

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Fridley Public School District,
Independent School District 14,
et al.,

Plaintiffs,

v.

Markwayne Mullin, *et al.*,

Defendants.

Case No. 0:26-cv-01023 (LMP/LIB)

**MEMORANDUM IN SUPPORT OF
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

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INTRODUCTION

For more than thirty years, federal policy directed immigration agents to avoid arrests and other enforcement actions near schools. Most recently, in 2021, the Secretary of Homeland Security designated schools, along with hospitals, shelters, and places of worship, as “protected areas.” ICE_AR044-45. The 2021 policy imposed an “obligation” on all DHS personnel to “refrain” from “enforcement action in or near” those “protected area[s]” “to the fullest extent possible”—an obligation that “applie[d] at all times.” ICE_AR045. DHS officials understood it as a binding mandate: It “*require[d]* that, to the fullest extent possible, ICE *shall* not undertake immigration enforcement actions” near protected locations. *Infra* 22 (ICE website) (emphasis added). DHS provided this “special protection” because it recognized that enforcement near these places could have a “restraining impact” on people’s access “essential services,” including “children[’s] access to schools.” ICE_AR043, 45.¹

The Trump Administration revoked that protection in a one-page memo its first day in office, complaining that the prior policy “tie[d] the hands” of DHS agents and that repealing it would “empower” them to arrest undocumented immigrants in schools and churches. In its place, DHS gave

¹ ICE_AR (Dkt. No. 105) is the administrative record certified by Immigration and Customs Enforcement (“ICE”). It includes the documents in the administrative record submitted for DHS. *See* Dkt. No. 100-1.

agents broad discretion to conduct arrests, surveillance, and other enforcement actions at schools and other previously protected areas. ICE_AR003.

The new policy enabled a flood of enforcement actions near schools. Last school year, Minnesota was hit the hardest. In school districts across the state, armed immigration agents regularly arrested parents, students, and educators at bus stops and outside elementary schools, staged operations in school parking lots and adjacent streets, and surveilled students and staff at drop-off and pick-up. Students asked their teachers if ICE would come for them as they were leaving school or waiting for the bus. In schools across the state, including Plaintiffs Fridley and Duluth Public Schools, scores of students stopped coming to school because they feared ICE would be there. Their teachers, including noncitizen members of Plaintiff Education Minnesota, have had to carry on teaching while they themselves face a heightened risk of arrest at school.

DHS did not consider these predictable harms to schools, teachers, and students when it lifted the restrictions meant to avoid them. Indeed, it revoked those restrictions without mentioning any of the justifications for them or providing any reasoned analysis to support the reversal. Its decision to do so was arbitrary and capricious, and the Court should set it aside.

BACKGROUND

I. DHS rescinds protections for sensitive locations.

For three decades before January 2025, government policy restricted immigration enforcement operations in “sensitive locations,” including schools, hospitals, and houses of worship. In 1993, the Immigration and Naturalization Service (INS) “directed” agents to “attempt to avoid apprehension of persons and to tightly control investigative operations on the premises of schools” and “places of worship.” ICE_AR028 (quoting ICE_AR019). That “direction ... remain[ed] in effect” for almost two decades. ICE_AR029. In 2011, ICE replaced it with a similar policy, which was also designed to “ensure” that ICE “enforcement actions” “do not occur at nor are focused on sensitive locations such as schools” absent exceptional circumstances. ICE_AR030.

In 2021, Secretary of Homeland Security Alejandro Mayorkas issued a new memorandum that reaffirmed and strengthened the government’s longstanding policy of avoiding enforcement actions near sensitive locations. ICE_AR043-47 (the “Mayorkas Memorandum”). The Mayorkas Memorandum designated schools “protected areas” and imposed on DHS officers an “obligation to refrain, to the fullest extent possible, from conducting a law enforcement action in or near a protected area”—an obligation the memo made clear “applies at all times and is not limited by hours or days of operation.” ICE_AR044-45. The Mayorkas Memorandum defined that obligation’s

operative terms. “Protected areas” included schools, school bus stops, and daycares. ICE_AR044-45. “Enforcement actions” included “arrests, civil apprehensions, searches, inspections,” and “surveillance.” ICE_AR046.

“The phrase ‘to the fullest extent possible’ recognize[d] that there might be limited circumstances under which an enforcement action needs to be taken in or near a protected area.” ICE_AR045. These included a “national security threat,” “an imminent risk of death, violence, or physical harm to a person,” the “hot pursuit of an individual who poses a public safety threat” or “a personally observed border-crosser,” when a “safe alternative location does not exist,” or other like circumstances. ICE_AR046. Outside of those exceptions, however, schools and other sensitive areas were “protected”: DHS had an “obligation” not to conduct enforcement actions nearby. ICE_AR044-45.

Moreover, the memo provided that “[a]bsent exigent circumstances,” agents “must seek prior approval” from headquarters officials or their delegates “before taking an enforcement action in or near a protected area.” ICE_AR046. And any enforcement action taken near a protected location was to be reported to headquarters and “must be fully documented” in the agency’s records “in a manner that can be searched and validated,” with the “reason(s) why the enforcement action was taken there” and “a situational report of what occurred during and immediately after the enforcement action.” ICE_AR046-47. The policy required DHS to train all employees on these requirements. ICE_AR046.

The Mayorkas Memorandum established these limitations because enforcement actions in or near protected areas could “restrain people’s access to essential services or engagement in essential activities.” ICE_AR044. “For example, if [DHS] take[s] an action at an emergency shelter, it is possible that noncitizens, including children, will be hesitant to visit the shelter and receive needed food and water, urgent medical attention, or other humanitarian care.” *Id.* The memo directed that agents “need to consider the fact that an enforcement action taken near—and not necessarily in—the protected area can have the same restraining impact on an individual’s access to the protected area itself.” ICE_AR045. It found that DHS “can accomplish [its] enforcement mission without denying or limiting individuals’ access to needed medical care, children access to their schools, the displaced access to food and shelter,” or “people of faith access to their places of worship.” ICE_AR044.

The current administration threw out these protections the day it took office. In a half-page memo issued on inauguration day, January 20, 2025, Acting Secretary of DHS Benamine Huffman rescinded the Mayorkas Memorandum “effective immediately.” ICE_AR003 (the “Huffman Memorandum”). The Huffman Memorandum announced that DHS would no longer set “bright line rules regarding where [the] immigration laws [were] permitted to be enforced.” *Id.* Instead, it left individual agents to use their

“enforcement discretion” and “common sense” to decide whether to make arrests or take other enforcement actions near schools. *Id.*

In a follow-up memorandum, ICE “charge[d] Assistant Field Office Directors...and Assistant Special Agents in Charge” to make “case-by-case determinations” about when to take such actions at sensitive locations. ICE_AR002. Like the Huffman Memorandum, the follow-up memo did not supply any criteria for making those determinations. ICE_AR001-02.

II. The rescission permits an exponential rise in enforcement actions near schools and school bus stops

Since DHS rescinded the Mayorkas Memorandum, enforcement actions near sensitive locations have exploded. During the first Trump Administration, from 2018 through 2020, ICE conducted at most 55 arrests at sensitive locations. Ex. 1, DHS, Immigration Enforcement at Sensitive Locations, Fiscal Year 2020 Report to Congress (Apr. 18, 2022). Only one occurred in Minnesota—an arrest by Homeland Security Investigations (an ICE component) for alleged “Threats” of “Murder for Hire.” *Id.* at 51 (ECF p. 9). By contrast, in the year since the rescission, (from January 20, 2025, to April 1, 2026), ICE alone made “1,454 arrests in or near [sensitive] locations.” Ex. 2, ICE, Letter to Rep. Mike Levin 1 (Apr. 14, 2026) (emphasis added). That number excludes other enforcement actions, like surveillance and interrogations, and actions taken by Customs and Border Protection. *See id.*

In other words, since DHS rescinded the Mayorkas Memorandum, ICE has made well over **21 times** the number of arrests near sensitive locations than it made in two years at the end of the first Trump Administration.

Minnesota schools have been among the hardest hit. Last school year, DHS agents arrested Minnesota parents and students as they waited at school bus stops. Ex. 3, M-L-S-Decl.¶12; Ex. 4, J-V-Decl.¶10; Ex. 5, C-D-Decl.¶10; Ex. 6, J-R-Decl.¶3-8. They detained parents and guardians near schools and as they dropped off and picked up their kids. Ex. 7, N-S-Decl.¶10; Ex. 8, S-T-Decl.¶9. They arrested teachers, staff, and others just outside elementary schools, middle schools, high schools, preschools, and daycares. See Ex. 9, C-C-Decl.¶¶2-15; Ex. 10, Caldwell-Tautges Decl.¶7-9; Ex. 11, E-V-Decl.¶3; Ex. 12, H-R-Decl.¶11; Ex. 13, Graff Decl.¶19. They stopped a school bus and school vans loaded with students and demanded immigration papers. Ex. 14, Hewett-Olatunde Decl.¶9; Ex. 15, P-S-Decl.¶9. One morning, as a young student was waiting for the school bus, ICE agents approached and questioned her before arresting her mother as the child boarded the bus. Ex. 6, J-R-Decl.¶3-8.

Another morning, agents entered a school parking lot, rammed a teacher's car, and arrested her just as school was starting, blocking arriving students and staff from entering the school parking lot. Ex. 16, Rank Decl.¶¶4-19. The government later admitted that there was no probable cause for the arrest. *Id.*¶4. In another case, ICE "snatched one of [a teacher's] homeroom

students from his school bus stop, roughed him up, and released him at 3 A.M. the next morning.” Ex. 17, M-D-Decl.¶9. In yet another, DHS agents shot a reporter a half block from a school. Ex. 18, A-R-Decl.¶13; Ex. 8, S-T-Decl.¶12.

In an incident that captured national attention, agents in tactical gear armed with assault rifles swarmed the lawn of a local high school, pushed multiple school employees, shot a canister of chemical irritants toward a group of people that included students, and fired rubber bullets that struck a parent in the foot. Ex. 19, E-L-Decl.¶¶3-7; Ex. 20, T-H-Decl.¶3-5; Ex. 21, N-L-Decl.¶¶4-8; Ex. 22, M-R-Decl.¶¶5-7. On school property, they pinned a school staff member to the ground, choking him, pulled his hair, put him in handcuffs so tight they numbed his hands, and detained him in a nearby parking garage. Ex. 23, Williams Decl.¶¶12-21. They took those actions despite any apparent emergency or public safety threat. *Id.*¶¶9-11.

At a Minneapolis charter school, agents followed two students into the school parking lot, boxed them in, and questioned them about their legal status. Ex. 24, N-K-Decl.¶3; Ex. 25, J-W-Decl.¶3. At a nearby college, agents aimed weapons at students outside a residence hall. Ex. 26, Chernega Decl.¶5. They followed students home from their school buses, Ex. 25, J-W-Decl.¶4, and pulled over a van carrying students with cognitive and physical disabilities. Ex. 14, Hewett-Olatunde Decl.¶9.

In other districts across Minnesota, ICE agents have operated in school parking lots and staked out school bus stops at pick-up and drop-off time. Ex. 27, Lewis Decl.¶12; Ex. 16, Rank Decl.¶¶5-6; Ex. 28, Boyd Decl.¶¶3-8; Ex. 29, Vasquez Decl.¶¶5-9; Ex. 30, Schmidt Decl.¶3-4; Ex. 31, K-W-Decl.¶10; Ex. 3, M-L-S-Decl.¶¶9, 15; Ex. 32, S-R-Decl.¶11, Ex. 6, J-R-Decl.¶¶9-10; Ex. 5, C-D-Decl.¶9; Ex. 33, D-Y-Decl.¶¶3-4; Ex. 34, Wagner Decl.¶4; Ex. 35, J-S-Decl.¶¶4-5; Ex. 12, H-R-Decl.¶9. In Burnsville, agents brake-checked cars, flipped off parents waiting near school bus stops, and blasted the song “Ice, Ice Baby” when a bus was scheduled to drop off elementary school students. Ex. 36, A-B-Decl.¶¶3-6. In Columbia Heights, an ICE agent entered the parking lot of a high school and approached the loading dock of the school. Ex. 37, Sinicariello Decl.¶4; Ex. 38, Nelson Decl.¶4. Students took video of the incident and sent it to their family, who became panicked that ICE had come to their children’s school. Ex. 37, Sinicariello Decl.¶4.

Several of these incidents triggered school lockdowns to protect students from dangers posed by armed immigration agents operating near school grounds. *See, e.g.*, Ex. 60, Pohlman Decl.¶4; Ex. 8, S-T-Decl.¶12.

On February 21, 2026, the government announced that Operation Metro Surge was ending. Ernesto Londoño, *Trump Administration to End Surge of Immigration Agents in Minnesota*, N.Y. Times (Feb. 12, 2026), <https://perma.cc/JW5E-FTT6>. But even after that announcement, DHS

continued to operate near local schools and bus stops. Ex. 33, D-Y-Decl.¶4; Ex. 39, Mercer Decl.¶¶4-7; Ex. 40, K-B-Decl.¶6; Ex. 41, G-B-Decl.¶4.

III. The rescission disrupts schools and chills attendance

The flood of at-and-near school enforcement actions unleashed by the Huffman Memo has frightened students and disrupted classrooms across Minnesota. Children ask teachers, “what happens if ICE comes up and tries to take us ... while we’re trying to get on the bus?” Ex. 14, Hewett-Olatunde Decl.¶3. Students across Minnesota have expressed the same fears. *See* Ex. 42, Iverson Decl.¶14 (Fridley school principal: “[S]tudents would regularly ask me questions like, ‘What if ICE shows up at school?’”); Ex. 31, K-W-Decl.¶12 (Minnesota elementary school teacher: “One student told me, ‘if ICE comes and grabs me, make sure to let my parents know.’”); *see also* Ex. 43, Byron Decl.¶34; Ex. 37, Sinicariello Decl.¶6; Ex. 44, M-S-Decl.¶8. So, too, have children across the country. *See, e.g.*, Ex. 45, Heavener Decl.¶14; Ex. 46, C-R-D-Decl.¶9; Ex. 61, C-A-Decl.¶10. These widespread concerns have left students “anxious,” “distracted,” and unable to focus on learning. Ex. 14, Hewett-Olatunde Decl.¶3.

Many families have stopped sending their children to school altogether. Last school year, attendance plunged in schools across Minnesota, especially among school districts with large Hispanic and Latino populations. *See, e.g.*, Ex. 27, Lewis Decl.¶17; Ex. 25, J-W-Decl.¶5 (attendance at Minneapolis high school dropped to 20-30 percent); Ex. 38, Nelson Decl.¶7 (one-fifth absent at

another school). Parents have told school staff the primary reason: They have heard about immigration arrests and other ICE encounters near schools and bus stops, and they are afraid that the same things will happen to them or their children if they come to school. Ex. 27, Lewis Decl.¶¶19, 21; Ex. 42, Iverson Decl.¶10; Ex. 47, Magas Decl.¶7; Ex. 25, J-W-Decl.¶5; Ex. 14, Hewett-Olatunde Decl.¶4; Ex. 48, Gaverick Herrera Decl.¶4; Ex. 49, Dingler Decl.¶7.

Those fears are especially acute for Minnesota's undocumented population. Studies estimate that at least 49,000 Minnesota children reside with an undocumented parent and around 9,000 Minnesota students are themselves undocumented. Ex. 50, Migration Policy Institute, Profile of the Unauthorized Population – Minnesota at 2 (accessed Feb. 22, 2026).

IV. The rescission harms the plaintiffs.

A. Fridley and Duluth Schools

1. DHS agents repeatedly operate on and near schools in Fridley and Duluth Public Schools.

Fridley has seen frequent DHS enforcement operations around its schools. On January 7, 2026, DHS agents stopped several Fridley Schools staff members close to a school and held one of them at gunpoint. Ex. 27, Lewis Decl.¶8. On January 29, a DHS vehicle trailed Fridley's superintendent from Fridley High School to a district elementary school. *Id.*¶9. Two days later, DHS

agents used Fridley elementary and middle school parking lots as staging areas for enforcement operations. *Id.* ¶¶10.

On February 4, the morning Plaintiffs filed this case, agents came to a Fridley elementary school during morning drop-off, took photos and videos of school staff, and followed the school principal “right up to the entrance to the school.” Ex. 42, Iverson Decl. ¶¶6-8. The very next day, a Fridley teacher observed ICE agents drive into an elementary school parking in full tactical gear, while students were still waiting to be picked up, and stop directly in front of the entrance. Ex. 28, Boyd Decl. ¶5; Ex. 27, Lewis Decl. ¶12 (photo). Another afternoon, Fridley’s security director photographed ICE agents parked in a community park adjacent to both Fridley’s middle and high schools. Ex. 27, Lewis Decl. ¶14.

In Duluth, agents have also operated near school and a daycare. On December 19, 2025, an ICE vehicle parked near a Duluth High School for approximately an hour, claiming that it was investigating “a target.” Ex. 47, Magas Decl. ¶6. The agents were so close to the school that community members called the district to express alarm. *Id.* Another day, DHS agents in tactical gear staged in a parking lot outside a local daycare, while parents dropped off their kids, before they retrieved rifles from the back of their vehicles and tried to enter a nearby apartment. Ex. 51; Anttila Decl. ¶¶3-6.

2. The districts experience significant drops in attendance

These immigration enforcement operations near schools and school bus stops caused significant drops in attendance in both Fridley and Duluth Schools. Between December 2025 and February 2026, Fridley Schools' attendance dropped by approximately one-third. Ex. 27, Lewis Decl.¶17. On two different days in January 2026, Fridley Schools had to cancel classes because so many students and staff were afraid to come to school. *Id.*¶20. Families have told school staff that they are keeping their kids home because of immigration enforcement at school, specifically. *Id.*¶¶17-19; Ex. 42, Iverson Decl.¶10; Ex. 52 (voicemails); Ex. 53 (transcripts). The new policy chills staff attendance as well. Last school year, Fridley's noncitizen staff members were afraid to come to work and perform regular duties like supervising arrival and dismissal because they were afraid that ICE would arrest them near their schools. Ex. 27, Lewis Decl.¶45; Ex. 42, Iverson Decl.¶13.

In Duluth, too, families have told school staff that they are afraid to send their children to school because of immigration enforcement at or near schools and school bus stops. Ex. 47, Magas Decl.¶7. Multiple Duluth students were absent due to those concerns. *Id.*¶7-9. The threat of immigration enforcement has especially affected English Language Learner (ELL) and English as a Second Language (ESL) students. Duluth's Adult ELL courses are "almost empty" because students "do not feel safe coming to class due to the risk of

immigration enforcement activities near school buildings.” *Id.* ¶8. About a third of the students in one Duluth teacher’s high school ESL class had already missed one to five weeks of school as of mid-January 2026. Ex. 49, Dingler Decl. ¶5. Parents cited reports of ICE enforcement at Minneapolis high schools as the reason for the absences. *Id.* They told a teacher that they were keeping their children home for fear they would encounter immigration agents at or on the way to school. *Id.* That teacher was heartbroken to tell one mother that she could not assure her child’s safety if they came to school in person. *Id.* ¶7.

These widespread absences make it harder—and often impossible—for the districts to educate their students. When students are absent from school for long periods, they fall behind academically. Ex. 27, Lewis Decl. ¶23; Ex. 47, Magas Decl. ¶11; Ex. 13, Graff Decl. ¶8-14. And when they return, teachers must put in more work to remediate the educational losses. Ex. 27, Lewis Decl. ¶27; Ex. 49, Dingler Decl. ¶9; Ex. 47, Magas Decl. ¶11. ESL students require the most help: because they rely on their in-person ESL classes to learn every subject, they require accelerated instruction in English to understand both the lessons they missed and the current material being taught in their math, science, and history classes. Ex. 49, Dingler Decl. ¶9.

3. The districts face loss of funding

The chronic absences that flow from the threat of immigration arrests around schools and bus stops do not just disrupt learning—they also jeopardize

the school districts' funding. Minnesota law requires schools to unenroll students who are absent for 15 consecutive days. Minn. Stat. § 120A.37, subd. 9. And for every student dropped from their rolls, the school districts lose funding. Ex. 27, Lewis Decl.¶35; Ex. 47, Magas Decl.¶10 (noting that Duluth Schools stood to lose \$10,000 annually for each unenrolled student). By February 2026, Fridley Schools had to unenroll 20 students due to consecutive absences since December 2025, putting the district's funding at risk. Ex. 27, Lewis Decl.¶¶35-36. Duluth had already lost at least one student; several more were approaching the 15-day cut-off. Ex. 47, Magas Decl.¶9.

The districts also lost revenue they would otherwise have received from reimbursement for school meals, which are only reimbursed when served. Ex. 27, Lewis Decl.¶37. Fridley Schools lost nearly \$150,000 from December 2025 to March 2026 in lost meal reimbursements alone. *Id.* Meanwhile, the students who rely on school lunches lose access to affordable meals.

4. The rescission raises the districts' expenditures

The Huffman Memorandum has also cost the school districts many hours of additional labor and hundreds of thousands of dollars in additional expenses.

In school year 2025-2026, both Fridley and Duluth Schools had to expand online learning programs to teach children who are afraid to come to school in person. Ex. 27, Lewis Decl.¶29; Ex. 47, Magas Decl.¶12. Fridley Schools had to shift more than 400 students to remote instruction. Ex. 27, Lewis Decl.¶29. To

support these online programs, teachers had to do hours of additional work: They had to take valuable time to redesign lesson plans to deliver them online, trying to connect to students through the internet and working to get them Wi-Fi hot spots and computers. *Id.* ¶30; Ex. 49, Dingler Decl. ¶10; Ex. 47, Magas Decl. ¶11-12. Since many students still attend class in person, teachers had to prepare two versions of each lesson—one for in-person students and one for remote students. Ex. 49, Dingler Decl. ¶10.

To keep up with the workload, Fridley Schools had to transition substitute teachers to full-time roles, and hourly staff worked more, costing the district more money. Ex. 27, Lewis Decl. ¶¶31-32.

Even as it drains school resources, online instruction is not as effective as in-person instruction—especially for young children, students with disabilities, and ESL students. Ex. 27, Lewis Decl. ¶34. “Without the connection to teachers and peers that in-person learning provides, students have struggled to make academic progress at home.” Ex. 49, Dingler Decl. ¶6. The move to remote learning therefore “will result in academic and social setbacks that will require additional resources to remediate.” *Id.* In other words, teachers had to do “double the work” for worse results. *Id.* ¶10.

District staff also had to divert time to keep students safe from the heightened risk that armed immigration agents would conduct operations near schools or bus stops. Even before Operation Metro Surge, families began to

express urgent concerns about the threat of immigration enforcement activity on or near school grounds, bus stops, and off-campus school activities due to the new policy. Ex. 47, Magas Decl.¶5. As a result, both districts had to devote significant time and resources to change their processes and procedures to prepare for enforcement actions in or near schools, school bus stops, and after-school activities—and must continue to devote time to train staff on those policies. *Id.*¶14-16; Ex. 27, Lewis Decl.¶46. And teachers must take more steps to supervise students at pickup and dropoff, escorting them directly to buses and parent vehicles. Ex. 27, Lewis Decl.¶45. Staff who were not otherwise assigned to arrival and dismissal had to be placed into monitoring roles. *Id.*

The rescission has also raised transportation costs. Fridley Schools has spent hundreds of thousands of dollars to provide door-to-door transportation for staff who feel unsafe coming to work and families who feel unsafe waiting at school bus stops. Ex. 27, Lewis Decl.¶39.

B. Education Minnesota

Plaintiff Education Minnesota (“EdMN”) is an association of over 84,000 educators who belong to local unions and work in pre-K–12 schools and higher education institutions throughout Minnesota. Ex. 43, Byron Decl.¶2.

The new policy directly affects EdMN’s educator-members. A significant number of EdMN’s members are people of color and non-U.S. citizens on work visas. Ex. 43, Byron Decl.¶¶8-9. Last school year, two members, both special

education paraprofessionals, were arrested by DHS agents at the schools where they work. *Id.* ¶7; Ex. 16, Rank Decl. ¶¶5-21; Ex. 23, Williams Decl. ¶¶12-18. Many non-citizen members were terrified that they would be stopped or detained near school grounds or as they arrive or leave school. Ex. 43, Byron Decl. ¶8-9; Ex. 32, S-R-Decl. ¶¶14-16. Some non-white members were driven to and from school by white colleagues for fear of being detained at or near school. Ex. 43, Byron Decl. ¶9. At least one member took an extended leave of absence, and earned less income while on leave, because of the ICE activity near her school. Ex. 44, M-S-Decl. ¶¶9-10.

EdMN's members have also had to “spend[] significant extra time developing lesson plans and materials for students who are [learning] online” due to enforcement near school. Ex. 14, Hewett-Olatunde Decl. ¶6; *see* Ex. 43, Byron Decl. ¶11; Ex. 21, N-L-Decl. ¶10. At one member's high school in St. Paul 200 students—one-fifth of the student body—registered for online learning last year. Ex. 14, Hewett-Olatunde Decl. ¶5. In another member's high school music class, between one-quarter and one-third of students (almost entirely Latino and Somali students) were participating virtually. Ex. 54, N-W-Decl. ¶¶5-6. As a result, members had to spend hours every day creating additional materials, recording video lessons for remote students, and even delivering materials to students at home. Ex. 43, Byron Decl. ¶11; Ex. 37, Sinicariello, Decl. ¶¶7-9; Ex. 21, N-L-Decl. ¶10. Some had to be on call at all hours of the day to respond to

remote students who contact them. Ex. 43, Byron Decl.¶11. Because online learning is less effective than in-person schooling, members had to invest additional time to catch students up. Ex. 43, Byron Decl.¶¶11-12.

EdMN's members carry many burdens beyond concerns about academic performance. They must spend class time responding to student questions about the threat of immigration enforcement on or near schools and buses. Ex. 43, Byron Decl.¶34. Last spring, some experienced regular lockdowns in their schools because agents were nearby. *Id.*¶21. Teachers felt burnt out and exhausted, Ex. 14, Hewett-Olatunde Decl.¶10, and requested additional mental health supports, Ex. 43, Byron Decl.¶19. The strain even affected their physical health. Ex. 37, Siniacariello Decl.¶11. At least one EdMN member took a leave of absence as a result. Ex. 44, M-S-Decl.¶¶9-10.

ARGUMENT

The Huffman Memorandum violates the APA, and the Court should vacate it. Plaintiffs have standing to seek that relief. The Mayorkas Memorandum placed binding restrictions on immigration enforcement near schools, and the Huffman Memorandum erased those limits, enabling DHS to take enforcement actions that injured the plaintiffs. For the same reason, the Huffman Memorandum is final agency action: It culminated the decision to revoke the Mayorkas Memorandum and “redetermined the rights and obligations of DHS personnel.” *Phila. Yearly Meeting of Religious Soc’y of*

Friends v. DHS, No. 25-cv-0243, 2026 WL 280089, at *4 (D. Md. Feb. 3, 2026). Finally, the Huffman Memo was arbitrary and capricious because it changed those obligations without any “reasoned analysis” to explain the reversal. *DHS v. Regents of the Univ. of Cal.*, 591 U.S. 1, 30 (2020).

At the stay stage, the government opposed each of these points on the premise that, although DHS told the public that the Mayorkas Memorandum “thwart[ed]” and “tie[d] the hands” of law enforcement, Ex. 55 (press release), that prior policy really did almost nothing at all. In the government’s view, the Mayorkas Memo had only “discouraged” enforcement near protected areas; it did not “prohibit” them “or even restrict such actions to exigent circumstances.” Opp’n to Mot. for Stay at 26, Dkt. No. 68. In denying a stay, the Court tentatively agreed, writing that the Huffman Memo “did not change DHS’s ability or authority to engage in enforcement activity at or near protected areas.” Stay Order at 20-21, Dkt. No. 94.

With the benefit of more extended briefing and a fuller record, the Court should reach a different conclusion here: In rescinding the Mayorkas Memorandum, the Huffman Memo removed binding obligations that restricted enforcement actions near schools to exceptional circumstances. *See Phila. Yearly Meeting*, 2026 WL 280089, at *4 (holding that the Mayorkas Memorandum “plac[ed] specific restrictions on their ability to conduct immigration enforcement actions at or near protected areas”). Because the

actual effects of the Mayorkas Memorandum and its rescission by the Huffman Memo were important to the Court’s prior, tentative analysis, Plaintiffs first explain what the Mayorkas and Huffman Memoranda actually did, then address standing, final agency action, and the merits.

I. The Huffman Memorandum removed binding restrictions on enforcement near schools

The Mayorkas Memorandum “determined the rights and obligations of DHS personnel by placing specific restrictions on their ability to conduct immigration enforcement actions at or near protected areas.” *Phila. Yearly Meeting*, 2026 WL 280089, at *4. The plain terms of the policy indicate that it bound agency staff. It expressly imposed an “obligation,” ICE_AR045: “something one is bound to do.” *Obligation*, MERRIAM-WEBSTER DICTIONARY, <https://perma.cc/Z72Y-J2X2>. And it deemed schools, hospitals, and houses of worship to be “protected” areas that “require[d] special protection”—protection they would not have had if the policy bound no one. ICE_AR043-44.

Although the policy’s obligation did not prohibit *all* enforcement actions near protected areas, it required DHS agents to “refrain” from them “to the fullest extent possible.” ICE_AR045-46. It thus permitted such actions only in “limited circumstances” like a “national security threat” or “an imminent risk of death, violence, or physical harm to a person”—situations when it was not possible to avoid enforcement in that area without risking people’s safety or

the destruction of evidence in a “criminal” case, as opposed to a civil immigration matter. *Id*; see *Limited*, MERRIAM-WEBSTER DICTIONARY, <https://perma.cc/D743-RB45> (“confined within limits: restricted”; “characterized by enforceable limitations prescribed...upon the scope or exercise of powers”). Any enforcement action near a protected location thus had to involve similarly extraordinary circumstances. See *United States v. Peters*, 394 F.3d 1103, 1107 (8th Cir. 2005) (even when list of examples was “illustrative” and not “exhaustive,” “we presume that other conduct” “should be of a similarly egregious nature” to qualify for the same treatment).

Consistent with the text, DHS officials have long understood the obligation imposed by the Mayorkas Memorandum as a binding directive. As confirmed by a former high-ranking ICE official directly involved in its drafting, “DHS did not treat the memo as simply discouraging immigration enforcement near protected locations; it treated the memo as *requiring* agents to avoid enforcement actions near protected locations unless one of the limited exceptions described in the policy existed.” Ex. 56, Fleischaker Decl. ¶15 (emphasis added). It “was a restrictive policy” that “contained both substantive and procedural enforcement limitations,” and agents understood it as such. *Id.* ¶¶10, 12-15. As another high-ranking DHS official explained, “officers and agents of ICE and CBP were clearly bound by the [Mayorkas Memorandum]

and did not have discretion to disregard its limitations on immigration enforcement.” Ex. 57, Doyle Decl.¶7.

In just about every public forum aside from litigation, DHS has described the Mayorkas Memorandum as a binding instruction. *See Iowa League of Cities v. EPA*, 711 F.3d 844, 862 (8th Cir. 2013) (court may consider “the Agency’s own characterization of the action” (citation omitted)). To this day, ICE’s website states that “[t]he 2021 Mayorkas Memo *requires* that ... [t]o the fullest extent possible, [ICE] *shall* not undertake immigration enforcement actions at places of worship.” Ex. 63 at 3 (emphasis added). In the Huffman Memo itself, DHS explained that it was rescinding the Mayorkas Memo because it did not want to impose “bright line rules” about where the immigration laws were “permitted” to be enforced. ICE_AR003. The accompanying press release said that the Mayorkas Memorandum “thwart[ed] law enforcement” and “tie[d] the hands” of agents. Ex. 55 (DHS press release). And when the policy was in effect, DHS’s website confirmed that it “instruct[ed]” officers to refrain from enforcement actions at or near protected areas and invited the public to submit complaints “[i]f DHS officers and agents take enforcement actions that are believed to be *in violation of* the protected areas policy”—an invitation that would make little sense if the memo were just a recommendation. Ex. 59, ICE, Protected Areas and Courthouse Arrests 3, 5 (emphasis added).

True, the Mayorkas Memorandum required an exercise of “judgment” to determine when it was “possible” to avoid enforcement in protected locations, when an action was “near” the location, and when “exigent circumstances” excused pre-approval. ICE_AR0045-46. But “[t]he fact that [it] required agency personnel to engage in some interpretation of its terms does not change the mandatory nature of its provisions.” *Phila. Yearly Meeting*, 2026 WL 280089, at *4. Countless statutes and regulations require a similar exercise of “judgment” to apply their terms. *Kisor v. Wilkie*, 588 U.S. 558, 579 (2019) (citation omitted); *see id.* at 566-68 (listing examples). That does not make them any less binding. Indeed, the National Environmental Policy Act uses the same language as the Mayorkas Memorandum: it requires agencies to consider environmental impact “to the fullest extent possible” when undertaking certain projects. *Minnesota Pub. Int. Rsch. Grp. v. Butz*, 498 F.2d 1314, 1320 (8th Cir. 1974) (quoting NEPA). The mandatory U.S. Sentencing Guidelines also left plenty of room for judges to exercise discretion when applying their terms, especially when deciding whether to depart from them in exceptional circumstances. *United States v. Booker*, 543 U.S. 220, 233 (2005). Yet the guidelines still imposed “binding requirements on all sentencing judges.” *Id.* at 233-34 (holding them unconstitutional for that reason). That a rule leaves room for discretion on the margins does not make it nonbinding.

And nothing in the Mayorkas Memorandum contradicted its statement that it imposed obligations on DHS staff. The government has repeatedly cited the memorandum’s statement advising the public that it did “not limit an agency’s or employee’s *statutory* authority.” ICE_AR046 (emphasis added). But agencies routinely issue rules and policies that bind agency staff even though they do not modify the governing statute. In *Morton v. Ruiz*, for example, the Court held that an agency “must comply” with its “internal procedures” in an agency policy manual, even if they were “more rigorous” than the statute required. 415 U.S. 199, 235 (1974). And in *Biden v. Texas*, the Supreme Court held that a policy memo rescinding the Remain in Mexico policy “bound DHS staff”—and was a reviewable agency action, 597 U.S. 785, 808-09 (2022) (quotation marks omitted)—even though it “did not end DHS’s statutory authority” to return noncitizens to Mexico pending removal proceedings, *Texas v. Biden*, 20 F.4th 928, 948 (5th Cir. 2021) (quotation marks omitted), *rev’d and remanded on other grounds*, 597 U.S. 785 (2022).

The government has also leaned on the policy’s boilerplate disclaimer that did not “create any right or benefit, substantive or procedural, enforceable at law.” ICE_AR047. But that language did not disclaim that the policy placed an “obligation” on agency staff. ICE_AR045. Based on the plain language of the policy and DHS’s own construction of it, although “‘rights’ may not [have been] created ... ‘obligations’ certainly [were].” *Appalachian Power Co. v. EPA*, 208

F.3d 1015, 1023 (D.C. Cir. 2000). And in any event, “such boilerplate language is not dispositive if the action, in fact, determines rights or obligations.” *Phila. Yearly Meeting*, 2026 WL 280089, at *6; see *Appalachian Power*, 208 F.3d at 1023 (holding that nearly identical language did not undermine conclusion that policy placed “obligations” on the agency).

In short, although the Mayorkas Memo “did not absolutely bar all enforcement actions at protected areas, it still ... placed significant limits on immigration officers’ exercise of discretion”: DHS was to “refrain” from taking enforcement actions near “protected areas” except in “limited circumstances.” *Phila. Yearly Meeting*, 2026 WL 280089, at *4, 9 (quoting the Mayorkas Memorandum). In doing so, the Mayorkas Memo provided schools, churches, and hospitals “an assurance that they would not be subjected to an intrusion related to an immigration enforcement action outside of those limited exceptions.” *Id.* at *5. The Huffman Memo revoked those protections and took away the assurance that school communities had.

II. The school districts have standing.

To have standing, a plaintiff need only have a “personal stake” in the outcome of the case. *Bost v. Illinois State Bd. of Elections*, 607 U.S. 71, 76 (2026) (quoting *Diamond Alternative Energy, LLC v. EPA*, 606 U.S. 100, 110 (2025)). They must show (1) a “substantial risk” of “injury in fact” that is (2) “fairly traceable to the challenged action” and (3) “likely redressable by a favorable

decision.” *Iowa v. Wright*, 154 F.4th 918, 938, 940 (8th Cir. 2025) (citations omitted). Those elements are measured “as of the commencement of the suit.” *Id.* Plaintiffs meet all three.

A. The school districts have suffered an injury in fact.

The school districts have an injury in fact for four independent reasons.

1. *Intrusions on property.* First, the rescission authorized DHS agents to intrude on school property more than they could have done under the Mayorkas Memorandum. And DHS agents’ entry onto school property constitutes an injury in fact—regardless of whether that entry was unlawful.

“[I]njuries with a close relationship to harms traditionally recognized as providing a basis for lawsuits in American courts” satisfy the injury-in-fact requirement. *TransUnion LLC v. Ramirez*, 594 U.S. 413, 425 (2021). As the Court recognized in the Stay Order, “unauthorized physical entry by law enforcement on a private person’s or entity’s property ‘is a trespass at common law.’” Stay Order 22 (quoting *Oliver v. United States*, 466 U.S. 170, 183 (1984)). And “harm flowing from trespass” has long been “legally cognizable.” *Animal Legal Def. Fund v. Reynolds*, 8 F.4th 781, 786 (8th Cir. 2021).

In the Stay Order, the Court questioned whether DHS’s intrusion on school property “constitutes a cognizable injury in the specific context of Plaintiffs’ claims” because DHS’s intrusions on Fridley Schools property may not be “unlawful.” Stay Order 23. But “a plaintiff need not prove an unlawful

action to have standing.” *Am. Farm Bureau Fed’n v. EPA*, 836 F.3d 963, 968 (8th Cir. 2016). A “plaintiff can have standing[] even though” his asserted “interest would not be protected by the law in that case.” *United States v. Missouri*, 114 F.4th 980, 985 (8th Cir. 2024). Although courts sometimes say standing requires the invasion of “a legally protected interest,” that “requires only a ‘judicially cognizable interest,’” *ABF Freight Sys., Inc. v. Int’l Bhd. of Teamsters*, 645 F.3d 954, 959 (8th Cir. 2011) (citation omitted): “the sort of interest that courts think to be of sufficient moment to justify judicial intervention.” *In re Special Grand Jury 89-2*, 450 F.3d 1159, 1172 (10th Cir. 2006). In other words, the sort of injury that opens the courthouse door.

The school districts allege such an injury. “[A]ny intrusion upon the land in possession of another” has long been a cognizable “injury”—and the “invasion of a legally protected interest”—even if the intrusion is not unlawful. Restatement (First) of Torts § 7 cmt. 1 (1934). To be sure, law enforcement agents who intrude on private property often have a defense (*i.e.*, a “privilege”) that might “prevent the intruder from becoming liable as a trespasser” if the landowner sued. *Id.* § 158 cmt. b. But that does not mean the Court lacks *jurisdiction* to decide the dispute. Privileged or not, the physical “intrusion” on someone’s property remains an “injury.” *Id.* § 7 cmt. 1. The landowner need not disprove the privilege to get through the courthouse door. *See id.* § 10 cmt. c.

That is why, historically, “when one man placed his foot on another’s property, the property owner needed to show nothing more to establish a traditional case or controversy,” *Spokeo, Inc. v. Robins*, 578 U.S. 330, 344 (2016) (Thomas, J., concurring), even when the defendant acted for the government. *See United States v. Jones*, 565 U.S. 400, 405 (2012) (“[The common] law holds the property of every man so sacred, that no man can set his foot upon his neighbour’s close without his leave ... [I]f he will tread upon his neighbour’s ground, he must justify it by law.” (quoting *Entick v. Carrington*, 95 Eng. Rep. 807, 817 (1765) (holding that the King’s messengers were liable for trespassing because they could not meet their burden to show they had valid legal justification for intruding on property))).

That a school district is a “state governmental entity,” “not a private person or entity,” Stay Order 23, does not change the analysis. Just like private parties, state entities have property rights and a concrete stake in protecting their property from intrusions. When a state “own[s] land,” “it is likely to have the same interests as other similarly situated proprietors,” *Alfred L. Snapp & Son, Inc. v. Puerto Rico ex rel. Barez*, 458 U.S. 592, 601 (1982), and it “may sue the federal government to protect” those “proprietary interests.” Erwin Chemerinsky, *Federal Jurisdiction* §2.3, 127 (8th ed. 2021). In *Massachusetts v. EPA*, for example, the state had standing to sue a federal agency (the EPA) for its failure to regulate greenhouse gases based on the risk that global-

warming-induced sea-level rise would encroach on the state’s “coastal property.” 549 U.S. 497, 522 (2007) (quotation marks omitted). That encroachment constituted a “particularized injury” to the state “in its capacity as a landowner.” *Id.* In *Texas v. DHS*, Texas suffered a cognizable injury as a “proprietor” when DHS agents engaged in a “continuing trespass” on state property by cutting a state-owned wire fence. 123 F.4th 186, 205, 212 (5th Cir. 2024). And no less than states, a local government entity like a school district may “sue to protect its own ‘proprietary interests.’” *City of Sausalito v. O’Neill*, 386 F.3d 1186, 1197-98 (9th Cir. 2004); *see* Zachary Clopton & Nadav Shoked, *The City Suit*, 72 Emory L.J. 1351, 1396–98 (2023). Indeed, courts have long heard trespass suits brought by school districts.²

In short, the “intrusion” on the school districts’ property, Restatement (First) of Torts § 7 cmt. 1 (1934)—was among the “harms traditionally recognized as providing a basis for lawsuits in American courts,” and it gives the districts a “personal stake” in the case. *TransUnion*, 594 U.S. at 423, 425.

DHS’s continued intrusions on school property since it rescinded the Mayorkas Memorandum evince a “substantial risk” that, under the current

² *See, e.g., Los Angeles Unified Sch. Dist. v. S&W Atlas Iron & Metal Co. Inc.*, 506 F. Supp. 3d 1018, 1035 (C.D. Cal. 2020); *Indep. Sch. Dist. of Ionia v. De Wilde*, 243 Iowa 685, 691-92 (1952); *Glasco v. Sch. Dist. No. 22, McClain Cnty.*, 24 Okla. 236, 690 (1909); *Mendenhall v. Sch. Dist. No. 83, Jewell Cnty.*, 76 Kan. 173 (1907).

policy, DHS agents will enter Fridley or Duluth Schools property again. *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 164 (2014); *see Armstrong v. Davis*, 275 F.3d 849, 861 (9th Cir. 2001) (“[W]here the defendants have repeatedly engaged in the injurious acts in the past, there is a sufficient possibility that they will engage in them in the near future,” especially if they “stem[] from” a “written policy.” (citation omitted)).

2. *Financial Losses.* The new policy has also caused the school districts actual and threatened financial losses. *See Diamond*, 606 U.S. at 111 (“Monetary costs are of course an [Article III] injury.”). First, because so many students have been absent, the districts have lost thousands in revenue for school meals, which are reimbursed only when they are served to students. Ex. 27, Lewis Decl.¶37-38. Even a “small amount” of these lost revenues is an injury in fact. *Wright*, 154 F.4th at 938–39 (citation omitted). Second, the districts risk losing thousands in enrollment-based state funding. When a student is absent for more than 15 days, the district must unenroll that student. Ex. 27, Lewis Decl.¶35-36; Ex. 47, Magas Decl.¶9; Ex. 13, Graff Decl.¶22. Last school year, Fridley Schools unenrolled 20 students due to absences, and Duluth lost one with several approaching the threshold. Ex. 27, Lewis Decl.¶35; Ex. 47, Magas Decl.¶10. As the Court previously found, because the school districts had “students who remain[ed] at risk of unenrollment due to excessive absenteeism,” they had a “sufficient likelihood

of future injury” at the inception of the case. Stay Order 28 (quoting *FDA v. All. for Hippocratic Med.*, 602 U.S. 367, 381 (2024)).

3. *Interference with School Functions.* Next, the absences have injured the school districts because they directly interfered with their duty to educate their students. “An organizational plaintiff satisfies the injury-in-fact requirement if a defendant’s actions directly affected and interfered with the organization’s core business activities.” *Get Loud Arkansas v. Jester*, 171 F.4th 1058, 1064 (8th Cir. 2026). Similarly, a municipality is injured when a defendant’s actions interfere with the performance of its duties. *See Plymouth Cnty. v. Merscorp, Inc.*, 774 F.3d 1155, 1158 (8th Cir. 2014) (county was injured because defendant “interfered with the County’s duty” to record mortgages); accord Erwin Chemerinsky, *Federal Jurisdiction* § 2.3, p. 125 (8th ed. 2021) (“State and local governments have standing to challenge interference with the performance of their duties as governments.”).

For the school districts, education is not just a core business activity; public schools have a duty to educate their students, Ex. 27, Lewis Decl.¶4; Ex. 47, Magas Decl.¶3—“perhaps the most important function of state and local governments,” *Brown v. Bd. of Ed. of Topeka*, 347 U.S. 483, 493 (1955). By enabling the school-adjacent enforcement actions that scared students away from school, the rescission interfered with that duty. When students are absent, the school districts cannot teach them at all. Even when students sign

up for online programs, the schools cannot educate them as effectively through remote instruction. *See* Ex. 27, Lewis Decl. ¶34; Ex. 47, Magas Decl. ¶13.

The rescission thus “interfered with the [districts’] duty” to educate their students—a cognizable injury in fact. *Plymouth Cnty.*, 774 F.3d at 1158; *see Get Loud Arkansas*, 171 F.4th at 1064 (nonprofit had standing to challenge rule that “impaired [its] ability to provide voter registration services”); *Granville House, Inc. v. HHS*, 715 F.2d 1292, 1298 (8th Cir. 1983) (non-profit treatment center could challenge rule that “perceptibly impaired [its] ability to provide its services to indigent patients”); *Advocs. for Hum. Rts. v. DHS*, 820 F. Supp. 3d 789, 802 (D. Minn. 2026) (legal aid organization suffered injury because ICE policy “perceptibly impair[ed]” the organization’s “core mission of providing and facilitating legal services to migrants”).

4. Mitigation Costs. Finally, the rescission injured the school districts by making it more costly to educate their students. A plaintiff is harmed when it “reasonably incur[s] costs to mitigate or avoid” a “substantial risk of harm.” *Roberts v. Thompson*, 176 F.4th 1045, 1053 (8th Cir. 2026). The school districts spent hundreds of dollars and hours of staff time on remote learning programs. *See* Ex. 27, Lewis Decl. ¶¶29-33; Ex. 47, Magas Decl. ¶12. Those programs were not just “voluntary” choices, Stay Order 30–31: If the districts did not offer an online option, hundreds more students would have remained absent from class, interfering with the districts’ educational functions and likely requiring them

to unenroll more students. The districts “reasonably” offered e-learning to “mitigate” that “substantial risk of ... independent harm.” *Bost v. Illinois State Bd. of Elections*, 607 U.S. 71, 82 (2026) (citation modified).

In the Stay Order, the Court viewed these mitigation costs as voluntary choices because the Huffman Memorandum does not “regulate, constrain, or compel” them. Stay Order 30-31 (quotation marks omitted). But even when the government “regulates (or under-regulates)” someone else, “the regulation (or lack thereof)” can inflict cognizable “downstream” harm. *FDA v. All. for Hippocratic Med.*, 602 U.S. 367, 384 (2024). The reasonable costs incurred to mitigate such harm are still cognizable injuries. *See, e.g., Monsanto Co. v. Geertson Seed Farms*, 561 U.S. 139, 153-55 (2010) (plaintiffs had standing to challenge rule that deregulated certain crops because plaintiffs took steps to test and protect their conventional crops against “significant risk” of cross-contamination); *Wright*, 154 F.4th at 938 (states had standing to challenge a rule that would incentivize consumers to buy more electric vehicles and indirectly “increas[e] costs to the states to maintain their roads”).

B. The school districts’ injuries are traceable to the Huffman Memorandum

The districts’ injuries are also “fairly traceable” to the Huffman Memo’s rescission of the Mayorkas Memo. *Massachusetts*, 549 U.S. at 517.

Article III traceability “requires no more than *de facto* causality.” *Dep’t of Com. v. New York*, 588 U.S. 752, 768 (2019) (citation omitted). It “does not follow the causation principles of tort law.” *Me. Lobstermen’s Ass’n v. Nat’l Marine Fisheries Serv.*, 70 F.4th 582, 593 (D.C. Cir. 2023). Thus, an injury may be “fairly traceable” to a challenged action even if it is not the “most immediate cause, or even a proximate cause” of the harm. *Attias v. Carefirst, Inc.*, 865 F.3d 620, 629 (D.C. Cir. 2017); accord *Lexmark Intern., Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 134 n.6 (2014).

Although “but for” cause is sufficient, *Duke Power Co. v. Carolina Env’t Study Grp., Inc.*, 438 U.S. 59, 74 (1978), it is not necessary: A plaintiff satisfies traceability if the challenged action “contributes” to the substantial risk of injury. *Massachusetts*, 549 U.S. at 523; accord *Arc of Iowa v. Reynolds*, 24 F.4th 1162, 1171 (8th Cir. 2022) (“[F]airly traceable ... means more than speculative but less than but-for....” (quoting *Parsons v. DOJ*, 801 F.3d 701, 714 (6th Cir. 2015))), *vacated as moot*, 33 F.4th 1042 (8th Cir. 2022); *United Food & Com. Workers Union, Loc. No. 663 v. USDA*, 532 F. Supp. 3d 741, 765 (D. Minn. 2021) (challenged action need only be “one factor among many”).

That standard is satisfied here.

1. *The Huffman Memo led to more enforcement actions on and near the school districts' property*

The Huffman Memo enables ICE and CPB to enforce at and near schools more than they did before. Indeed, that is the entire point of the Huffman Memo. *See* Ex. 55 (announcing that DHS rescinded the Mayorkas Memo to “[un]tie the hands of ... law enforcement” and “empower” them to arrest undocumented immigrants in schools and churches). It therefore “contribute[d]” to the substantial risk that DHS would take enforcement actions on and near the school districts’ property, *Massachusetts*, 549 U.S. at 523, which injure their property interests and chill school attendance.

Indeed, the Mayorkas Memorandum would have prohibited most (if not all) of the enforcement actions on or near Fridley and Duluth Schools property, which fell well outside the prior policy’s exceptions. None of those actions involved a public safety threat or other emergency. *See* Ex. 27, Lewis Decl.¶7; Ex. 28, Boyd Decl.¶7, 11; Ex. 42, Iverson Decl.¶¶4-8. DHS therefore could not have taken those actions before the rescission. *See Garner v. Jones*, 529 U.S. 244, 256 (2000) (“[W]e presume the [agency] follows ... internal policies....”). The rescission was thus a contributing cause—indeed, a “but for” cause—of the

intrusions on Fridley Schools's property. *Duke Power*, 438 U.S. at 74. Fridley has standing based on those property invasions alone. *Supra* pp. 27-31.³

The Huffman Memorandum also contributed to the other near-to-school enforcement actions that families saw happening around Minnesota, which frightened parents into keeping their children home from school and caused the districts' other injuries. Witnesses attest to several other widely reported enforcement actions that DHS took near neighboring schools absent any exceptional circumstances. *See* Ex. 16, Rank Decl.¶¶9-10; Ex. 23, Williams Decl.¶¶9-11; Ex. 51, Anttila Decl.¶9; Ex. 11, E-V-Decl.¶3; Ex. 9, C-C-Decl.¶¶4-12; Ex. 37, Sinicariello Decl.¶4; Ex. 35, J-S-Decl.¶¶4-5. The rescission thus caused those actions, too, contributing to the harms that flowed from them.

The numbers confirm that the Huffman Memorandum contributed to the rise in enforcement actions near schools and school bus stops. ICE conducted more than 21 times as many arrests near sensitive locations after the rescission of the Mayorkas Memorandum than it conducted during the last two years of the first Trump Administration, *Compare* Ex. 1 *with* Ex. 2, when DHS had a policy designed to "ensure that ... enforcement actions [did] not occur at ... sensitive locations such as schools" absent exceptional circumstances,

³ Fridley would satisfy traceability even if the rescission enabled only *one* those intrusions. *See Wright*, 154 F.4th at 938 (even a "negligible contribution" to road wear that states had to repair was sufficient for standing).

ICE_AR030. The explosion of such actions in the year following the Huffman Memorandum was not due to a 21-factor increase in national emergencies or “imminent” threats near schools. ICE_AR046. Common sense suggests that the removal of the Mayorkas Memo’s restrictions played a contributing role. *See First Choice Women’s Res. Centers, Inc. v. Davenport*, 146 S. Ct. 1114, 1125 (2026) (“Across contexts, we have said, courts may make ‘commonsense inferences’ when assessing Article III standing....”).

At the stay stage, the government suggested that the Huffman Memorandum does not cause any harm because it “does not *direct*’ immigration enforcement officers to take actions in or near protected locations” but “merely *authorizes* them’ to do so.” Opp’n to Mot. for Stay at 12, Dkt. No. 68; *see* Stay Order 24. But it is “well established” that a plaintiff has standing when “the challenged agency action authorizes the conduct that allegedly caused the plaintiff’s injuries, if that conduct would allegedly be illegal otherwise.” *United Food & Com. Workers Union, Loc. No. 663*, 532 F. Supp. 3d at 767 (quoting *Animal Legal Def. Fund, Inc. v. Glickman*, 154 F.3d 426, 440 (D.C. Cir. 1998) (en banc)). That is because a policy that authorizes an otherwise prohibited harmful action is a *de facto* cause of the harm. *Id.*

Indeed, courts routinely find standing to challenge actions “deregulating (and thus permitting)” harmful conduct, even though they do not direct or encourage anything. *Bost*, 146 S. Ct. at 524 (Barrett, J., concurring). In

Massachusetts, for example, the EPA’s failure to regulate greenhouse gases did not direct or encourage greenhouse gas pollution; yet the state still had standing to challenge it. 549 U.S. at 523. In *Roubideaux v. North Dakota Department of Corrections and Rehabilitation*, prisoners had standing to challenge a statute that “permit[ted],” but did not direct, two state agencies to enter a contract that caused their harm. 570 F.3d 966, 974 (8th Cir. 2009). And in *Venetian Casino Resort, L.L.C. v. EEOC*, the plaintiff had standing to challenge an agency policy “permitting” agency employees to disclose confidential information without notice, even though agency staff retained discretion to provide such notice. 409 F.3d 359, 365 (D.C. Cir. 2005).

So it is here. By removing the restrictions that bound DHS agents to avoid most enforcement actions near schools, *see Morton*, 415 U.S. at 235; *supra* pp. 21-26, the Huffman Memo “authorize[d]” many of the enforcement actions that caused plaintiffs’ injuries, *Animal Legal Def. Fund*, 154 F.3d at 440, “contribut[ing]” to the intrusions on school district property and the attendance drops that cost the districts money, *Massachusetts*, 549 U.S. at 523.

Those enforcement actions are thus traceable to the rescission even if “Operation Metro Surge”—or “DHS’s policy decision to engage in enforcement activity at or near schools”—was their more “direct cause.” Stay Order 24. As the above cases demonstrate, the challenged action need not be the “last step in the chain of causation.” *Bennett v. Spear*, 520 U.S. 154, 169 (1997); *see*

Wright, 154 F.4th at 939 (state had standing to challenge rule that “enable[d]” carmakers “to produce less efficient gasoline vehicles,” which “increased greenhouse gas emissions,” which threatened to raise sea levels, which threatened to erode state territory). Otherwise, a plaintiff could never challenge a rule “deregulating (and thus permitting)” his injury. *Bost*, 146 S. Ct. at 524 (Barrett, J., concurring). That DHS agents have decided to use the permission the Huffman Memo grants them “does not erase” its *de facto* role in the harm. *Orangeburg, S.C. v. FERC*, 862 F.3d 1071, 1080 (D.C. Cir. 2017).

2. The Huffman Memo caused the increased absences and the harms to the school districts that flowed from them.

The sharp rise in student absences, and the financial harms that flow from them, are also fairly traceable to the rescission. *See New England Synod v. DHS*, 824 F. Supp. 3d 118, 145 (D. Mass. 2026) (finding decline in church attendance traceable to rescission); *Phila. Yearly Meeting of Religious Soc’y of Friends v. DHS*, 767 F. Supp. 3d 293, 318 (D. Md. 2025) (same). That those injuries arose from third parties’ decisions does not defeat standing. Even when the challenged action does not directly regulate the plaintiffs, they still have standing to challenge it when “third parties will likely react to the government regulation (or judicial relief) in predictable ways that will likely cause (or redress) the plaintiff’s injury.” *Diamond*, 606 U.S. at 112 (quotation marks omitted). The plaintiffs need only “show a predictable chain of events”

leading to their injury, *id.* at 121, which can rely on “commonsense inferences” about how third parties will act, *id.* at 116 (citation omitted).

Indeed, because standing requires only “*de facto*” causation, the harm is traceable to the government even if the third party’s response might be considered “irrational.” *Block v. Meese*, 793 F.2d 1303, 1309 (D.C. Cir. 1986) (Scalia, J.); *accord Dep’t of Com.*, 588 U.S. at 768 (likely third-party responses did not break causal chain even when they were illegal).

This *de facto* causation standard is amply satisfied here. The record establishes that in both Fridley and Duluth (and elsewhere), parents decided to keep their children home from school because of the rise in close-to-school enforcement actions enabled by the rescission. Parents told the school districts that they were keeping their children home from school because of enforcement actions near schools, specifically—not just because of immigration enforcement in general. *See* Ex. 27, Lewis Decl. ¶ 19; Iverson Decl. ¶ 10. Parents specifically cited fear of immigration enforcement *at school* as the reason they kept their children home. Ex. 52, 53 (parent voicemails) Ex. 64, M-C-D-Decl. ¶ 4-7. Enforcement near schools was thus a “*de facto*” cause of their absences. *Dep’t of Com.*, 588 U.S. at 768 (citation omitted). And those absences were a but-for cause of the district’s financial losses, *supra* pp. 30-31, 33-34 (districts lost funding and meal reimbursements for absent students), and interfered with their duty to educate their students, *supra* pp. 31-32.

This school-specific evidence separates this case from *Mennonite Church USA v. DHS*, where the plaintiffs did not identify significant enforcement actions near schools or houses of worship in the then-short time since the rescission, and their declarations “d[id] not delineate between the effects of broader immigration enforcement priorities and the [Mayorkas Memo’s] rescission specifically.” 778 F. Supp. 3d 1, 11 (D.D.C. 2025), *appeal pending*, No. 25-5209 (D.C. Cir. filed June 5, 2025). Here, the record shows that enforcement near schools was a “motivating factor” in families’ decisions. *Parsons*, 801 F.3d at 714. That is enough to show traceability. *Nat’l Wrestling Coaches Ass’n v. Dep’t of Ed.*, 366 F.3d 930, 941 (D.C. Cir. 2004).

C. The school districts’ injuries are redressable.

“[C]ausation and redressability” are “usually flip sides of the same coin.” *Diamond*, 606 U.S. at 111 (citation omitted). Just as an action need not be the sole cause of the plaintiffs’ injuries, “a remedy need not completely redress an injury in order to satisfy the requirement for standing.” *Iowa Migrant Movement for Just. v. Bird*, 157 F.4th 904, 916 (8th Cir. 2025). “Redressability exists...if the *risk* of injury ‘would be reduced *to some extent* if the plaintiffs received the relief they seek.” *Animal Legal Def. Fund v. Reynolds*, 89 F.4th 1071, 1078 (8th Cir. 2024) (quoting *Massachusetts*, 549 U.S. at 526) (emphasis added).

Because vacatur would restore the prior policy's limits on enforcement actions on school property, it would "reduce" the "risk" that DHS would intrude on the districts' property. *Animal Legal Def. Fund*, 89 F.4th at 1078. That is all Article III requires. See *Iowa Migrant Movement*, 157 F.4th at 916 (plaintiffs had standing to sue some prosecutors who enforced challenged statute, even though others could still enforce it, because "[e]njoining some Iowa prosecutors reduces the threat of prosecution under the Act").

Vacatur would also likely reduce the number of families who would keep their children home from school. Because DHS could not conduct nearly as many enforcement actions on or near school grounds, families would see fewer enforcement actions near schools and bus stops. And families would have some "assurance" that they would not be subject to enforcement action near school absent a true emergency. *Phila. Yearly Meeting*, 2026 WL 280089, at *4. As a result, at least some parents would be more likely to send their kids to school. See *Phila. Yearly Meeting*, 767 F. Supp. 3d at 319 (finding redressability because "a return to the 2021 Policy would reduce both the number of enforcement actions that would occur at a place of worship and the level of fear and concern over such actions that has caused the reduction in attendance").

Even if some parents would keep children home regardless, even "a partial remedy" satisfies redressability. *Uzuegbunam v. Preczewski*, 592 U.S.

279, 291 (2021).⁴ To be sure, if the Court restores the Mayorkas Memorandum, DHS officers would retain some discretion to decide when an enforcement action “needs to be taken” near a school—for example, because of an “imminent risk” of physical harm. ICE_AR045. But an agency “may not use its discretion to defeat . . . standing.” *NTCH, Inc. v. FCC*, 950 F.3d 871, 879 (D.C. Cir. 2020). “[A] challenger’s injury is redressable even if an agency ‘might reach the same result exercising its discretionary powers lawfully.’” *Id.* (quoting *FTC v. Akins*, 524 U.S. 11, 25 (1998)). Because the vacatur of the Huffman Memorandum would reduce the risk that the school districts’ injuries would recur, they have standing to challenge it.

III. Education Minnesota has associational standing.

Although “[o]nly one plaintiff needs standing for a case to proceed,” *Iowa Migrant Movement*, 157 F.4th at 913, Plaintiff Education Minnesota has standing as well. An association has standing to sue on behalf of its members when “(a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose;

⁴ Indeed, when courts have ordered DHS to follow the Mayorkas Memorandum as to plaintiff religious congregations whose attendance dropped post-rescission, absent congregants returned to services. *See, e.g., New England Synod v. DHS*, No. 4:25-cv-4102, (D. Mass.), Dkt. No. 64 ¶¶ 10-12, Dkt. No. 78 ¶¶ 39, 41-42; Dkt. No. 68 ¶¶ 28-29; Ex. 58, Merrill Decl. ¶¶ 44-45.

and (c) neither the claim asserted nor the relief requested requires participation of individual members in the lawsuit.” *Id.* at 916.

EdMN’s educator-members would have standing to sue for two reasons.

First, the Huffman Memo exposes EdMN’s members to a substantial risk of arrest in and near their schools. A “substantial risk” of “arrest” is an “imminent” injury-in-fact. *Susan B. Anthony List*, 573 U.S. at 158-59. That is so regardless of whether such an arrest would be “unlawful.” *Am. Farm Bureau Fed’n*, 836 F.3d at 968; *see Noto v. Noem*, 820 F. Supp. 3d 1344, 1350 (M.D. Fla. 2026) (immigrant plaintiffs had standing based on a “credible threat of arrest” at their USCIS interviews); *Jornaleros de Las Palmas v. City of League City*, 945 F. Supp. 2d 779, 794 (S.D. Tex. 2013) (“An arrest, or reasonable fear of imminent arrest, is also an injury-in-fact.” (citation omitted)).

EdMN’s members—including numerous noncitizens and Hispanic school staff members—have faced a substantial risk of immigration enforcement on or near their school workplaces. Ex. 43, Byron Decl.¶¶7-9. Two members were arrested on or near school property. Ex. 16, Rank Decl.¶¶4-19; Ex. 23, Williams Decl.¶¶17-21. As of February 4, 2026, DHS had already arrested over 4,000 people in Minnesota in two months. Ex. 62. And DHS has made over a thousand arrests near sensitive locations (including schools) since it rescinded the Mayorkas Memo. Ex. 2. This “past enforcement” in the same locations (schools and bus stops) is “good evidence” that the threat of future such

enforcement is “not chimerical.” *Susan B. Anthony List*, 573 U.S. at 164; see *Escobar Molina v. DHS*, 811 F. Supp. 3d 1, 33 (D.D.C. 2025) (association had standing to challenge policy authorizing warrantless arrests based on past arrests of Latino members while they were going about their “daily life”).

All that distinguishes this case from *Laird v. Tatum*, 408 U.S. 1, 2 (1972), and *Clapper v. Amnesty Int’l*, 568 U.S. 398 (2013), where the plaintiffs did not identify any past enforcement action traceable to the policies they challenged. In *Laird*, the plaintiffs alleged their speech was chilled “by the mere existence, *without more*” of a government surveillance. *Laird*, 408 U.S. at 10 (emphasis added). They lacked standing “because they had failed to set forth ‘a claim of specific present objective harm or a threat of specific future harm.’” *The Presbyterian Church (U.S.A.) v. United States*, 870 F.2d 518, 522 (9th Cir. 1989) (quoting *Laird*, 408 U.S. at 14). Likewise, in *Clapper*, the plaintiffs “set forth no specific facts demonstrating that the communications of their foreign contacts [would] be targeted” under the challenged provision. 568 U.S. at 410-12. Here, in contrast, DHS has already taken hundreds of enforcement actions authorized by the rescission, including against EdMN’s members and other school employees in nearby districts.

Second, chronic absences and the shift to remote learning have forced members to divert hours of their time to rework curricula, reteach lessons, and stay “on call” to reach students after hours. Byron Decl.¶¶11-12. They

“practically doubl[ed]” teachers’ workloads and left them exhausted. Ex. 31, K-W-Decl. ¶14; Ex. 28, Boyd Decl. ¶15; Ex. 29, Vasquez Decl. ¶¶12-13. This, too, is a cognizable injury. *See Get Loud Arkansas*, 171 F.4th at 1064 (additional labor due to government action was cognizable harm). That these burdens stemmed from the decisions of members’ schools to offer remote learning does not defeat standing: The “predictable” decisions of third parties do not break the causal chain. *Wright*, 154 F.4th at 939; *Dep’t of Com.*, 588 U.S. at 768.

This case is also “germane to the organization’s purpose,” *Iowa Migrant Movement*, 157 F.4th at 916—to “promote the welfare of its educator-members” and improve their working conditions. Ex. 43, Byron Decl. ¶4. And “neither the claim asserted nor the relief requested” demand “individualized proof” that would require members to join the suit themselves. *Iowa Migrant Movement*, 157 F.4th at 916-17. EdMN therefore has associational standing.

IV. The Huffman Memorandum was a final agency action.

The APA provides a “cause of action” that authorizes anyone “injured in fact by agency action” to obtain judicial review. *Corner Post, Inc. v. Bd. of Governors of Fed. Rsrv. Sys.*, 603 U.S. 799, 807–08 (2024). To be reviewable, an agency action must be “final.” *Id.* at 808. The Huffman Memorandum, and its rescission of the Mayorkas Memorandum, satisfy that standard.

The Supreme Court “has consistently taken a ‘pragmatic’ and ‘flexible’ approach to the question of finality.” *Hawkes Co. v. U.S. Army Corps of Eng’rs*,

782 F.3d 994, 997 n.1 (8th Cir. 2015), *aff'd*, 578 U.S. 590 (2016). An agency action is final if it (1) “mark[s] the ‘consummation’ of the agency’s decisionmaking process” and (2) either “determine[s]” “rights or obligations” or will have “legal consequences.” *Bennett*, 520 U.S. at 177–78. The government has never disputed that the Huffman Memorandum meets the first prong. As for the second, the rescission of the Mayorkas Memo was a final agency action because it “redetermined the rights and obligations of DHS personnel.” *Phila. Yearly Meeting*, 2026 WL 280089, at *4.

An agency action is final when it changes the obligations of agency staff, even if it does not bind the public. In *Biden v. Texas*, for example, the Supreme Court held that DHS’s decision to rescind the Remain-in-Mexico program was final because it “bound DHS staff.” 597 U.S. at 808. An action that removes obligations or expands discretion is also final. *See Clean Air Council v. Pruitt*, 862 F.3d 1, 6–7 (D.C. Cir. 2017) (holding that an order “revoking” or “delaying” the effect of a rule was final agency action because it removed obligations, even if temporarily); *Venetian Casino Resort, LLC v. EEOC*, 530 F.3d 925, 931 (D.C. Cir. 2008) (holding that a “policy of permitting [agency] employees to disclose confidential information without notice” was final action); *see also U.S. Army Corps of Eng’rs*, 578 U.S. at 598-99 (2016) (“the denial of [a] safe harbor” that would have “b[ound] the [agency] authorized to bring civil enforcement proceedings” was a final agency action).

The decision to rescind the Mayorkas Memorandum likewise changed the obligations of DHS staff. The Mayorkas Memorandum imposed an “obligation to refrain” “from conducting a law enforcement action in or near a protected area” “to the fullest extent possible” and “at all times.” ICE_AR045. As DHS has admitted, that obligation “required” that DHS avoid certain enforcement actions, Ex. 63; made “bright line rules” about when and where immigration enforcement was “permitted,” ICE_AR003; and it thereby “tie[d] the hands” of agents, which DHS has claimed “thwart[ed]” enforcement. Ex. 55; *see Iowa League of Cities*, 711 F.3d at 862 (court may consider “the Agency’s own characterization of the action” to determine whether it is binding).

The Huffman Memo removed that obligation. In doing so, it permitted DHS agents to take actions they could not have taken before. Under the new policy, for example, agents may arrest a parent in a school parking lot even when it is entirely “possible” to avoid it, all without the need for headquarters approval and later documentation. And DHS has in fact done so repeatedly. The Huffman Memorandum is therefore final agency action under the APA.

The district court reached that straightforward conclusion in *Philadelphia Yearly Meeting*, 2026 WL 280089, at *4-5. “Even if the [Mayorkas Memorandum] had no direct impact on the rights or obligations of [the] [p]laintiffs or other members of the public,” the court explained, “the second prong can be satisfied if the agency action determines an agency’s own ‘rights

or obligations’ or those of its personnel.” *Id.* (quoting *Bennett*, 520 U.S. at 178). And the Mayorkas Memo “determined the rights and obligations of DHS personnel by placing specific restrictions on their ability to conduct immigration enforcement actions at or near protected areas.” *Id.* Thus, the Huffman Memorandum is “also a final agency action because it materially redetermined the rights and obligations of immigration officers by removing the restrictions and limitations of the [Mayorkas Memorandum].” *Id.* at *5.

The district court’s contrary decision in *New England Synod v. DHS* rests on two basic errors. 824 F. Supp. 3d at 162. First, the court reasoned that the Mayorkas Memo “did not entirely prevent immigration-enforcement actions at sensitive places.” *Id.* But the fact that a rule contains exceptions (“no exit except in emergencies”) does not make it less of a rule. An agency rule need not remove all its staff’s discretion to be final. *See Texas v. EEOC*, 933 F.3d 433, 443 (5th Cir. 2019) (guidance that changed the “analytical method” staff used when conducting investigations was final action); *Appalachian Power*, 208 F.3d at 1022 (rule that required staff to use a “multi-factor ... analysis” was final action). Second, the court noted that the Mayorkas Memo was not “based on an interpretation of the INA or of any legislative rule promulgated pursuant to it.” *New England Synod*, 824 F. Supp. 3d at 162. But an agency action does not need to be based on an interpretation of a statute or regulation to be final. *See Biden*, 597 U.S. at 793-96 (rescission of Remain-in-Mexico

policy was final even though it did not base that action on an interpretation of the INA); *see also Judulang v. Holder*, 565 U.S. 42, 52 n.7 (2011) (reviewing an immigration policy that was “not an interpretation of any statutory language”).

Rather, a final agency action need only “consummat[e]” the agency’s decision and “determine[]” “rights or obligations” of agency personnel. *Bennett*, 520 U.S. at 177–78 (citation modified). The Huffman Memo did just that.

V. The Huffman Memorandum was arbitrary and capricious.

Under the APA, courts must set aside agency action that is “arbitrary” or “capricious,” 5 U.S.C. § 706(2)(A): that is, “not reasonable and reasonably explained.” *Ohio v. EPA*, 603 U.S. 279, 292 (2024) (citation modified). To satisfy that standard, the agency must “examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made.” *Motor Vehicle Mfrs. Ass’n of the U.S. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (citation modified). An agency’s explanation is not sufficiently reasoned if it “failed to consider an important aspect of the problem.” *Id.* In immigration matters, no less, the court must ensure that the agency’s decision was “based on a consideration of the relevant factors” and not a “clear error in judgment.” *Judulang*, 565 U.S. at 53 (quoting *State Farm*, 463 U.S. at 43).

When an agency changes a policy, it must acknowledge the change and “show that there are good reasons for the new policy.” *FCC v. Fox Television*

Stations, Inc., 556 U.S. 502, 515 (2009). It must also provide “a reasoned explanation ... for disregarding facts and circumstances that underlay or were engendered by the prior policy.” *Id.* at 516. As part of that analysis, it must assess “whether” the prior policy engendered “reliance interests, determine whether they were significant, and weigh any such interests against competing policy concerns.” *Regents*, 591 U.S. at 33. “An unexplained inconsistency in agency policy” is “arbitrary and capricious.” *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 222 (2016) (citation modified).

The Huffman Memo fails those basic standards for at least four reasons.

First, while the Huffman Memo acknowledged that it was rescinding the Mayorkas Memo, it did not provide a “reasoned analysis” to explain why. *Regents*, 591 U.S. at 30. The Mayorkas Memo reasoned that schools, hospitals, shelters, and other sensitive locations “required special protection” because nearby enforcement actions could “restrain people’s access to essential services,” including children’s “access to their schools.” ICE_AR043-44. And it concluded that DHS could “accomplish [its] enforcement mission without denying or limiting individuals’ access to needed medical care, children access to their schools, the displaced access to food and shelter,” or “people of faith access to their places of worship.” *Id.* The Huffman Memorandum does not explain why (or even if) DHS believed those prior conclusions were incorrect or

outweighed by other concerns. Indeed, the one-page memo contains no discernible “analysis” at all. *Regents*, 591 U.S. at 30.

At the stay stage, the government suggested that the Huffman Memo identified two “reasons” for rescinding the Mayorkas Memo: that officers “frequently apply enforcement discretion” and that it was not “necessary” to “create bright line rules regarding where our immigration laws are permitted to be enforced.” Opp’n to Mot. for Stay 37, Dkt. No. 68 (quoting ICE_AR003).

But neither of these statements explains the rescission. That officers “frequently exercise” (*id.*) enforcement discretion does not explain why DHS should remove limits that have long cabined that discretion. And the bare conclusion that “bright line rules” are not “necessary” (*id.*) does not supply the “reasoning” the APA requires, “for [it] provide[s] neither assurance that [DHS] considered the relevant factors” nor “a discernable [analytical] path to which the court may defer.” *Env’t Health Tr. v. FCC*, 9 F.4th 893, 905 (D.C. Cir. 2021) (citation modified) (statements that agency made its decision based on “the totality of the available scientific evidence,” and believed the challenged rule is the “most effective method of enforcing the Act,” failed APA review because they offered “no articulation of the factual ... bases” for the agency’s decision).

Second, the Huffman Memorandum ignored an “important aspect of the problem,” *Ohio*, 603 U.S. at 293: the predictable effects the rescission would have on access to essential services, including schools. Since the Huffman

Memorandum eliminated the Mayorkas restrictions, near-to-school enforcement actions have skyrocketed. *See supra* 6. As a result, students across the country reasonably fear going to school, and school attendance has plummeted. *See id.* Those results were not just predictable—the Mayorkas Memo predicted them. *See* ICE_AR043-44 (enforcement actions near protected locations could make people “hesitant” to use “essential services” and restrict “access to ... schools”). Yet the Huffman Memo does not discuss any of those anticipated effects. It was “arbitrary [and] capricious to ignore such matters.” *Fox*, 556 U.S. at 515; *see, e.g., Michigan v. EPA*, 576 U.S. 743, 753 (2015) (agency must consider “the advantages *and* the disadvantages” of its decision); *Nat’l Lifeline Ass’n v. FCC*, 921 F.3d 1102, 1112 (D.C. Cir. 2019) (vacating agency action as arbitrary and capricious when agency rescinded a policy of enforcement forbearance without considering the reasons that underlay the prior policy or the likely impacts on certain affected parties).

Third, DHS failed to consider obvious alternatives to giving agents unfettered discretion to raid schools and other sensitive locations. Before an agency throws out a policy wholesale, it “must consider”—and explain its rejection of—any “alternatives that are within the ambit of the existing policy.” *Regents*, 591 U.S. at 30 (citation modified). The Mayorkas Memorandum included several elements: the mandate to avoid enforcement “to the fullest extent possible,” the definition and examples of protected areas, the

explanation of circumstances giving rise to permissible enforcement, the requirement of pre-approval from headquarters or its delegates, and the reporting requirement when pre-approval could not be obtained. ICE_AR043-47. But DHS did not consider maintaining any of those elements, even in modified form, before it jettisoned the whole policy. *See* ICE_AR003. “At the very least,” “alternative way[s] of achieving the objectives of the Act should have been addressed and adequate reasons given for [their] abandonment.” *State Farm*, 463 U.S. at 48; *see Regents*, 591 U.S. at 28-30 (holding rescission of DACA arbitrary and capricious because DHS did not consider retaining portion of the policy that involved enforcement forbearance).

Fourth, the Huffman Memo entirely fails to account for the substantial reliance interests created by the prior protections for sensitive locations. When departing from a prior policy, an agency must “assess whether there were reliance interests, determine whether they were significant, and weigh any such interests against competing policy concerns.” *Regents*, 591 U.S. at 33. But DHS did not consider whether anyone relied on the Mayorkas Memorandum, let alone whether their reliance interests were “significant” or outweighed other concerns. *Id.* (rescission of DACA also failed APA review because DHS failed to consider potential reliance interests).

For all these reasons, the rescission was arbitrary and capricious.

VI. The Court should vacate the Huffman Memorandum

The text of the APA instructs that courts “shall” “hold unlawful and set aside agency action” that is arbitrary and capricious. 5 U.S.C. § 706(2). “When a reviewing court determines that agency regulations are unlawful, the ordinary result is that the rules are vacated—not that their application to the individual petitioners is proscribed.” *Corner Post, Inc.*, 603 U.S. at 831 (Kavanaugh, J., concurring) (quoting *Harmon v. Thornburgh*, 878 F.2d 484, 495 n.21 (D.C. Cir. 1989)); accord *Custom Commc’ns, Inc. v. FTC*, 142 F.4th 1060, 1074 (8th Cir. 2025) (“The ordinary practice is to vacate unlawful agency action.” (citation omitted); *Red River Valley Sugarbeet Growers Ass’n v. Regan*, 85 F.4th 881, 883 (8th Cir. 2023) (vacating arbitrary agency orders).

Because the rescission was arbitrary and capricious, the Court should “set [it] aside” as the APA requires. 5 U.S.C. § 706(2).⁵

CONCLUSION

The Court should grant judgment to Plaintiffs and vacate the Huffman Memorandum.

⁵ That the Huffman Memorandum was arbitrary and capricious is sufficient reason to vacate it. See *Red River Valley*, 85 F.4th at 883. The plaintiffs do not pursue their Count II claim that the Huffman Memo should have gone through notice and comment rulemaking under 5 U.S.C. § 553.

Respectfully submitted,

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