

TABLE OF CONTENTS

	<u>Page</u>
CORPORATE DISCLOSURE STATEMENT	1
INTERESTS OF AMICI CURIAE.....	2
ARGUMENT	4
I. Defendants’ Actions Are Contrary to Law.	5
A. Defendants Are Not Making Reasonable Efforts to Ensure Accurate Records in Violation of the Privacy Act.	6
B. Defendants Are Not Maintaining Records “To Ensure Fairness” to Affected Individuals in Violation of the Privacy Act.	8
C. Defendants Are Not Maintaining Secure Records in Violation of the Privacy Act.....	12
D. Defendants’ Conduct Violates the Social Security Act.	14
II. Defendants Acted Arbitrarily and Capriciously.	16
CONCLUSION.....	18

TABLE OF AUTHORITIES

	<u>Page(s)</u>
Cases	
<i>1199SEIU United Healthcare Workers East v. DeJoy</i> (S.D. Fla. Oct. 6, 2020).....	4
<i>Am. Fed’n of Gov’t Emps., AFL-CIO v. Trump</i> , No. 25-03698, 2025 WL 1358477 (N.D. Cal. May 22, 2025).....	3
<i>Carlson v. Postal Regul. Comm’n</i> , 938 F.3d 337 (D.C. Cir. 2019).....	5, 16
<i>Michigan v. EPA</i> , 576 U.S. 743 (2015).....	5, 16
<i>N.E. Ohio Coal. for the Homeless v. Husted</i> , 696 F.3d 580 (6th Cir. 2012)	4
<i>Reynolds v. Sims</i> , 377 U.S. 533 (1964).....	8
<i>Rural Cellular Ass’n v. FCC</i> , 588 F.3d 1095 (D.C. Cir. 2009).....	17
<i>Trump v. Barbara</i> , No. 25-365 (U.S. Feb. 26, 2026).....	3
<i>Williams v. Dep’t of Veterans Affairs</i> , 104 F.3d 670 (4th Cir. 1997)	6
Statutes	
5 U.S.C. §551	3
5 U.S.C. §552a.....	passim
5 U.S.C. §552n.....	2
5 U.S.C. §706(2)(A).....	5, 16
8 U.S.C. §1373(a)	15
42 U.S.C. §301	2
42 U.S.C. §1306(a)	14

Other Authorities

20 C.F.R. §401.65(a).....10

20 C.F.R. §401.10514

20 C.F.R. §401.140.....16

Br. Amici Curiae of AFL-CIO *et al.*, *Miot v. Trump*,
No. 26-5050 (D.C. Cir. Feb. 17, 2026).....3

Br. *Amici Curiae* of Asians Americans Advancing Justice, *et al.*, *League of
Women Voters v. Newby*, No. 16-5196 (D.C. Cir. July 21, 2016)4

Br. Amici Curiae of SEIU *et al.*, *Hawaii v. Trump*,
No. 17-15589 (9th Cir. Apr. 21, 2017)3

Br. Amici Curiae of SEIU *et al.*, *Int’l Refugee Assistance Project v. Trump*,
No. 17-1351 (4th Cir. Apr. 19, 2017)3

Br. Amici Curiae of Stacey Stitt, *et al.*, *N.C. State Conf. of NAACP v. McCrory*,
No. 16-1468 (4th Cir. May 26, 2016)4

Compl., *Lewis v. Knudson*,
No. 20-284 (W.D. Wis. Mar. 26, 2020).....4

DHS, Privacy Impact Assessment for the Systematic Alien Verification for
Entitlements “SAVE” Program 19 (Oct. 31, 2025)7

DHS System of Records Notice, 90 Fed. Reg. 489948 (Oct. 31, 2025).....5, 17

Elise Gould, *Longer Hours, Not Higher Wages, Have Driven Modest Earnings
Growth for Most American Households*, Economic Policy Inst. (July 23,
2015)11

Hansi Lo Wang, *1 in 10 Eligible U.S. Voters Say They Can’t Easily Show Proof of
Their Citizenship*, All Things Considered, Nat’l Pub. Radio (June 11, 2024)9

James T. Bond & Ellen Galinsky, *Workplace Flexibility and Low-Wage
Employees* 5, 14 (Families & Work Inst., Nat’l Study of the Changing
Workforce, 2011).....11, 12

Jen Fifield & Zach Despart, *“Not Ready for Prime Time.” A Federal Tool to
Check Voter Citizenship Keeps Making Mistakes*, ProPublica & Texas Tribune
(Feb. 13, 2026).....9

Katie Johnston, *Lacking Transport, Low-Wage Workers Take a Hit*, Boston
Globe, Feb. 12, 2015.....12

Leg. Hist. of the Privacy Act of 1974, Source Book on Privacy (1976)6

Lonnie Golden, Irregular Work Scheduling and Its Consequences (Economic Policy Inst., Briefing Paper #394, Apr. 9, 2015)11

Ltr. from Dora V. Chen, Dep. Gen. Counsel, SEIU, to Matthew Ramsey, Head of Privacy & Disclosure Policy, SSA (Dec. 12, 2025)17

Ltr. from Gov’t Accountability Project to Honorable Rand Paul et al. (Aug. 26, 2025)13

Ltr. from Nancy Morales Gonzalez, Assoc. Gen. Counsel, SSA, to Jon Sherman, Litig. Dir., Fair Elec. Ctr. 2 (July 13, 2023)7

Ltr. from Steven K. Ury, General Counsel, SEIU, to Roman Jankowski, Chief Privacy Officer, DHS (Dec. 1, 2025)17

Michael Laris, *Low-Wage Workers Have Longer Commutes*, The Washington Post, Apr. 30, 201512

Office of Inspector Gen., SSA, *Cong. Resp.: Accuracy of the Social Security Administration’s Numident File* (Dec. 2006).....8

Office of the Assistant Sec’y for Planning & Evaluation, U.S. Dep’t of Health & Human Servs., *Who Are Low-Wage Workers?* (Research Br., Feb. 2009)11

Press Release, USCIS, USCIS Deploys Common Sense Tools to Verify Voters (May 22, 2025).....16

Relationship Between Illegal Immigr. Reform & Immigrant Resp. Act of 1996 & Statutory Requirement for Confidentiality of Census Info., 1999 WL 34995963 (O.L.C. May 18, 1999).....15

Seth Freed Wessler, *Shift Change: “Just-in-Time” Scheduling Creates Chaos for Workers*, NBC News, May 2, 201411

Social Security Administration, Program Operations Manual System (POMS), *GN 03325.002 Disclosure and Verification of Social Security Numbers (SSN) Without Consent* (2023)14

Social Security Admin., System of Records Notice, 90 Fed. Reg. 50879 (Nov. 12, 2025).10, 17

Through Our Eyes: Immigrant Stories, iAmerica.....3

UnidosUS Comments (Dec. 1, 2025)17

UnidosUS Comments (Dec. 12, 2025)17

UnidosUS, *Latino Working Class: America's Economic Engine* (Jan. 22, 2026).....11
USCIS, Voter Registration and Voter List Maintenance Fact Sheet (Jan. 24, 2025).....14

CORPORATE DISCLOSURE STATEMENT

Amicus curiae the Service Employees International Union (SEIU) is a voluntary association of approximately 2 million workers in the United States, Canada, and Puerto Rico. SEIU is a labor union, not a corporation, and no publicly held company has 10% or greater ownership in SEIU. *See* L. Civ. R. 26.1.

Amicus curiae UnidosUS is a nonprofit organization incorporated under the laws of the District of Columbia. UnidosUS has no parent corporation, and no publicly held company owns any stock in UnidosUS. *See id.*

INTERESTS OF AMICI CURIAE

SEIU is a union of approximately 2 million people working in healthcare, public service, and in other service and care jobs as homecare workers, child care providers, janitors, security guards, and airport workers. SEIU strives to ensure that all workers earn a living wage, perform their work in a safe, equitable environment, and are able to retire with dignity. SEIU is fighting for a world in which all workers are valued and all people respected. This fight includes protecting workers' fundamental rights to privacy and to vote.

UnidosUS has worked to advance economic opportunity for Latino families for more than 55 years. With a network of more than 300 community-based affiliates in 37 states, Washington, D.C., and Puerto Rico, UnidosUS serves and advocates for millions of Latinos, including U.S. citizens by birth, naturalized citizens, and lawful permanent residents whose personal information is directly affected by defendants' proposed use of the Systematic Alien Verification for Entitlements Program (SAVE) database.¹

Amici are particularly interested in this case for several reasons:

1. Both SEIU and UnidosUS submitted comments in opposition to defendants' drastic expansion of SAVE and their misuse of the Social Security Administration's Master File. Specifically, SEIU and UnidosUS submitted comments to the Department of Homeland Security (DHS) and the Social Security Administration (SSA). In their comments, amici made clear that the agencies' actions and proposal violated, *inter alia*, the Privacy Act of 1974, 5 U.S.C. §552n, and the Social Security Act, 42 U.S.C. §301 et seq. Amici also objected to the agencies'

¹ In accordance with Local Civil Rule 7(o)(5), amici certify that (1) this brief was authored entirely by counsel for the amici curiae and not by counsel for any party, in whole or in part; (2) no party or counsel for any party contributed money to fund preparing or submitting the attached brief; and (3) apart from amici curiae and their counsel, no other person contributed money to fund preparing or submitting this brief.

improper use of SAVE and Master File data for voter intimidation and suppression purposes. The agencies' failure to offer any public response to the points raised by amici and other commenters is evidence that their actions are arbitrary and capricious action in violation of the Administrative Procedure Act (APA), 5 U.S.C. §551 *et seq.*

2. Thousands of SEIU's members and millions of UnidosUS's constituents are foreign-born or naturalized U.S. citizens. *See, e.g., Through Our Eyes: Immigrant Stories*, iAmerica, <https://iamerica.org/our-stories/> (last visited Mar. 10, 2026); *see generally About Us*, iAmerica (last visited Mar. 10, 2026). These members and constituents are among those most likely to be affected by defendants' unlawful actions and inaccurate data. Because of their large immigrant membership and constituency, SEIU and UnidosUS have often been granted leave to participate as amici curiae in cases challenging the Trump Administration's anti-immigrant actions.²

3. Amici also have a strong interest in this case because of their election-related work. SEIU members and UnidosUS constituents understand that elections matter and that their ability to vote (or not) may drastically affect their lives and the lives of their families. *See, e.g., Am. Fed'n of Gov't Emps., AFL-CIO v. Trump*, No. 25-03698, 2025 WL 1358477 (N.D. Cal. May 22, 2025) (injunction against mass federal-worker firings, including of SEIU members). SEIU members and staff, and UnidosUS staff and affiliates, engage in voter protection, education, and other election-related activities around the country and invest significant resources in educating workers and other voters about policies that affect them, and in

² *See, e.g.,* Br. Amici Curiae of LatinoJustice PRLDEF et al., *Trump v. Barbara*, No. 25-365 (U.S. Feb. 26, 2026); Br. Amici Curiae of AFL-CIO et al., *Miot v. Trump*, No. 26-5050 (D.C. Cir. Feb. 17, 2026); Br. Amici Curiae of SEIU et al., *Hawaii v. Trump*, No. 17-15589 (9th Cir. Apr. 21, 2017); Br. Amici Curiae of SEIU et al., *Int'l Refugee Assistance Project v. Trump*, No. 17-1351 (4th Cir. Apr. 19, 2017).

encouraging workers and other voters to go to the polls. SEIU and UnidosUS also engage in voter registration drives; UnidosUS has helped register more than one million eligible voters. For these reasons, amici have a keen interest in ensuring that SAVE and the SSA's Master File are not misused for voter intimidation and suppression purposes.³

ARGUMENT

Amici SEIU and UnidosUS agree with all the arguments made by plaintiffs in support of their motion for summary judgment. Amici write separately to highlight and expand upon two important points.

First, defendants' actions and policies are contrary to law within the meaning of the APA because they violate both the Privacy and Social Security Acts. As one example, the Privacy Act requires any agency sharing information both to make "reasonable efforts" to "assure" that its records are "accurate," 5 U.S.C. §552a(e)(6), and to ensure that when records are used to make "any determination," those records are maintained with the "accuracy" and "completeness" reasonably necessary "to ensure fairness to the individual," *id.* §552a(e)(5).

By turning SAVE into a grossly inaccurate voter suppression tool, defendants have violated—and continue to violate—these clear statutory requirements. In so doing, they harm people, like many SEIU members and UnidosUS constituents who already face significant

³ Because of its voting rights work, SEIU and its affiliates have often been parties or amici in election litigation. *See, e.g.,* Compl., *1199SEIU United Healthcare Workers East v. DeJoy* (S.D. Fla. Oct. 6, 2020) (SEIU affiliate plaintiff in voting rights case); Compl., *Lewis v. Knudson*, No. 20-284 (W.D. Wis. Mar. 26, 2020) (same); Br. *Amici Curiae of Asians Americans Advancing Justice, et al., League of Women Voters v. Newby*, No. 16-5196 (D.C. Cir. July 21, 2016); Br. *Amici Curiae of Stacey Stitt, et al., N.C. State Conf. of NAACP v. McCrory*, No. 16-1468 (4th Cir. May 26, 2016) [hereinafter *SEIU McCrory Amici Br.*]; *N.E. Ohio Coal. for the Homeless v. Husted*, 696 F.3d 580 (6th Cir. 2012) (SEIU local unions as plaintiffs).

obstacles to voting and who will find it effectively impossible to fight back against disenfranchising, bureaucratic errors.

Second, defendants have acted arbitrarily and capriciously. The APA requires agencies to make reasoned decisions. *See, e.g., Michigan v. EPA*, 576 U.S. 743, 750 (2015). As courts have explained, the obvious, essential elements of a reasoned decision-making process include consideration of “important aspect[s]” of the matter at issue, assessment of “relevant factors,” *id.* and, after public comments are made, “respon[se] to significant points” made by the commenters. *Carlson v. Postal Regul. Comm’n*, 938 F.3d 337, 344 (D.C. Cir. 2019) (internal quotation marks and citations omitted). Yet at every step, defendants made a mockery of that process. They acted initially without eliciting any public comment at all. They then belatedly published notices soliciting comments but indicated that their policy changes would take effect *on the same day* comments were due. *See, e.g., DHS System of Records Notice (SORN)*, 90 Fed. Reg. 489948, 489949 (Oct. 31, 2025) (comments due December 1 with “modified system . . . effective upon publication” and “modified routine uses” also effective December 1) [hereinafter DHS SORN]. And notwithstanding the thousands of negative comments raising serious legal and policy objections to defendants’ proposals, including those comments submitted by SEIU and UnidosUS, defendants have provided no public response of which amici are aware to any of the issues raised in the numerous comments. Indeed, it is difficult to imagine how the government could make it any clearer that it has no interest in complying with the APA’s requirements.

I. Defendants’ Actions Are Contrary to Law.

Courts must set aside agency action that is “not in accordance with law.” 5 U.S.C. §706(2)(A). As plaintiffs explain in their motion for summary judgment, defendants’ actions violate a number of statutes in a range of ways. From amici’s perspective, defendants’ violations of the Privacy Act and Social Security Act are among their most egregious.

A. Defendants Are Not Making Reasonable Efforts to Ensure Accurate Records in Violation of the Privacy Act.

The Privacy Act was specifically enacted by Congress “to provide for protection against possible abuses of governmental power to affect an individual’s privacy and confidential information... [especially] as our society enmeshes itself ever more deeply into the Information Age.” *Williams v. Dep’t of Veterans Affairs*, 104 F.3d 670, 676 (4th Cir. 1997). The Act emerged from concerns about government surveillance during the Watergate and Counterintelligence Program (COINTELPRO) scandals, when federal agencies secretly and illegally compiled dossiers on American citizens deemed “subversive” and used personal information for unauthorized purposes.

As the U.S. Senate Committee on Government Operations’ 1976 Source Book on Privacy explains, the Privacy Act was designed to prevent “formal or de facto national data banks” or “centralized Federal information systems” that could consolidate sensitive personal data stored across separate agencies. Leg. Hist. of the Privacy Act of 1974, Source Book on Privacy 15 (1976), <https://perma.cc/9W9F-R5ZL>. The Act’s legislative history also makes clear that Congress established robust safeguards against interagency databanks to “make it legally impossible for the federal government in the future to put together anything resembling a ‘1984’ personal dossier on a citizen.” *Id.* at 884.

Among other things, the Privacy Act requires any agency sharing information to make “reasonable efforts” to “assure” that its records are “accurate.” 5 U.S.C. §552a(e)(6). Even defendants concede, however, that their information is *not* accurate, and that “reasonable efforts” federal agencies might ordinarily make to improve its accuracy are impossible. DHS’s Privacy Impact Assessment for its new uses of the SAVE program admits, bluntly, that “[t]here is a risk that the U.S. Citizenship and Immigration Services [USCIS] may share inaccurate information

with registered agencies” because of underlying errors as common as “misspelling of names, transposed numbers, or incomplete information.” DHS, Privacy Impact Assessment for the Systematic Alien Verification for Entitlements “SAVE” Program 19 (Oct. 31, 2025), <https://www.dhs.gov/sites/default/files/2025-10/privacy-pia-dhsuscis006d-save-october2025%20%28002%29.pdf> [hereinafter PIA].

The PIA goes on to describe some “reasonable efforts” an agency might ordinarily make to address these inaccuracies but immediately concedes that “[t]he U.S. Citizenship and Immigration Services does not have direct access to the Social Security Administration system to support these additional steps.” *Id.* DHS, in other words, admits both that its novel use of SAVE may produce “inaccurate” results that cannot and will not be corrected, and that its actions are a source of these predictable errors. Not only are the agencies in violation of the legal standard; their actions produced the violation.

The system’s risk of providing “inaccurate information” should come as no surprise, since the underlying SSA data on which DHS relies is riddled with errors and seriously incomplete, according, again, to the government. SSA repeatedly and publicly has warned that its citizenship data are unreliable and are not to be considered “definitive” with regard to citizenship determinations. In 2023, the SSA Office of the General Counsel stated that its “records do not provide definitive information about an individual’s citizenship status” because the data represent only “a snapshot of the individual’s citizenship status at the time of their interaction with SSA.” Ltr. from Nancy Morales Gonzalez, Assoc. Gen. Counsel, SSA, to Jon Sherman, Litig. Dir., Fair Elec. Ctr. 2 (July 13, 2023).⁴ SSA’s citizenship data are so

⁴ The letter is available at <https://fairelectionscenter.org/wp-content/uploads/2025/07/SSA-Touhy-Decision-letter.July-13-2023-signed.pdf>.

incomplete—even for native-born citizens—that “[a]pproximately ¼” of SSA’s records lack any citizenship indicator at all. *Id.* at 3.

Moreover, SSA’s data are outdated, and the agency lacks a mechanism for updating them. A 2006 SSA Office of Inspector General audit estimated that SSA’s citizenship data inaccurately identified 3.3 million U.S. citizens as non-citizens merely because they “had become U.S. citizens after obtaining their SSN.” Off. of Inspector Gen., SSA, *Cong. Resp.: Accuracy of the Social Security Administration’s Numident File* iii & n.7 (Dec. 2006), <https://perma.cc/5G2J-FF4V> (explaining that 7% of randomly selected records, which would translate to 3.3 million records in total, were inaccurate “because the individuals had become U.S. citizens after obtaining their SSN” and describing this as a “conservative estimate”); *see also id.* at ii (describing this as “particularly concern[ing]”).

B. Defendants Are Not Maintaining Records “To Ensure Fairness” to Affected Individuals in Violation of the Privacy Act.

The Privacy Act also requires that records used to make “any determination about any individual” be maintained in such a way as is reasonably necessary “to ensure fairness to the individual in the determination.” 5 U.S.C. §552a(e)(5). Here, it is clear that SAVE records will be used to make determinations about whether people can exercise their right to vote—a right that, it would ordinarily go without saying, is “[u]ndoubtedly . . . a fundamental matter in a free and democratic society.” *Reynolds v. Sims*, 377 U.S. 533, 561 (1964). Given the multiple layers of inaccuracy described above— inaccuracies that defendants admit pose a “risk” they cannot fully mitigate—there is no possible way that the agencies can “ensure fairness” in these most fundamental determinations.

The available data show how unfair such a novel system is turning out to be. In Missouri, for example, county election administrators made individuals “flagged as potential noncitizens”

in SAVE “temporarily unable to vote,” but “in hundreds of cases, the tool’s [citizenship] determinations were wrong.” Jen Fifield & Zach Despart, “*Not Ready for Prime Time.*” *A Federal Tool to Check Voter Citizenship Keeps Making Mistakes*, ProPublica & Texas Tribune (Feb. 13, 2026), <https://perma.cc/GKU7-3C9E>. In one county in Texas, the system had an error rate “of at least 14%,” while statewide, “more than 5% of the voters SAVE identified as noncitizens proved to be citizens.” *Id.*

Although 21.3 million eligible voters—roughly 1 in 10 adult citizens—lack readily available documentary proof of citizenship,⁵ one Texas county official set a deadline for flagged individuals to provide proof of citizenship, and then removed any voter from the rolls who failed to meet that deadline, Fifield & Despart, *supra*. That official admitted, however, that he believes that the county’s “voter rolls are more accurate than this database” and his “gut feeling is more of these are citizens than not.” *Id.* Other local elections officials have been similarly critical, saying that SAVE has “proven to be inaccurate”; that their state’s use of it is “more political and appearance-based” than it is useful or practical; and that they “find no merit” in the use of SAVE to disenfranchise voters. *Id.*

Compounding the problem, DHS provides no method for effectively correcting the record. In the section of its SORN titled “Contesting Record Procedures,” DHS merely refers the reader to the previous section, called “Record Access Procedures.” DHS SORN, 90 Fed. Reg. at 489955. That section, as indicated by its name, does not include any method for contesting records, only a complicated process for requesting records covered by the Privacy Act—a

⁵ Hansi Lo Wang, *1 in 10 Eligible U.S. Voters Say They Can’t Easily Show Proof of Their Citizenship*, All Things Considered, Nat’l Pub. Radio (June 11, 2024), <https://www.npr.org/2024/06/11/nx-s1-4991903/voter-registration-proof-of-citizenship-requirement>.

process that includes creating an online account at a USCIS website and submitting a notarized request (for which “no specific form” is provided), signed under penalty of perjury, in which the requesting individual must, *inter alia*, “[i]dentify which component(s) of the Department the individual believes may have” information and “[s]pecify when the individual believes the records would have been created.” *Id.* Even if a voter does all that, however, there is again no process specified in the SORN for actually correcting whatever erroneous SAVE records the voter is able to obtain.

DHS’s SORN does include a 1-800 number to call to “request an appointment” with USCIS to correct errors in records *not* covered by the Privacy Act, although it gives no information as to what those records might be. *Id.* When SEIU called the number on March 27, 2026, informing the answering automated system that the caller wanted to “make an appointment to contest my records,” the system: 1) asked if the caller had filed an application for asylum, 2) asked whether the caller was in the United States, and 3) finally asked for the caller’s “receipt number.” When the caller responded that they did not have a “receipt number,” the automated system instructed the caller to find it and call back because without a “receipt number” an agent could not help.⁶

⁶ SSA provides a somewhat more detailed, although equally arcane and difficult, process for correcting Social Security records. SSA’s SORN directs the reader to a section in the SSA System of Records Notice (SORN), 90 Fed. Reg. 50879, 50884 (Nov. 12, 2025) [hereinafter SSA SORN], which in turn requires the individual requesting a correction to write to the relevant “manager” (a cross-reference to a different C.F.R. section is supposed to help identify that person) and, *inter alia*, to identify the “system of records from which the record [was] retrieved” and the “particular record” at issue, 20 C.F.R. §401.65(a). But of course, a voter contacted by their local elections official will likely have no idea that the federal government is involved at all. And even if that voter somehow discovers the federal government’s involvement, they will have been removed from the rolls because of a search in DHS’s SAVE, not in Social Security records directly. It is difficult to imagine any American, beyond those involved in litigating this case, who could reasonably be expected to wade through this maze of agencies, acronyms, and obscure government publications to reach the conclusion that a record correction request should

Many SEIU members and community members represented by UnidosUS are recently naturalized citizens in working families, for whom navigating this confusing and opaque system is likely to be difficult or impossible. As explained above, the barriers are substantial, particularly for those with non-English language preferences or limited experience or comfort in dealing with a web of federal agencies. For those in low-income families, the situation will be even worse, as low-wage workers already face significant obstacles to voting at all, including constraints on their available time that would make fighting DHS bureaucracy in order to vote incredibly burdensome.

Low-wage workers, for example, must work longer hours than others to make ends meet and are more likely to have multiple jobs.⁷ Their schedules tend to be both less predictable and less flexible than those of other employees—a difficult combination that, in many cases, has a cascading effect, leaving workers with less time for tasks that are not absolutely necessary (like responding to a county official’s arbitrary deadline for providing evidence of one’s citizenship). *See, e.g.*, Lonnie Golden, *Irregular Work Scheduling and Its Consequences* 1, 2–3 (Economic Policy Inst., Briefing Paper #394, Apr. 9, 2015), <https://www.epi.org/publication/irregular-work-scheduling-and-its-consequences/>.⁸ Low-wage workers are also more likely than higher-paid

be submitted to SSA. And even if someone did reach that conclusion, it is unclear how they could possibly identify the “particular record” at issue.

⁷ *See* Elise Gould, *Longer Hours, Not Higher Wages, Have Driven Modest Earnings Growth for Most American Households*, Economic Policy Inst. (July 23, 2015), <http://www.epi.org/publication/longer-hours-not-higher-wages-have-driven-modest-earnings-growth-for-most-american-households/>; Office of the Assistant Sec’y for Planning & Evaluation, U.S. Dep’t of Health & Human Servs., *Who Are Low-Wage Workers?* (Research Br., Feb. 2009), <https://aspe.hhs.gov/basic-report/who-are-low-wage-workers> [hereinafter *Who Are Low-Wage Workers*]; *see also* UnidosUS, *Latino Working Class: America’s Economic Engine* (Jan. 22, 2026) (noting that 80% of Latinos are working class).

⁸ *See also* Seth Freed Wessler, *Shift Change: “Just-in-Time” Scheduling Creates Chaos for Workers*, NBC News, May 2, 2014, <http://www.nbcnews.com/feature/in-plain-sight/shift-change-just-time-scheduling-creates-chaos-workers-n95881>; James T. Bond & Ellen Galinsky,

workers to be single parents⁹ and to have less access to reliable transportation and longer commutes than higher-paid workers. *See, e.g.*, Michael Laris, *Low-Wage Workers Have Longer Commutes*, The Washington Post, Apr. 30, 2015; Katie Johnston, *Lacking Transport, Low-Wage Workers Take a Hit*, Boston Globe, Feb. 12, 2015.

No one should be denied their right to vote because of defendants' illegal policies, and forcing recently naturalized citizens in working families, like many SEIU members and UnidosUS constituents, to fight to restore their voting rights is especially unjust. For so many Americans, finding time to vote is hard enough; it is unreasonable to expect that they also must take on the burden of correcting arcane records maintained by a federal agency that has no real process in place to help and is far removed from the local official charged with maintaining voter rolls. Nothing about what defendants have done is designed "to ensure fairness to the individual in the determination." 5 U.S.C. §552a(e)(5).

C. Defendants Are Not Maintaining Secure Records in Violation of the Privacy Act.

Consistent with its requirements of accuracy and fairness, the Privacy Act requires agencies to establish "appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of records" in order to prevent "substantial harm, embarrassment, inconvenience, or unfairness" to individuals. 5 U.S.C. §552a(e)(10). The security of the Social Security Administration's Master File is particularly important here, given SAVE's new reliance on it. But the SSA, which now proposes to share Master File data with DHS for distribution to

Workplace Flexibility and Low-Wage Employees 5, 14 (Families & Work Inst., Nat'l Study of the Changing Workforce, 2011), <https://www.familiesandwork.org/wp-content/uploads/2025/05/nscw-low-wage-employees.pdf>.

⁹ *See Who Are Low-Wage Workers, supra*; Bond & Galinsky, *supra*, at 3.

more than 1,200 downstream entities, has demonstrated even within the last year that it does not adequately safeguard its data.

Evidence of SSA's security failures comes from both SSA's own officials and whistleblower disclosures. *See* Ltr. from Gov't Accountability Project to Honorable Rand Paul et al. (Aug. 26, 2025), <https://whistleblower.org/wp-content/uploads/2025/08/08-26-2025-Borges-Disclosure-Sanitized.pdf>. In June 2025, the Department of Government Efficiency ("DOGE") personnel reportedly created a complete copy of SSA's Numerical Identification System ("NUMIDENT") database—the Master File at the center of this case—in a cloud environment that SSA's own career officials formally assessed as presenting "high risk." *Id.* at 12. The risk assessment prepared by SSA's career staff warned that "unauthorized access to the NUMIDENT would be considered catastrophic impact to SSA beneficiaries and SSA programs" and identified that the cloud environment lacked required security authorizations under the Federal Information Security Modernization Act ("FISMA"). *Id.* SSA leadership ignored these recommendations and allowed transfer of live NUMIDENT production data to an unsecured environment.

This unprecedented and unsecured access to NUMIDENT was not an isolated incident. In March 2025, DOGE personnel were granted equipment PIN access to SSA systems that avoided creating traceable user records, directly circumventing audit controls that the Privacy Act and FISMA require under 5 U.S.C. §552a(e)(9), (10). *See id.* at 10. DOGE personnel were also granted write access permitting data modification. *Id.*

Such well-documented security failures are relevant in two independent ways. First, they constitute direct violations of §552a(e)(10). The agencies here have not merely failed to maintain adequate safeguards; they actively enabled security breaches for the precise data they now seek to share more broadly, after being warned by their own staff that doing so created "catastrophic"

risks. Second, SSA's security failures make reliance on its already unreliable data even more dangerous as a basis for determining voter eligibility. In sum, SEIU members' and UnidosUS constituents' citizenship status may be flagged as uncertain based on data drawn from a system that was infiltrated without proper authorization, modified by personnel with unchecked write access, and copied to a cloud environment without any independent security oversight.

D. Defendants' Conduct Violates the Social Security Act.

Section 1106(a) of the Social Security Act prohibits the SSA from disclosing information it collects unless specifically authorized by federal law; unauthorized disclosures are punishable as felonies. 42 U.S.C. §1306(a). This provision reflects Congress's judgment that SSA data, which is collected from hundreds of millions of Americans and includes sensitive details of their personal lives, warrants a level of confidentiality even stricter than what the Privacy Act generally requires. Indeed, SSA's regulations acknowledge that "[f]or program records, we [SSA] apply somewhat more strict confidentiality standards than those found in the Privacy Act... [because] program records include information about a much greater number of persons than our administrative records, the information we must collect for program purposes is often very sensitive, and claimants are required by statute and regulation to provide us with the information in order to establish entitlement for benefits." 20 C.F.R. §401.105.

SSA has long understood the Social Security Act to mean that it cannot share data with DHS about U.S. citizens. As recently as 2023, SSA's Program Operations Manual System ("POMS") explicitly stated that SSA "does not have the legal authority to disclose information about U.S. citizens to DHS." See SSA, Program Operations Manual System (POMS), *GN 03325.002 Disclosure and Verification of Social Security Numbers (SSN) Without Consent* (2023), <https://perma.cc/PE44-2QBK> ("SSN Disclosure Policy"); see also USCIS, Voter Registration and Voter List Maintenance Fact Sheet (Jan. 24, 2025), [14](https://perma.cc/QW29-</p></div><div data-bbox=)

JZK8 (captured on Apr. 26, 2025) (“SAVE does not verify U.S.-born citizens under any circumstances”). That was SSA’s settled understanding of the scope of its statutory authority, yet defendants now claim the same disclosures are authorized under the same statutory framework, without acknowledging the change to decades-old policy.

Defendants invoke 8 U.S.C. §1373(a) as providing a basis for SSA’s new disclosures to DHS, but that section is restrictive rather than permissive. Section 1373 provides that government entities and officials “may not prohibit” information sharing regarding immigration status by any other entity or officials. Thus, by its terms, §1373(a) bars prohibitions on information sharing; it does not affirmatively authorize sharing information that Congress has independently protected. As the Justice Department’s Office of Legal Counsel concluded as early as 1999, “§1373(a) does not clearly invest governmental officials or entities with the affirmative authority to disclose information in circumstances where they otherwise would be prohibited from doing so by a federal statute.” *Relationship Between Illegal Immigr. Reform & Immigrant Resp. Act of 1996 & Statutory Requirement for Confidentiality of Census Info.*, 1999 WL 34995963, at *4 (O.L.C. May 18, 1999). Section 1373(a) merely “limit[s] . . . the authority” of governmental offices “to impose prohibitions or restrictions on disclosures” that are otherwise lawful. *Id.*

These are only some of the statutory violations committed by defendants; there are many more.¹⁰ Yet these are sufficient to make the point: Defendants’ transformation of SAVE into a grossly inaccurate voter-suppression tool is contrary to law.

¹⁰ For example, the Privacy Act requires that each individual be informed, when initially asked to provide information to the government, of “the principal purpose or purposes for which the information is intended to be used” and the “routine uses which may be made of the information.” 5 U.S.C. §552a(e)(3)(B), (C). But DHS’s Privacy Impact Assessment admits that “[t]here is a risk that the new category individuals covered by this assessment/notice,

II. Defendants Acted Arbitrarily and Capriciously.

Courts must set aside agency action that is “arbitrary” or “capricious.” 5 U.S.C. §706(2)(A). Agency action is not arbitrary or capricious if it reflects a reasoned decision-making process, including consideration of “important aspect[s]” of the matter at issue, *Michigan v. EPA*, 576 U.S. at 750, assessment of “relevant factors,” *id.*, and, after public comments are made, “respon[se] to significant points” made by commenters, *Carlson*, 938 F.3d at 344. Defendants failed at each step.

Initially, defendants acted without eliciting any public comment at all. The Privacy Act requires agencies to publish notice of new data uses at least 30 days in advance in order to “provide an opportunity for interested persons to submit written data, views, or arguments to the agency.” 5 U.S.C. §552a(e)(11). Instead, with no notice, defendants announced on May 22, 2025, in a misleading press release, that SAVE had already been re-purposed, with integration of SSA data, so that state and local authorities could “input Social Security numbers to . . . prevent aliens from voting.” Press Release, USCIS, USCIS Deploys Common Sense Tools to Verify Voters (May 22, 2025), <https://perma.cc/HBZ5-RW2E>.

specifically, United States born citizens[,] do not have the opportunity to individually participate or consent in how the U.S. Citizenship and Immigration Services uses their information.” PIA at 21. Moreover, the PIA says, USCIS “**cannot mitigate** this risk.” *Id.* (emphasis in original). Indeed, given that individuals originally provided the underlying data about themselves in order to apply for social security numbers, with no notice at all that years later USCIS would use that information to determine whether they can vote, it seems unlikely that *anyone* has been informed, as required by law, of the purposes for which their information will be used.

For additional statutory violations, see: 5 U.S.C. §552a(a)(7), (b)(3) (permitting disclosure only for purposes “compatible with the purpose for which [the information] was collected”); *id.* §552a(e)(4)(D) (articulating specificity requirements for SORNs that defendants have not met); and 20 C.F.R. §401.140 (Social Security Administration regulations requiring consideration of whether disclosure will result in “clearly unwanted invasion of personal privacy,” taking into account information sensitivity, public interest, affected individuals’ rights and expectations, and the existence of safeguards against unauthorized redisclosure).

After being sued, DHS and SSA belatedly published modified SORNs on October 13 and November 12, 2025. On their face, the SORNs purported to provide an opportunity for comment, but both DHS and SSA announced that their policy changes would take effect *on the same day* comments were due. *See* DHS SORN, 90 Fed. Reg. at 489949 (comments due December 1 with “modified system . . . effective upon publication” and “modified routine uses” also effective December 1); SSA SORN, 90 Fed. Reg. 50879, 50880 (Nov. 12, 2025) (comments due December 12 with “new routine uses” to be effective the same day) [hereinafter SSA SORN]. Neither agency even pretended to have the “open mind[]” required by law for the “opportunity for comment” to be “meaningful.” *Rural Cellular Ass’n v. FCC*, 588 F.3d 1095, 1101 (D.C. Cir. 2009).

Notwithstanding the bad faith shown by defendants, SEIU and UnidosUS submitted timely comments to DHS and SSA.¹¹ In its comments, SEIU identified the statutory violations described above and pointed to publicly available evidence that SAVE was being used to disenfranchise U.S. citizens. Amicus UnidosUS also submitted comments. In its lengthy detailed, 34-page comments, UnidosUS identified many statutory violations and described the harm caused by defendants’ actions. Although amici’s comments identified “relevant factors” to be considered, the agencies have not responded to the “significant points” raised by them or by the thousands of other commenters who responded to defendants’ SORNs.

¹¹ *See* Ltr. from Steven K. Ury, General Counsel, SEIU, to Roman Jankowski, Chief Privacy Officer, DHS (Dec. 1, 2025), <https://www.regulations.gov/comment/USCIS-2025-0337-9202>; Ltr. from Dora V. Chen, Dep. Gen. Counsel, SEIU, to Matthew Ramsey, Head of Privacy & Disclosure Policy, SSA (Dec. 12, 2025), <https://www.regulations.gov/comment/SSA-2025-0225-20106>; UnidosUS Comments (Dec. 1, 2025), <https://www.regulations.gov/comment/USCIS-2025-0337-9211>; UnidosUS Comments (Dec. 12, 2025), <https://www.regulations.gov/comment/SSA-2025-0225-20115>.

Defendants' rush to implement these illegal policies is evidence of an effort to turn the instrumentalities of government against certain classes of voters in an election year. Defendants have ignored statutory requirements, shown themselves to have the opposite of an open mind, and made a mockery of the comment process. To find their conduct anything other than "arbitrary" and "capricious" would be to accede to a fiction and reward blatant disregard for the law.

CONCLUSION

Defendants are attempting to turn SAVE into a vehicle for voter intimidation and suppression. In doing so, they have violated the law and acted arbitrarily and capriciously. Accordingly, their actions should be set aside and plaintiffs granted the relief they seek.

Respectfully submitted,

/s/ Steven K. Ury

Steven K. Ury (D.C. Bar No. 1643947)
SERVICE EMPLOYEES INT'L UNION
1800 Massachusetts Avenue, NW
Washington, D.C. 20036
Telephone: (202) 730-7248
Email: steven.ury@seiu.org

Laura MacCleery
UNIDOSUS
1126 16th Street, NW #600
Washington, DC 20036
Telephone: (202) 489-7147
Email: lmaccleery@unidos.org

Counsel for Amici Curiae

Dated: April 1, 2026