See* 8 U.S.C. §§ 1103(a), 1184(a)(1). To that end, Congress has mandated that DHS develop and administer its own "[p]rogram to collect information relating to nonimmigrant foreign students." *See* 8 U.S.C. § 1372. Thus, any order that inhibits such

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[4] https://www.uscis.gov/sites/default/files/document/memos/revision_redesign_AFM.PDF (last visited Apr. 16, 2025)

information-gathering by enjoining a governmental entity from enforcement actions constitutes an irreparable injury that weighs heavily against the entry of injunctive relief. *See New Motor Vehicle Bd. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1351 (1977). Granting plaintiff with the extraordinary relief he seeks will undermine DHS's authority to enforce the aforementioned provision providing DHS with charge and ability to update and maintain information in its own database. The public interest would not be served by the court commandeering the authority of the agency.

Finally, this court may grant plaintiffs preliminary injunctive relief only if the plaintiff "gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined." Fed. R. Civ. P. 65(c). Rule 65(c) thus makes some form of security mandatory as a general rule, *see Gateway E. Ry. Co. v. Terminal R.R. Ass'n of St. Louis*, 35 F.3d 1134, 1141 (7th Cir. 1994), although a court may forgo a bond when "a bond that would give the opposing party absolute security against incurring any loss from the injunction would exceed the applicants ability to pay . . . ." *Habitat Educ. Ctr. v. U.S. Forest Serv.*, 607 F.3d 453, 458 (7th Cir. 2010). The risk of harm to defendants here is not insubstantial, and if the court grants Chatwani's motion, defendants request that the court require that Chatwani post a security bond during the pendency of the court's order, in the event it is later determined that defendants were wrongfully enjoined. *See id.* (reasoning that the government "may lose money as a result of the" preliminary injunction obtained against it).

Conclusion

For the foregoing reasons, the court should deny Chatwani's motion for a temporary restraining order.

Respectfully submitted,

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