IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

GUILFORD COLLEGE, et al., Plaintiffs,	)	
v.	)	1:18CV891
KIRSTJEN NIELSEN, et al., Defendants.	)	

ORDER

On December 14, 2018, Plaintiffs filed a Motion for Preliminary Injunction, which was not fully briefed until January 21, 2019. In addition, on January 10, 2019, Defendants filed a Motion to Dismiss for Lack of Jurisdiction, for which briefing is now underway. Having considered the Parties' filings, the Court concludes that it would be appropriate to set these Motions for a hearing. The hearing will be set for March 26, 2019, so that all of these issues can be fully briefed and considered at the hearing.

The Court further notes that the primary matter at issue in this case is the application of an August 9, 2018 Policy Memorandum of the U.S. Citizenship and Immigration Services, PM-602-1060.1, "Accrual of Unlawful Presence and F, J, and M Nonimmigrants." Plaintiffs contend that as of February 4, 2019, Plaintiff Jia Ye will be irreparably harmed by the application of the August 2018 Memorandum, and that as of February 20, 2019, Plaintiff Sen Li will be irreparably harmed by the application of the August 2018 Memorandum. Specifically, Plaintiffs contend that if the August 2018 Memorandum is applied to them, Mr. Ye and Mr. Li would need to leave the United States on or before those dates to avoid later bars on reentering the United States. In order to allow the Court sufficient time to hear the pending matters, and to preserve the status quo and ensure that Plaintiffs Sen Li and Jia Ye

can fully participate in this case pending further consideration of the motions by the Court, the Court will temporarily restrain application of the August 2018 Memorandum to Plaintiffs Jia Ye and Sen Li until after the Motion for Preliminary Injunction and Motion to Dismiss are heard and resolved.

The Court notes that it does not appear that the Defendants would disagree with this temporary determination, as Defendants appear to take the position that the August 2018 Memorandum would not apply to these Plaintiffs unless and until they were found not suitable for military service and subsequently accrued an additional 180 days of unlawful presence. (See Def. Brief at 3, 8, (ECF No. 32 at 11, 16).) However, given the lack of clarity on this point and to ensure that this matter can be fully heard, the Court finds it appropriate to temporarily restrain application of the August 2018 Memorandum as to Mr. Li and Mr. Ye as set out herein. If either party objects to this temporary provision or needs to be heard further prior to the hearing on March 26, 2019, they may file a Motion for further consideration.

IT IS THEREFORE ORDERED that the Motion for Preliminary Injunction, (ECF No. 15), and Motion to Dismiss for Lack of Jurisdiction, (ECF No. 30), are set for a hearing on March 26, 2019, at 10:00 a.m. in Courtroom 1 of the United States Courthouse, Winston-Salem, North Carolina.

IT IS FURTHER ORDERED that pending resolution of the Motion for Preliminary Injunction and Motion to Dismiss, the Defendants are temporarily restrained from applying the August 9, 2018 Policy Memorandum to Plaintiffs Ye and Li.

This, the 28th day of January 2019.

/s/ Loretta C. Biggs
United States District Judge