

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ANARIA CABRERA, et al.,

*Plaintiffs, on behalf of themselves
and others similarly situated,*

v.

U.S. DEPARTMENT OF LABOR, et al.,

Defendants.

Civil Action No. 25-1909-DLF

**PLAINTIFFS’ SUPPLEMENTAL MEMORANDUM
REGARDING SCOPE OF PRELIMINARY RELIEF UNDER 5 U.S.C. § 705**

On May 29, 2025, the Department of Labor (DOL) announced a “pause in operations at contractor-operated Job Corps centers nationwide.” News Release, Pls. Ex. 2 (ECF 3-2). Plaintiffs have challenged that “pause” and asked this Court to stay that action pursuant to section 705 of the Administrative Procedure Act (APA), 5 U.S.C. § 705. *See* Pls. Mot. for a Prelim. Injunction and Stay (ECF 3). For the reasons stated in Plaintiffs’ memoranda and at the July 9, 2025, hearing, each of the relevant factors supports the entry of such a stay. And as explained in Plaintiffs’ memorandum in support of their motion, Pls. Mem. (ECF 3-1) at 20–21, and further explained below, such a stay would apply to the categorical action taken by DOL, not to particular Job Corps centers.

1. Section 705 of the APA authorizes a “reviewing court ... to postpone the effective date of an agency action or to preserve status or rights pending conclusion of the review proceedings.” 5 U.S.C. § 705. *See In re GTE Service Corp.*, 762 F.3d 1024, 1026 (D.C. Cir. 1985) (recognizing section 705 grants courts “authority to stay agency [actions] pending review”). “[T]he scope of preliminary relief under Section 705 aligns with the scope of ultimate relief under Section 706.”

Career Colleges & Sch. of Tex. v. U.S. Dep’t of Educ., 98 F.4th 220, 255 (5th Cir. 2024). Relief under section 706 “is not party-restricted and allows a court to ‘set aside’ an unlawful agency action.” *Id.*; see *Nat’l Mining Ass’n v. U.S. Army Corps of Eng’rs*, 145 F.3d 1399, 1409 (D.C. Cir. 1998) (“[W]hen 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.” (quoting *Harmon v. Thornburgh*, 878 F.2d 484, 495 n.21 (D.C. Cir. 1989))). As Justice Kavanaugh recently explained, the Supreme Court has “affirmed countless decisions that vacated agency actions ... rather than merely providing injunctive relief that enjoined enforcement of the rules against specific plaintiffs.” *Corner Post, Inc. v. Board of Governors of Fed. Reserve Sys.*, 603 U.S. 799, 830 (2024) (Kavanaugh, J., concurring); see *Driftless Area Land Conservancy v. Valcq*, 16 F.4th 508, 522 (7th Cir. 2021) (“Unlike an injunction, which merely blocks enforcement, vacatur unwinds the challenged agency action.”); *Braidwood Mgmt., Inc. v. Becerra*, 104 F.4th 930, 951 (5th Cir. 2024) (“[U]nlike an injunction, which operates in personam, vacatur operates on the status of agency action in the abstract.”), *rev’d on other grounds sub nom. Kennedy v. Braidwood Mgmt., Inc.*, No. 24-316, 2025 WL 1773628 (June 27, 2025).

A court order under section 705 likewise operates on the challenged action, and functions as a “temporary rollback” of that action. *Kingdom v. Trump*, No. 1:25-CV-691-RCL, 2025 WL 1568238, at *5 (D.D.C. June 3, 2025). See *Gomez v. Trump*, 485 F. Supp. 3d 145, 203 (D.D.C. 2020) (holding that section 705 authorizes courts to stay agency actions en toto, “not just to enjoin their application to the injured parties before the court”); *Dist. of Columbia v. USDA*, 444 F. Supp. 3d 1, 48 (D.D.C. 2020) (holding that, like relief under section 706, “the APA’s § 705 must be read to authorize relief from agency action for any person otherwise subject to the action, not just as to plaintiffs”).

The Supreme Court’s recent decision in *Trump v. CASA* does not disturb these lines of authority. *See, e.g., Doctors for Am. v. Off. of Pers. Mgmt.*, No. CV 25-322 (JDB), 2025 WL 1836009, at *22 n.17 (D.D.C. July 3, 2025) (holding that *CASA* does not affect cases involving vacatur of agency actions under the APA); *Haitian Evangelical Clergy Ass’n v. Trump*, No. 25-CV-1464 (BMC), 2025 WL 1808743, at *9 (E.D.N.Y. July 1, 2025) (holding that *CASA* had no impact on request for relief under section 705). To the contrary, the Court in *CASA* made explicit that “nothing we say today resolves the distinct question whether the Administrative Procedure Act authorizes federal courts to vacate federal agency action.” *Trump v. CASA, Inc.*, No. 24A884, 2025 WL 1773631, at *8 (June 27, 2025). Indeed, in his concurrence, Justice Kavanaugh expressly recognized that, “in cases under the Administrative Procedure Act, plaintiffs may ask a court to preliminarily ‘set aside’ a new agency rule,” *Id.* at *19 (Kavanaugh, J., concurring). At the preliminary injunction hearing, and in a recent filing in the related *NJCA* litigation, Defendants suggested that Justice Kavanaugh’s statement did not apply here because Plaintiffs do not challenge a “rule.” *See* Letter, ECF 66, *Nat’l Job Corps Ass’n v. DOL*, No. 25 Civ. 04641 (ALC) (S.D.N.Y. July 11, 2025).¹ But both section 705 and section 706(2)(A) refer to courts’ authority with respect to “agency actions,” not “rules.” Further, while the “pause” challenged in this case is not a regulation, it is a “rule” as the term is defined in 5 U.S.C. § 551(4). *See Batterton v. Marshall*, 648 F.2d 694, 700 (D.C. Cir. 1980) (discussing breadth of the APA’s definition of the word “rule”).

2. At the hearing on July 9, Defendants’ counsel suggested that a section 705 stay of the challenged agency action should apply only to Job Corps centers at which the named Plaintiffs are

¹ The district court in that action has scheduled a hearing for July 21, 2025 to discuss the impact of *CASA* on its preliminary injunction, which was issued without reference to section 705. *See* Order, ECF 68, *NJCA v. DOL*, No. 25 Civ. 04641 (ALC) (S.D.N.Y. July 14, 2025); *NJCA v. DOL*, 2025 WL 1752414 (S.D.N.Y. June 25, 2025) (preliminary injunction decision).

enrolled. At issue here, however, is a single agency action suspending Job Corps Center operations across the country. Defendants made no distinction among different Job Corps centers in taking that challenged action, and have made no distinction in defending that agency action. *See, e.g.*, News Release (justifying pause based on program-wide findings); Matz Decl. ¶ 12 (agency declarant stating she received a single instruction “announcing that performance under the operations contracts at the 99 contractor-operated Job Corps Centers should be terminated immediately”). *Cf. Lujan v. Nat’l Wildlife Fed’n*, 497 U.S. 871, 890 n.2 (1990) (recognizing that where, by a specific action, an agency “applies some particular measure across the board,” that broad action “can of course be challenged under the APA by a person adversely affected”). It is that single action that the Court should subject to “a temporary rollback” under section 705.

As a judge of this Court explained in rejecting an argument similar to that of Defendants here, vacating a unitary action by an agency as to some parties, but not others, “flies in the fac[e] of the ‘fundamental’ notion that ‘agency policy is to be made, in the first instance, by the agency itself and not by courts,’ since vacating or enjoining a rule of general applicability only with respect to specific parties ‘would be drawing a line which the agency itself has never drawn.’” *Kiakombua v. Wolf*, 498 F. Supp. 3d 1, 54 (D.D.C. 2020) (quoting *Harmon v. Thornburgh*, 878 F.2d 484, 494, 495 (D.C. Cir. 1989)). The Court should not divide DOL’s action where DOL did not do so itself.

Dated: July 16, 2025

Respectfully submitted,

/s/ Adam R. Pulver

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