

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

COMMONWEALTH OF
MASSACHUSETTS, *et al.*

Plaintiffs,

v.

ROBERT F. KENNEDY, JR., *et al.*,

Defendants.

No. 1:25-cv-10814-BEM

PLAINTIFFS' MOTION FOR A TEMPORARY RESTRAINING ORDER

Pursuant to Federal Rule of Civil Procedure 65 and Local Rule 7.1, plaintiffs Massachusetts, California, Maryland, Washington, Arizona, Delaware, Hawai'i, Nevada, New Jersey, New York, Oregon, Rhode Island, and Wisconsin respectfully move for a temporary restraining order requiring defendants¹ to immediately rescind the unlawful terminations of awarded National Institutes of Health (NIH) grants and enjoining defendants from unlawfully terminating any additional awarded NIH grants.

Defendants have purported to terminate a swath of already-awarded NIH grants on the sole ground that the grants allegedly "no longer effectuate agency priorities." Researchers with

¹ Defendants are Robert F. Kennedy, Jr., in his official capacity as Secretary of Health and Human Services, the United States Department of Health and Human Services, Jayanta Bhattacharya, in his official capacity as Director of the National Institutes of Health, the National Institutes of Health, the National Cancer Institute, the National Eye Institute, the National Heart, Lung, and Blood Institute, the National Human Genome Research Institute, the National Institute on Aging, the National Institute on Alcohol Abuse and Alcoholism, the National Institute of Allergy and Infectious Diseases, the National Institute of Arthritis and Musculoskeletal and Skin Diseases, the National Institute of Biomedical Imaging and Bioengineering, the Eunice Kennedy Shriver National Institute of Child Health and Human Development, the National Institute on Deafness and Other Communication Disorders, the National Institute of Dental and Craniofacial Research, the National Institute of Diabetes and Digestive and Kidney Diseases, the National Institute on Drug Abuse, the National Institute of Environmental Health Sciences, the National Institute of General Medical Sciences, the National Institute of Mental Health, the National Institute on Minority Health and Health Disparities, the National Institute of Neurological Disorders and Stroke, the National Institute of Nursing Research, the National Library of Medicine, the National Center for Advancing Translational Sciences, the John E. Fogarty International Center for Advanced Study in the Health Sciences, the National Center for Complementary and Integrative Health, and the Center for Scientific Review.

awarded grants suddenly have had their funding source unceremoniously terminated on the basis that their projects are “antithetical to science.” This about-face has upended important research projects, not to mention lives. Plaintiffs accordingly are forced to bring this motion, which seeks immediate relief from defendants’ unlawful grant terminations.

Plaintiffs satisfy the requirements for temporary emergency relief. First, plaintiffs are likely to succeed on the merits of their claims because defendants’ termination of NIH grants is unlawful in multiple respects. The grant terminations are arbitrary and capricious, as well as contrary to law, both as to the regulations specifically governing NIH grant awards and as to the statutory scheme governing NIH research programs and appropriations, all in violation of the Administrative Procedure Act. The terminations also violate constitutional separation-of-powers principles because the Executive branch may not unilaterally decline to spend funds that Congress has appropriated for NIH research.

Second, plaintiffs will suffer immediate and irreparable harm if these terminations stand. Funding that colleges and universities counted on—because NIH committed to provide that funding—will evaporate. As a result, some of plaintiffs’ public institutions are being forced to stop research activities, reduce personnel, and even shut down programs, including active clinical trials. Moreover, these abrupt terminations have caused operational chaos and confusion to these institutions, upending months, if not years, of planning and plunging them into budgetary and programmatic uncertainty.

Third, the balance of equities and the public interest weigh in favor of a temporary restraining order. Plaintiffs have a substantial interest in the successful operation of their research programs and higher education institutions, and the only harm of temporarily enjoining

defendants is that they will have to comply with the terms of grant awards they themselves awarded to plaintiffs.

Plaintiffs further request that the Court exercise its discretion to waive the requirement to post a bond under Rule 65(c). *See, e.g., Int’l Assoc. of Machinists and Aerospace Workers v. Eastern Airlines*, 925 F.2d 6, 9 (1st Cir. 1991) (finding “ample authority for the proposition that the provisions of Rule 65(c) are not mandatory and that a district court retains substantial discretion to dictate the terms of an injunction bond.”); *see also da Silva Medeiros v. Martin*, 458 F. Supp. 3d 122, 130 (D.R.I. 2020) (district court waived the bond requirement where it would pose a hardship on petitioners, and unduly restrict the federal rights at issue); *Pineda v. Skinner Services, Inc.*, 22 F.4th 47, 57 (1st Cir. 2021) (district court did not abuse its discretion when it did not require low-wage laborers to post a bond).

As further grounds in support of their request for a temporary restraining order, plaintiffs rely on the accompanying memorandum of law, declarations, and evidence filed in support of this motion.

Wherefore, plaintiffs respectfully request that the Court immediately enter a temporary restraining order in the form set forth in the proposed order attached to this motion.

April 4, 2025

Respectfully submitted.

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*application for *pro hac vice* admission forthcoming

CERTIFICATE OF SERVICE

I, Gerard J. Cedrone, certify that on April 4, 2025, I provided a copy of the foregoing document and all attachments to the following attorneys at the U.S. Department of Justice by electronic mail:

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