IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

K.O.D.,

Plaintiff,

v. No. 1:25-cv-00391

KRISTI NOEM, Secretary of the Department of Homeland Security; and

TODD LYONS, Acting Director of the Immigration and Customs Enforcement,

Defendants.

PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER
(ORAL ARGUMENT REQUESTED)

Pursuant to Federal Rule of Civil Procedure 65 and Section 705 of the Administrative Procedure Act, 5 U.S.C. § 705, and Counts 1 and 2 of Plaintiff's Complaint for Declaratory and Injunctive Relief – and for the reasons stated in the accompanying memorandum, declaration, and all pleadings filed – Plaintiff respectfully moves this Court to issue a temporary restraining order (i) enjoining Defendants from terminating Plaintiff's F-1 student status under the Student and Exchange Visitor (SEVIS) system and (ii) requiring Defendants to set aside their termination determination. The grounds for this motion are set forth in Plaintiff's accompanying memorandum of law in support of his motion.

Plaintiff also moves this Court for an order waiving the requirement for bond or security.

Respectfully submitted,

AMERICAN CIVIL LIBERTIES UNION OF NEW MEXICO

/s/ Rebecca Sheff
Rebecca Sheff
Max Isak Brooks
Leon Howard
P.O. Box 566
Albuquerque, NM 87103
Phone: (505) 266-5915
rsheff@aclu-nm.org
mbrooks@aclu-nm.org
lhoward@aclu-nm.org

-and-

HUFFMAN WALLACE & MONAGLE LLC

/s/ Shayne C. Huffman
Shayne C. Huffman
Jason T. Wallace
Levi A. Monagle
122 Wellesley Drive SE
Albuquerque, NM 87106
Phone: (505) 255-6300
shayne@hwm.law
jason@hwm.law
levi@hwm.law

CERTIFICATE OF SERVICE

I hereby certify that on April 23, 2025, a true and exact copy of the foregoing was served via certified mail upon Defendants as follows:

Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Secretary of Homeland Security
Department of Homeland Security
2707 Martin Luther King Jr. Ave SE
Washington, D.C. 20528-0525

The Office of the United States Attorney
for the District of New Mexico
Albuquerque Plaza
201 3rd Street Northwest, Suite 900
Albuquerque, NM 87102

/s/ Shayne C. Huffman
Shayne C. Huffman

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

K.O.D.,

Plaintiff,

v. No. 1:25-cv-00391

KRISTI NOEM, Secretary of the Department of Homeland Security; and

TODD LYONS, Acting Director of the Immigration and Customs Enforcement,

Defendants.

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER

INTRODUCTION

Pursuant to Counts 1 and 2 of Plaintiff's Complaint for Declaratory and Injunctive Relief, Plaintiff K.O.D. requests a Temporary Restraining Order (TRO) to (i) enjoin Defendants from terminating his F-1 student status under the SEVIS [Student and Exchange Visitor] system, and (ii) require Defendants to set aside their termination determination.

Since July 2023, Plaintiff has been studying petroleum engineering as a doctoral student at the New Mexico Institute of Mining and Technology ("New Mexico Tech") in Socorro, New Mexico. Plaintiff is a citizen and national of the Republic of Ghana ("Ghana"). He has not committed any crime or even a traffic violation. Nor has he shown any violence (or even participated in any protest) in the United States or elsewhere. He moved to the United States in July 2023 after completing his undergraduate studies in Ghana and his master's degree in Italy. As

a doctoral student, Plaintiff is a research assistant at New Mexico Tech, is a member of professional academic organizations, presents at professional and academic conferences, and has authored and published academic research papers.

However, his dream of finishing his doctoral program and obtaining a Ph.D. is now in severe jeopardy because the Department of Homeland Security ("DHS") terminated his F-1 student status in the SEVIS system[1] without notifying him or even his school on or about April 9, 2025. Plaintiff is not alone with respect to this abrupt termination of student status. Numerous foreign students in the United States were recently notified by their schools that their F-1 student status was terminated for unspecified reasons.[2]

Because of this termination, Plaintiff faces imminent and irreparable harm. Plaintiff faces potential immigration detention and deportation. He has effectively been disenrolled from his Ph.D. program and he can no longer work as a research assistant. This puts him in financial jeopardy because his financial aid, which is contingent on participation in the Ph.D. program, has been suspended. Moreover, the abrupt termination of his F-1 student status in the SEVIS system will prevent him from making meaningful progress in his doctoral program and obtaining his Ph.D. Plaintiff likely accrues unlawful presence daily as he is likely out of immigration status, which significantly affects his chance of reinstating his F-1 student status in the future. *See Jie Fang v. Director United States Immigration & Customs Enforcement*, 935 F.3d 172, 176 (3d Cir. 2019)

[1] SEVIS is "the web-based system that [DHS] uses to maintain information regarding:" F-1 "students studying in the United States[.]" https://studyinthestates.dhs.gov/site/about-sevis.

[2] Brandon Drenon & Robin Levinson-King, *Anxiety at US Colleges as Foreign Students Are Detained and Visas Revoked*, BBC News (Apr. 18, 2025), https://www.bbc.com/news/articles/c20xq5nd8jeo.

(noting that a student should not have been out of a valid F-1 student status for more than 5 months for a reinstatement application).

To be clear, Plaintiff does *not* challenge the revocation of his F-1 *visa* in this case. Instead, Plaintiff brings this lawsuit to challenge DHS's unlawful termination of his F-1 student *status* in the SEVIS system.[3] At the most elemental level, the United States Constitution requires notice and a meaningful opportunity to be heard. *See Riggins v. Goodman*, 572 F.3d 1101, 1108 (10th Cir. 2009); see also *Matthews v. Eldridge*, 424 U.S. 319, 322 (1976). "An essential principle of due process is that a deprivation of life, liberty or property 'be preceded by notice and opportunity for hearing appropriate to the nature of the case.'" *Riggins*, 572 F.3d at 1108 (quoting *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985)). No such process was provided here with respect to the termination of student status, warranting relief under Count 1 of Plaintiff's Complaint.

Further, as to Count 2 of Plaintiff's Complaint, the revocation of an F-1 visa does not constitute a failure to maintain F-1 student status under the SEVIS system and, therefore, cannot serve as a basis for termination of F-1 student status in the SEVIS system. For the agency-initiated termination of F-1 student status in the SEVIS system, DHS's ability to terminate F-1 student status "is limited by [8 C.F.R.] § 214.1(d)." *See Jie Fang*, 935 F.3d at 185 n.100. Under this 8 C.F.R. § 214.1(d), DHS can terminate F-1 student status under the SEVIS system only when: (1) a previously granted waiver under 8 U.S.C. § 1182(d)(3) or (4) is revoked; (2) a private bill to confer lawful permanent residence is introduced in Congress; or (3) DHS publishes a notification in the Federal Register identifying national security, diplomatic, or public safety reasons for

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

termination. In other words, under this regulation, the revocation of an F-1 visa does not provide a basis to terminate F-1 student status under the SEVIS system.

DHS's own policy guidance confirms that "[v]isa revocation is *not*, in itself, a cause for termination of the student's SEVIS record." ICE Policy Guidance 1004-04 – Visa Revocations (June 7, 2010) (emphasis added).[4] Rather, if the visa is revoked, *the student is permitted to pursue his course of study in school*, but upon departure, the SEVIS record is terminated, and the student must obtain a new visa from a consulate or embassy abroad before returning to the United States. *See* Guidance Directive 2016- 03, 9 FAM 403.11-3 – VISA REVOCATION (Sept. 12, 2016).[5] If DHS wishes to terminate F-1 student status under the SEVIS system after (or independent of) revocation of an F-1 visa, DHS must comply with 8 C.F.R. § 214.1(d). *See Jia Fang*, 935 F.3d at 185 n.100. DHS has not done so here.

Because of these imminent and real harms, Plaintiff requests that the Court grant a temporary restraining order to (i) enjoin Defendants from terminating his F-1 student status under the SEVIS [Student and Exchange Visitor] system, and (ii) require Defendants to set aside their termination determination.

FACTUAL BACKGROUND

Plaintiff is a citizen and national of the Republic of Ghana. Declaration of K.O.D., ¶ 2, Attached as Ex. A. He received his bachelor's degree and master's degree in petroleum engineering in Ghana and Italy, respectively. *Id.* ¶ 4. In 2023, Plaintiff was accepted into New Mexico Tech's

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

Ph.D. program for petroleum engineering. *Id.* ¶ 3. He applied for and was successfully granted an F-1 student visa to enter the United States. *Id.* ¶¶ 6-7.

Plaintiff moved to Socorro, New Mexico in August 2023 and began his doctoral studies at New Mexico Tech. *Id.* ¶ 3. As part of his offer, Plaintiff received financial aid that covered his tuition and basic living expenses, such as housing and food. *Id.* ¶ 14. As part of his participation in the Ph.D. program, Plaintiff also served as a research assistant at New Mexico Tech. *Id.* ¶ 8.

On April 9, 2025, Valerie Maez, New Mexico Tech's International Programs Coordinator, contacted Plaintiff and requested that he meet with her at her office. *Id.* ¶ 10. Ms. Maez informed Plaintiff that school officials had discovered, via the Student & Exchange Visitor Information System (SEVIS) database, that his student status had been terminated, and provided him with a copy of that record. *Id.* ¶¶ 10-11. The termination reason merely stated:

> TERMINATION REASON: **OTHER - Individual identified in criminal records check and/or has had their VISA revoked. SEVIS record has been terminated.**

Plaintiff has no criminal history in the United States (or elsewhere). *Id.* ¶ 12. He has maintained a clean record without even minor infractions such as a traffic or parking violation. *Id.* And he has not engaged in any protest activities, either online or in person. *Id.* ¶ 13. In 2016, Plaintiff lawfully obtained a B-1/B-2 visitor visa to attend a professional conference in the United States. *Id.* ¶ 5. Upon arrival, customs officials denied Plaintiff entry into the United States, ostensibly not being satisfied with the reason for Plaintiff's travels to the United States. *Id.* Plaintiff was prohibited from entering the United States for five years. *Id.* Just as the 2016 denial did not

prevent Plaintiff from lawfully obtaining an F-1 visa in 2023, it cannot now serve as a legitimate basis for terminating his current student status.

The consequences of this termination have been severe. As a result of DHS's termination of Plaintiff's F-1 student visa status, he has been effectively disenrolled from his Ph.D. program and has lost the financial aid he has relied on for living costs. *Id.* ¶ 14. On April 21, 2025, New Mexico Tech provided Plaintiff with a notice of "Graduate Contract Change or Cancellation" which stated his graduate contract with the university was being terminated due to "[i]mmigration status currently revoked by USCIS." *Id.* ¶ 15; *see also* Notice of "Graduate Contract Change or Cancellation" attached hereto as Exhibit B.

STANDARD OF REVIEW

The purpose of a TRO is to "preserve the relative positions of the parties until a trial on the merits can be held." *Legacy Church, Inc. v. Kunkel*, 455 F. Supp. 3d 1100, 1132 (D.N.M. 2020) (quoting *Univ. of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981); *see also Pan Am. World Airways, Inc. v. Flight Engineers' Int'l Ass'n, PAA Chapter, AFL-CIO*, 306 F.2d 840, 842 (2d Cir. 1962) ("The purpose of a temporary restraining order is to preserve an existing situation in *statu quo* until the court has an opportunity to pass upon the merits of the demand for a preliminary injunction."). "The requirements for a TRO issuance are essentially the same as those for a preliminary junction order." *Legacy Church, Inc.*, 455 F. Supp. 3d at 1131-1132. To establish a right to a TRO, "[a] party 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." *Id.* at 1132. These factors are satisfied here.

ARGUMENT

1. THE TERMINATION OF PLAINTIFF'S F-1 STUDENT STATUS WAS UNLAWFUL.

Defendants' termination of Plaintiff's F-1 student status under the SEVIS system was unlawful for two independent reasons: First, it violates the Due Process Clause of the Fifth Amendment under the Constitution (Count 1); and second, it violates the Administrative Procedure Act, 5 U.S.C. § 706(2)(A) as arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with the law, including the regulatory regime at 8 C.F.R. § 214.1(d).

a. The Termination Violates the Fifth Amendment's Due Process Clause (Count 1)

Defendants' termination of Plaintiff's F-1 student status straightforwardly violates the Fifth Amendment's Due Process Clause. As an admitted noncitizen student in the United States, Plaintiff has due process rights. *See de la Llana-Castellon v. I.N.S.*, 16 F.3d 1093, 1096 (10th Cir. 1994) ("[N]oncitizens, even those charged with entering the country illegally, are entitled to due process when threatened with deportation."); *see also Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) ("[O]nce an alien enters the country … the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.") The basic principle of a noncitizen's due process rights is "the opportunity to be heard at 'a meaningful time and in a meaningful manner.'" *de la Llana-Castellon*, 16 F.3d at 1096 (quoting *Mathews*, 424 U.S. at 333).

However, in this case, Defendants broke the promises guaranteed by the United States Constitution. Defendants did not provide any notice to Plaintiff or his school about their decision to terminate Plaintiff's F-1 student status. Without knowing when Plaintiff's F-1 student status was

terminated, Plaintiff learned about this termination only because his school discovered it during the school's inspection of SEVIS on April 9, 2025.

Nor did Defendants comply with the requirements of providing adequate explanation and a meaningful opportunity to respond. Defendants provided a vague and ambiguous explanation that Plaintiff's F-1 student status in the SEVIS system was terminated on the grounds of "OTHER– Individual identified in criminal record check and/or had had their VISA revoked. SEVIS record has been terminated." Ex. C. However, this explanation is inadequate to be consistent with the requirements under the Due Process Clause. Plaintiff has not committed any crime (or even a traffic violation). He has maintained his student status. Thus, the criminal record check or failure to maintain student status could not serve as the basis for terminating his F-1 student status.

Accordingly, Defendants' failure to provide notice, adequate explanations, and meaningful opportunity to terminate Plaintiff's F-1 student status is in violation of the Due Process Clause.

b. The Termination Violates the Administrative Procedure Act (Count 2)

Defendants' termination of Plaintiff's F-1 student status under the SEVIS system also violates the Administrative Procedure Act (APA). As a preliminary matter, Defendants' termination of Plaintiff's F-1 student status is a final agency action for which this Court has jurisdiction to review. *See Jie Fang*, 935 F.3d at 182 ("[t]he order terminating these students' F-1 visas marked the consummation of the agency's decision making process, and is therefore a final order"). On the substantive issue, Defendants had no statutory or regulatory authority to terminate Plaintiff's F-1 student status based simply on revocation of a visa.

Critically, DHS's ability "to terminate an F-1 [student status] is limited by [8 C.F.R.] § 214.1(d)." *Jie Fang*, 935 F.3d at 185 n.100. Under this regulation, DHS can terminate student

status only when: (1) a previously granted waiver under 8 U.S.C. § 1182(d)(3) or (4) is revoked; (2) a private bill to confer lawful permanent residence is introduced in Congress; or (3) DHS publishes a notification in the Federal Register identifying national security, diplomatic, or public safety reasons for termination. Accordingly, the revocation of a visa does not constitute a failure to maintain status and cannot, therefore, serve as a basis for termination of F-1 student status. If a visa is revoked before the student's arrival in the United States, the student may not enter, and his SEVIS record of F-1 student status is terminated. However, the SEVIS record of F-1 student status may not be terminated as a result of visa revocation after a student has been admitted into the United States because the student is permitted to continue the authorized course of study. *See* ICE Policy Guidance 1004-04 – Visa Revocations (June 7, 2010) (attached as Ex. D). DHS's own policy guidance confirms that "[v]isa revocation is not, in itself, a cause for termination of the student's SEVIS record." *Id.* Rather, if the visa is revoked, the student is permitted to pursue his course of study in school, but upon departure, the SEVIS record of F-1 student status is terminated, and the student must obtain a new visa from a consulate or embassy abroad before returning to the United States. *See* Guidance Directive 2016-03, 9 FAM 403.11-3 – VISA REVOCATION (Sept. 12, 2016). (attached as Ex. E).

Moreover, Plaintiff has maintained his F-1 student status. Under the regulation, students fail to maintain their status when they do not comply with the regulatory requirement, such as failing to maintain a full course of study, engaging in unauthorized employment, or other violations of their requirements under 8 C.F.R. § 214.2(f). In addition, 8 C.F.R. § 214.1(e)-(g) outlines specific circumstances where certain conduct by any nonimmigrant visa holder, such as engaging in unauthorized employment, providing false information to DHS, or being convicted of a crime

of violence with a potential sentence of more than a year, "constitute a failure to maintain status." However, none of these violations occurred in Plaintiff's case. Plaintiff has not committed any crime. He has not engaged in unauthorized employment. Nor has he provided any false information to DHS.

Because Defendants unlawfully terminated Plaintiff's F-1 student status without any statutory or regulatory authority, Defendants' termination should be set aside pursuant to 5 U.S.C. § 706(2)(A) as arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with the law, including 8 C.F.R. § 214.1(d).

In sum, Defendants' termination of Plaintiff's F-1 student status violates the Constitution and the APA. Defendants provided no notice, adequate explanation, or meaningful opportunity for Plaintiff to respond. Nor do Defendants have statutory or regulatory authority to terminate Plaintiff's F-1 student status, including under 8 C.F.R. § 214.1(d). The termination must be set aside and enjoined.

2. THE EQUITIES STRONGLY FAVOR AN INJUNCTION

Plaintiff will suffer irreparable injury if Defendants' termination determination is not set aside and enjoined. First, Plaintiff faces possible detention and deportation because of the unlawful presence stemming from this termination. "[D]eportation is a drastic measure and at times the equivalent of banishment or exile." *Costello v. I.N.S.*, 376 U.S. 120, 128 (1964). *See* Ex. A, ¶ 16 ("I fear being forced to leave the country before I can complete my Ph.D. program."). This Court's order of setting aside Defendants' termination of Plaintiff's F-1 student status can provide a critical form of relief and defense in removal proceedings.

Second, this termination will result "in the loss 'of all that makes life worth living'" for Plaintiff's academic studies and career trajectory. *Bridges v. Wixon*, 326 U.S. 135, 147 (1945). *See* Ex. A, 16 ("Losing my F-1 status puts my education, research, and career trajectory at risk, and I fear being forced to leave the country before I can complete my Ph.D. program.").

Third, this termination will result in extreme financial and academic hardship to Plaintiff. *See* Ex. A ¶ 16 (stating that Plaintiff's financial aid assistance has been suspended and Plaintiff has graduate contract with New Mexico Tech has been terminated).

Fourth, this termination will likely result in the accrual of out of status daily, which is a critical factor for Plaintiff's future reinstatement of F-1 student status. *See Jie Fang*, 935 F.3d at 176 (noting that a student should not have been out of a valid F-1 student status for more than 5 months for a reinstatement application).

By contrast, Defendants have advanced no substantial interest in terminating Plaintiff's F-1 student status. Indeed, granting a temporary restraining order would merely maintain the status quo, permitting Plaintiff to continue his studies in the United States.

Defendants also have no legitimate interest in enforcing this unconstitutional and unlawful termination, particularly where Plaintiff has no prior arrests, convictions, or protest activity in the United Staes. Nor do Defendants have a legitimate interest to exceed their statutory and regulatory authority by terminating Plaintiff's F-1 student status in a manner that is contrary to federal law. Enforcement of an unconstitutional law harms the public interest. *See Hobby Lobby Stores, Inc. v. Sebelius,* 723 F.3d 1114, 1145 ("[I]t is always in the public interest to prevent the violation of a party's constitutional rights."); *see also Gordon v. Holder*, 721 F.3d 638, 653 (D.C. Cir. 2013) ("[E]nforcement of an unconstitutional law is always contrary to the public interest.").

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

CONCLUSION

The Court should issue a temporary restraining order (i) enjoining Defendants from terminating Plaintiff's F-1 student status under the SEVIS system, and (ii) requiring Defendants to set aside their termination determination.

Respectfully submitted,

AMERICAN CIVIL LIBERTIES UNION OF NEW MEXICO

/s/ Rebecca Sheff
Rebecca Sheff
Max Isak Brooks
Leon Howard
P.O. Box 566
Albuquerque, NM 87103
Phone: (505) 266-5915
rsheff@aclu-nm.org
mbrooks@aclu-nm.org
lhoward@aclu-nm.org

-and-

HUFFMAN WALLACE & MONAGLE LLC

/s/ Shayne C. Huffman
Shayne C. Huffman
Jason T. Wallace
Levi A. Monagle
122 Wellesley Drive SE
Albuquerque, NM 87106
Phone: (505) 255-6300
shayne@hwm.law
jason@hwm.law
levi@hwm.law

CERTIFICATE OF SERVICE

I hereby certify that on April 23, 2025, a true and exact copy of the foregoing was served via certified mail upon Defendants as follows:

Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Secretary of Homeland Security
Department of Homeland Security
2707 Martin Luther King Jr. Ave SE
Washington, D.C. 20528-0525

The Office of the United States Attorney
for the District of New Mexico
Albuquerque Plaza
201 3rd Street Northwest, Suite 900
Albuquerque, NM 87102

/s/ Shayne C. Huffman
Shayne C. Huffman

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

K.O.D.,

Plaintiff,

v. No.

KRISTI NOEM, Secretary of the Department of Homeland Security; and

TODD LYONS, Acting Director of the Immigration and Customs Enforcement,

Defendants.

[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER

After careful consideration of the parties' submissions, the supporting declarations, the applicable law, and the filings and record in this case, the Court GRANTS Plaintiff's Motion for Temporary Restraining Order.

The Court hereby finds that Plaintiff has demonstrated a likelihood of success on the merits of his claims in Counts 1 and 2 of the Complaint for Declaratory and Injunctive Relief; that Plaintiff is likely to suffer irreparable harm if the order is not granted; that the potential harm to the Plaintiff if the order is not granted outweighs the potential harm to Defendants if the order is granted; and that the issuance of this order is in the public interest.

Pursuant to Federal Rule of Civil Procedure 65(b), this Court orders that all Defendants are (i) enjoined from terminating Plaintiff's F-1 student status under the SEVIS [Student and Exchange Visitor] system, and (ii) required to set aside their termination determination.

This Court further waives the requirement for security under Fed. R. Civ. P. 65(c).

This temporary restraining order shall take effect immediately upon entry of this Order and shall remain in effect by further order of the Court.

It is so ordered.

_____ _____

Date United States District Judge

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

K.O.D.,

Plaintiff,

v. No.

KRISTI NOEM, Secretary of the Department of Homeland Security; and

TODD LYONS, Acting Director of the Immigration and Customs Enforcement,

Defendants.

DECLARATION OF K.O.D.

I, K.O.D., pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am over the age of 18 and am competent to testify regarding the matters described below.

2. I am a citizen of the Republic of Ghana. I currently live in Socorro, New Mexico.

3. I moved to the United States in August 2023 to pursue a doctoral degree at the New Mexico Institute of Mining and Technology ("New Mexico Tech") in Socorro, New Mexico.

4. I completed my bachelor's degree at Kwame Nkrumah University of Science and Technology in Kumasi, Ghana in 2012 with a focus in petroleum engineering. I completed my master's degree at Politecnico di Torino in Turin, Italy in 2016 also with a focus in petroleum engineering.

5. In approximately 2016, I obtained a B-1/B-2 visitor visa from the United States Embassy in Ghana to travel to a professional conference held by the Society of Petroleum Engineers. When I arrived in the United States, I was denied entry by customs and told that I was

unable to explain the purpose of my visit. My visa was revoked and I did not attend the professional conference and was unable to return to the United States for five years.

6. In 2023, I applied for a student F-1 visa to study petroleum engineering in the United States.

7. I was accepted into the Ph.D. program at New Mexico Tech. I moved to the Socorro, New Mexico and began my studies in August 2023.

8. As part of my Ph.D. program, I am also a research assistant at New Mexico Tech.

9. Since arriving in the United States in August 2023, I have not traveled outside of the United States for any reason.

10. On April 9, 2025, I received a call from Valerie Maez, the International Programs Coordinator at New Mexico Tech. Ms. Maez stated that there was a "very urgent" matter that she needed to discuss with me. I went to her office shortly after receiving that phone call. When I met with Ms. Maez, she informed me that the school had checked the Student & Exchange Visitor Information System (SEVIS) and had discovered that my student status had been terminated.

11. Ms. Maez handed me a copy of my SEVIS record which stated, "TERMINATION REASON: OTHER – Individual identified in criminal records check and/or has had their VISA revoked. SEVIS record has been terminated."

12. I have never been arrested or convicted of a crime in the United States or elsewhere. I have no history of traffic or parking violations.

13. I have never participated in any political protest while living in the United States nor have I used social media or any other internet platforms to engage in political protest.

14. I receive a scholarship and other financial assistance from grant funds, which pay for, among other things, my tuition, research, and costs of living, including housing and groceries.

Until recently, I also received a bi-weekly stipend for living expenses, but that support has now been suspended.

15. On April 21, 2025, I received a notice from New Mexico Tech titled "Graduate Contract Change or Cancellation," which indicated that my graduate contract and participation in my Ph.D. program was being canceled due to "[i]mmigration status currently revoked by USCIS."

16. I fear for my future due to the termination of my F-1 student visa status. The uncertainty of my legal standing in the United States has caused immense stress as I have worked diligently for years to pursue my academic and professional goals. Losing my F-1 status puts my education, research, and career trajectory at risk, and I fear being forced to leave the country before I can complete my Ph.D. program. This sudden disruption has made me feel vulnerable and anxious, not only about my immediate situation but also about the stability and direction of my life in the years to come.

I declare under penalty of perjury that the foregoing is true and correct.

K.O.D.

Executed on April 21, 2025

EXHIBIT B

NEW MEXICO TECH
SCIENCE • ENGINEERING • RESEARCH UNIVERSITY

Graduate Contract Change or Cancellation

Student's Name: [redacted] Banner ID 900363390

Supervisor: William Ampomah

Original Term Date: 05/20/2025 New Term Date: 04/04/2025

Payroll: Original Amount of Contract: $ 12,021.35 Total Paid to Date: $ 8,414.98

Balance Owed to Student: $ 0.00

Bursar: Original Amount of Tuition on Contract: $ 4,122.54 Total Paid to Date: $ 4,122.54

Balance of Tuition owed by Student: $ 0.00

Reason for Termination: (One must be selected)

- ☐ Replaced by new revised contract(attached)
- ☐ Change in contract term date
- ☐ Withdrew and left NMT or reduced class load below full time
- ☑ Other (explain in detail, attach a separate sheet if necessary)

Immigration status currently revoked by USCIS

Signatures:

Supervisor William Ampomah Date: 4/16/2025

Graduate Office Date: 04/21/2025

Bursar's Office Sherry Rodriguez Date: 04/16/2025

Student Date:

Version: 12-12-2023

EXHIBIT C

SEVIS Student & Exchange Visitor Information System

Valerie Maez Logout
1-800-892-4829
ROLES: PDSO
SEVIS Help Desk
Get Plug-Ins

Main Message Board Change Password

Enter SEVIS ID

<< Return to **Terminated Status Students (past 18 months)**

View:
Event History

Request/Authorization Details

Employment Information

Actions:
Corrections

Request Reinstatement

Transfer Out

Student Information

F-1 STUDENT

[redacted]

New Mexico Institute of Mining and Technology - New Mexico Institute of Minng and Techno
Start Date: **July 15, 2023** End Date: **August 14, 2028**

Status: **TERMINATED**
Status Change Date: **April 4, 2025**
SEVIS ID: **N0034582214**

I-901 Fee Paid

I-20 ISSUE REASON: **CONTINUED ATTENDANCE**

TERMINATION REASON: **OTHER - Individual identified in criminal records check and/or has had their VISA revoked. SEVIS record has been terminated.**

Personal / Contact

Gender
MALE
Date of Birth
[redacted] **Age 37**
City of Birth
agona Swedru
Country of Birth
GHANA
Country of Citizenship
GHANA
U.S. Telephone
[redacted]
Foreign Telephone
[redacted]
Email Address
[redacted]

U.S. Address
[redacted]
Address Status
Valid H - High-rise default address
Foreign Address
University of Energy and Natural Resources, Brong -Ahafo 214 Sunyani, GHANA

Overall Remarks

Program

Education Level
DOCTORATE
Major 1 and Name
14.2501 - Petroleum Engineering
Major 2 and Name
00.0000 - None
Minor and Name
00.0000 - None
Program Start Date
July 15, 2023

Registration

Initial Session Start Date
August 14, 2023
Current Session End Date
May 14, 2025
Next Session Start Date
August 19, 2025
Length of Next Break/Vacation
96
Last Session
No

Program End Date
August 14, 2028

No

English Proficiency

School Requires English Proficiency for This Program
Yes
Student Has English Proficiency
Yes

Additional Names

Passport Name
[redacted]
Preferred Name
[redacted]
SEVIS Legacy Name

Travel

Port of Entry
LOS ANGELES, CA (LOS)
Date of Entry
August 21, 2023
I-94 Admission Number
507225492A3
Port of Departure

Date of Departure

Passport

Passport Number
G4018478
Passport Expiration Date
January 26, 2033
Country of Issuance
UNKNOWN

Study/Research Abroad
No
Thesis/Dissertation

I-901 SEVIS Fee Payment

Transaction Type
Payment
Transaction Date
June 8, 2023
Transaction Amount
$350.00
Fee Payment / Cancellation Receipt Number
WWW2315992496

School

School Name
New Mexico Institute of Mining and Technology
School Code
ELP214F00165000
Campus Name
New Mexico Institute of Minng and Techno
School Status
APPROVED

Visa

Visa Number
G4018478
Visa Issuance Date
Visa Expiration Date
August 9, 2027
Visa Issuance Post

Financial

Expenses

Estimated Average Cost for Tuition and Fees	**$10,268.00**
Living Expenses	**$18,101.00**
Dependents Expenses	**$0.00**
Other Costs	
Other Costs	

Funding

Student Funding for	**12 months**
Student's Personal Funds	**$5,229.00**
Funds From This School	**$36,089.00**
School Fund Type	**Research Assistantship**
Funds From Other Sources	
Source	

	Comment		Type	On-Campus Employment	.....
Total Expense	.....	**$28,369.00**	**Total Funding**	.....	**$41,318.00**

Dependents

EXHIBIT D

Student and Exchange Visitor Program

U.S. Department of Homeland Security
SEVP MS 5600
500 12th Street, SW
Washington, DC 20536-5600

U.S. Immigration and Customs Enforcement

June 7, 2010

POLICY GUIDANCE FOR: Designated School Officials

FROM: Student and Exchange Visitor Program – Policy Branch

SUBJECT: Policy Guidance 1004-04 –Visa Revocations

AUTHORITIES: *Immigration and Nationality Act, section 244(b)(1)*; *8 CFR 214.2(f)(6) and (9)*; *8 CFR 214.2(m)(9)* and *8 CFR 214.3(g)(2)*

Comments:

To comment on this Policy Guidance or suggest a change, please e-mail SEVIS.source@dhs.gov with "Policy Guidance 1004-04 Comment" entered in the subject line within 60 days of the date of this guidance.

Purpose:

The Student and Exchange Visitor Program (SEVP) wants to ensure that designated school officials (DSOs) are aware of the visa revocation process, how to record such an action in a Student and Exchange Visitor Information System (SEVIS) record, and how to respond to law enforcement inquiries involving students whose visas have been revoked.[1]

[1] This guidance represents SEVP's current thinking on this topic. It is advisory in nature and informational in content. Its purpose is to provide guidance to the SEVIS user community and to all SEVP personnel involved in the adjudication and review of petitions for SEVP certification and appeals.

It reflects the position on, or interpretation of, the applicable laws or regulations DHS has published as of the date of this publication, which appears on the first page of the policy guidance. This guidance does not, in any way, replace or supersede those laws or regulations. Only the latest official release of the applicable law or regulation is authoritative.

This guidance does not create or confer any rights for or on any person and does not operate to bind SEVP or the public.

SEVP has not provided previous guidance on this issue. This policy remains in effect until specifically superseded by a subsequent SEVP policy guidance or directive, or until SEVP amends the specifically cited authorities, above, with respect to this issue.

Background:

Visa revocations are an important tool in maintaining the security of our borders. Since September 11, 2001, the Department of State (DoS) has revoked 1,250 visas based on information suggesting possible terrorist activities or links. DoS receives a continuous stream of information that affects the eligibility of aliens to hold visas. Subsequent to an alien receiving a visa, the DoS uses any information received that calls into question the alien's suitability as a visa holder, such as a potential threat to the security of the United States, to revoke a visa. DoS revokes the visa promptly and relies on the visa application process to resolve identity and other questions at a later time, should the visa holder wish to reapply for a visa.

The revocation process supplements the terrorist watch-listing work of the Terrorist Screening Center (TSC), which provides the vast majority of the derogatory information on specific individuals. The TSC updates the DoS's Consular Lookout and Support System (CLASS) database with the derogatory information about an alien. If it appears that DoS may have issued a visa to a watch-listed alien, TSC forwards the derogatory information to the Visa Office (VO) of the Bureau of Consular Affairs, which manages the visa-revocation process for DoS.

Once it determines a possible link between the alien and the terrorist-related information, DoS formally revokes the visa. As soon as VO receives the derogatory information from TSC or other agencies, it places a revocation lookout (VRVK code) in CLASS, which replicates in real time in the Department of Homeland Security's (DHS) Interagency Border Inspection System, making the lookout available to DHS inspectors at ports of entry into the United States.

The alien does not receive advance notice that DoS is considering revoking the visa. After DoS revokes the visa, the relevant consular post attempts to contact the alien. However, the consular posts are not in a position to determine whether the alien is in the United States or to find the alien and provide him or her with notice that the revocation has occurred.

If the holder of the revoked visa reapplies for a visa at one of the embassies or consulates abroad, a consular officer carefully screens the application and, after consultation with DoS, determines eligibility. DoS might issue a new visa if it determines that the information which led to the revocation does not pertain to the alien or that the alien is in any event eligible.

DHS Reaction to DoS Visa Revocation:

Immigration and Customs Enforcement's Compliance Enforcement Unit (CEU) receives notification from DoS when DoS revokes a nonimmigrant's visa on national security grounds. In turn, CEU gathers additional information to prepare the case for a field investigation, if warranted. If it finds that DoS revoked an F or M visa on national security grounds, and the student is not present in the United States, CEU refers the nonimmigrant student's information to the SEVP liaison assigned to CEU.

DSO Actions in Response to Visa Revocation Notice:

The SEVP/CEU liaison provides a DSO with a list of the visa revocations at the DSO's school. A visa revocation may occur after the visa is issued but before the nonimmigrant enters the United States or upon arrival at a port of entry or while the nonimmigrant is in the United States.

If a DSO receives a visa revocation notice, the DSO should take the following actions in the student's SEVIS record:

- If the nonimmigrant was entering on an initial Form I-20, "Cancel" the record upon notification.

- If the nonimmigrant student was re-entering the United States to continue a program of study, enter "Terminated" in the SEVIS record for "No Show."

Some circumstances require revocation of a nonimmigrant student's visa while the nonimmigrant is in the United States and in status. Visa revocation is not, in itself, a cause for termination of the student's SEVIS record.

It is possible that neither the student in question nor the DSO has knowledge of the visa's revocation. However, law enforcement authorities may contact the school officials to verify whether the student is maintaining status.

Contact SEVP if you have questions.

EXHIBIT E

U.S. Department of State
Bureau of Educational and Cultural Affairs
Private Sector Exchange

September 2, 2016

Guidance Directive 2016-03

9 FAM 403.11-3 – VISA REVOCATION

The Department would like to bring to your attention a policy implemented on November 5, 2015, which requires consular officers to prudentially revoke (i.e., without making a determination that the individual is inadmissible) nonimmigrant visas of individuals arrested for, or convicted of, driving under the influence or driving while intoxicated, or similar arrests/convictions, that occurred within the previous five years, as detailed in 9 FAM 403.11-3(A). This requirement does not apply when the arrest/conviction occurred prior to the date of the visa application and has already been assessed within the context of a visa application.

Driving under the influence indicates a possible visa ineligibility under INA 212(a)(1)(A)(iii) for a physical or mental disorder with associated harmful behavior that is likely to pose a threat to the property, safety, or welfare of the applicant or others in the future. Consular officers refer any nonimmigrant visa applicant with one alcohol related arrest in the last five years, two or more arrests in the last 10 years, or where other evidence suggesting an alcohol problems exists, to a panel physician for a medical examination prior to visa issuance in order to determine whether this type of ineligibility may apply to the applicant. See INA 212(d); 22 CFR 41.108; 9 FAM 302.2-7(B)(3)(b).

The Department's prudential revocations reflect that, after visa issuance, new or additional information calls into question the subject's continued eligibility for a visa. In cases of a DUI arrest/conviction, consular officers may prudentially revoke the visa of an individual even if he or she is physically present in the United States. If a J-1's visa is revoked, the Department will usually revoke any J-2 dependents' visas as well.

What does this mean for exchange visitors? If an exchange visitor is in the United States, the revocation of their visa does not override the J-1 status granted by Customs

and Border Protection ("CBP") at the time of their entry or their ability to stay in the United States (except in extremely rare instances). However, the visa is no longer valid for future travel to the United States. An individual whose visa has been revoked and who departs the United States must receive a new visa (i.e., reapply for a visa and demonstrate eligibility) before seeking to reenter the United States. Therefore, after the individual's departure from the United States, sponsors should terminate his or her program status in SEVIS.

On March 14, 2016, all unclassified 9 FAM content was made public, except for redacted portions that contain sensitive but unclassified language. The publicly available subchapters can be found at: https://fam.state.gov/Fam/FAM.aspx?ID=09FAM.

We thank you for your continued commitment to international exchanges and to the Department's public diplomacy mission. Your contribution is vital, and we value your partnership.

Keri M. Lowry
Deputy Assistant Secretary
for Private Sector Exchange