

EXHIBIT 1

DECLARATION OF BARBARA R. SNYDER

I, Barbara R. Snyder, declare as follows:

1. I am President of the Association of American Universities (the “AAU”). I assumed this position on October 1, 2020. I make this declaration in support of the Plaintiffs’ Complaint in this matter and the forthcoming Emergency Motion for a Temporary Restraining Order.

2. I have personal knowledge of the contents of this declaration or have knowledge of the matters based on my review of information and records gathered by AAU personnel and personnel from our member universities and could testify thereto.

3. Founded in 1900, the AAU is composed of America’s leading research universities. AAU’s 71 research universities transform lives through education, research, and innovation. Our member universities earn the majority of competitively awarded federal funding for research that improves public health, seeks to address national challenges, and contributes significantly to our economic strength, while educating and training tomorrow’s visionary leaders and innovators. AAU member universities collectively help shape policy for higher education, science, and innovation; promote best practices in undergraduate and graduate education; and strengthen the contributions of leading research universities to American society. AAU’s primary goal is to provide a forum for the development and implementation of institutional and national policies promoting strong programs of academic research and scholarship and undergraduate, graduate, and professional education.

4. The federal government has selected AAU member universities to conduct a wide variety of vital research on behalf of United States citizens, funded in part by agency awards from across the federal government, including but not limited to the Department of Health and Human Services (“HHS”) and its National Institutes of Health (“NIH”). AAU member universities each

receive significant research funding from NIH grants; together, they have a total of 29,621 active NIH awards during fiscal year 2024. The AAU is dedicated to protecting its member universities' ability to conduct research that is supported by NIH grants.

5. AAU member universities' work in fundamental research on sponsored awards issued by NIH targets important health issues, saves and improves lives, and adds immeasurably to our economy. NIH awards are typically issued for a five-year term and are often extended for an additional five-year term. Indeed, some NIH sponsored activities continue for decades.

6. AAU member universities include the California Institute of Technology, Case Western Reserve University, Cornell University, the University of Florida, Tufts University, Vanderbilt University, and the University of Wisconsin-Madison. I understand that these AAU members and several others are submitting declarations in this litigation, which provide institution-specific detail on the matters described here.

7. Research funded by the NIH at AAU member universities has a direct impact on public health. Funded studies lead to the development of new treatments, cures, diagnostics, and public health interventions. Those studies inform public health policies and improve quality of life for millions of people and maintain health quality in animals that are integral to the United States food system.

8. On a typical grant, the funding amounts must cover both direct costs (expenses directly related to the specific grant activity) and indirect costs. Indirect costs cover essential expenses such as facilities, utilities, financial administration, and operations that enable research to flourish safely and responsibly, such as research compliance and safety programs, human and animal research protections, and hazardous waste disposal. *See* Office of Management and Budget ("OMB") Uniform Administrative Requirements, Cost Principles, and Audit Requirements for

Federal Awards, 2 C.F.R. §§ 200, *et seq.* (the “Uniform Guidance”). Particularly in biomedical research, the specialized laboratory facilities, the need to adhere to specific government regulations for animal welfare and human subject safety in research and required processes to maintain responsible research mean that these indirect costs are considerable. Historically, the federal government has used a narrower definition of direct costs than is typical in foundation-funded research, mostly to streamline budgeting and minimize administrative burdens on the agencies. Significantly reducing the allowable indirect cost percentage without altering the way in which costs are classified as direct or indirect significantly disrupts the financial model that has supported needed research and innovation across the United States for decades.

9. Although the federal government’s portion of funds needed for university research has been declining over time, indirect cost reimbursements are vital to the operation of the nation’s federal research system, which includes the sponsored activities aimed at improving the health of all Americans as well as educating our country’s future research scientists and medical practitioners, at AAU member universities. Direct costs on NIH awards simply fall well short of covering the real, comprehensive cost of sponsored activities, and do not reflect the full facilities and administration costs that AAU member universities must incur in order to be able to perform the research, training, and education that has made our nation the leader in biomedical research.

10. On February 7, 2025, NIH issued Notice NOT-OD-25-068, “Supplemental Guidance to the 2024 NIH Grants Policy Statement: Indirect Cost Rates” (“NIH Supplemental Guidance”). The NIH Supplemental Guidance provides that effective February 10, 2025, indirect costs allowed on all future awards and going-forward expenses for all existing awards shall be limited to fifteen percent.

11. If NIH's Supplemental Guidance is permitted to remain in effect, it will irreparably harm the medical research ecosystem and research at AAU member universities that directly benefits public health and drives economic activity across every state and American competitiveness as the world leader in improving human health. Such a drastic decrease in allowable indirect costs on three days' notice—especially regarding currently funded awards on which sponsored research activities are in process and for indirect costs that AAU member universities have already budgeted for in its current fiscal year—will immediately impair AAU member universities' ability to conduct sponsored research in compliance with the underlying award agreements and applicable laws.

12. For example, without continuing indirect cost reimbursement at AAU member universities' negotiated rates, AAU member universities will no longer be able to carry out all the sponsored activities, including supporting the next generation of research scientists and properly maintaining facilities and equipment currently in use to conduct lifesaving biomedical research. AAU member universities do not have sufficient budgeted operational funds to cover a sudden structural decrease in indirect cost recovery for existing awards on an ongoing basis, and will be required to implement layoffs, both for researchers, staff scientists, post-doctoral trainees, research administration officers and other employees of the universities who perform critical but indirect work in support of sponsored activity (such as custodians, security guards, and so forth); and reductions in administrative costs necessary for research services, as well as consider the implications for institutional capacity to enroll current and future doctoral student and support their progression to degree completion. This harm is not limited to monetary damages that can be rectified with a compensatory award. For example, even if the indirect cost rate is increased at a later date, if a research facility must be closed in the interim because its operation and maintenance

can no longer be supported, an AAU member university will immediately lose its investment in that infrastructure and human capital and have a diminished ability to undertake that research in the future, even if the NIH Supplemental Guidance were rescinded or invalidated. Further, the AAU member university may no longer have the key personnel or materials needed to restart or carry out certain sponsored activities.

13. AAU member universities necessarily rely on both the direct cost and the indirect cost portions of funding provided with each specific NIH award in formulating their overall operating budgets in any given year. Many of the AAU's member universities have negotiated an indirect cost rate that is significantly higher than fifteen percent. Operating budgets rely upon estimates of direct and indirect sponsored funding to plan for annual staffing needs, infrastructure support (*e.g.*, IT networks, regulatory compliance, safety and grant management support), facility building and renovation, and equipment purchases to support a broad range of research activities.

14. The harmful impact of the NIH Supplemental Guidance is not limited to AAU member universities. Many AAU member universities are the largest employers in their local areas. If the lower indirect cost reimbursement rate requires layoffs, that loss of employment will be harmful not only to the affected employees and their families, but to the overall economic stability of AAU member universities' hometowns as a whole. An AAU member university may have to reduce the quantity of equipment and labor used to maintain its facilities, lowering the economic activity of the local area and impairing the funding that flows to essential local government services arising out of that activity.

15. In addition, the NIH Supplemental Guidance will undermine the feasibility of sponsored activity that results in medical and scientific breakthroughs that provide significant social and economic value to the country, sometimes opening up entirely new areas of commercial

development. The United States is a stronger, healthier, more secure, and more economically vibrant country as a result of the collective benefits arising from federally sponsored research. Additionally, the next generation of scientists, physicians, engineers, and other skilled workers develop their vitally important expertise while learning and working at research institutions such as AAU member universities. The NIH Supplemental Guidance would drastically reduce the positive impact of this work and the pipeline of educated professionals that United States industry requires to be internationally competitive. Slowdowns or halts in research by AAU member universities will allow competitor nations that are maintaining their investments in research to surpass the United States on this front, threatening our nation's national security and its economic dominance.

16. In addition, the timing and rollout of the NIH notice on February 7 came without appropriate guidance on how AAU member universities should implement the requirement. For example, on the morning of February 10, 2025, the University of Pennsylvania received a notice of award from the NIH listing the fully negotiated federal indirect cost rate as applicable to the award. Similarly, the NIH has not issued appropriate timely advice to support new payments on existing awards. Penn will need to implement system changes to its financial system in order to change indirect cost rates, a process that will involve significant effort and time. The NIH has provided no indication of how the imposition of the new rates will be managed in the payment management system, creating confusion and uncertainty for how institutions will be paid for incurred costs.

17. Temporary injunctive relief is vital to protect against these devastating consequences. Even if the NIH Supplemental Guidance is ultimately rescinded or held invalid, AAU member universities do not have the ability to cover such radical reductions in indirect cost

reimbursement during the course of protracted litigation. AAU member universities' existing endowments cannot simply be redirected to pick up these losses. The vast majority of endowed funds often are restricted by the terms on which the funds were donated to the AAU member university and cannot legally be used to cover research infrastructure costs. Moreover, an AAU member university may only draw down the portion of the endowment that is unrestricted at a rate that complies with applicable law.

18. As non-profit institutions, AAU member universities reinvest nearly all of their revenues into mission-critical activities, leaving little margin to absorb unexpected funding gaps. In other words, unlike for-profit organizations, AAU member universities do not generate significant surpluses that could be redirected without impacting core academic priorities such as educational programs and financial aid support for students.

19. Moreover, absorbing the cost of a lower indirect cost rate, even if it were possible, would create long-term budget pressures on AAU member universities—which would in turn force reductions in key investments supporting AAU member universities' faculty, students, staff, research, and teaching infrastructure, as well as other critical activities needed to maintain AAU member universities' academic excellence.

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

Dated: Washington, DC
February 10, 2025


BARBARA R. SNYDER