

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 PRELIMINARY INJUNCTION

Pursuant to Federal Rule of Civil Procedure 65 and Local Rule 7.1, plaintiffs Massachusetts, California, Maryland, Washington, Arizona, Delaware, Hawai'i, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, and Wisconsin ("plaintiffs")¹ respectfully move for a preliminary injunction enjoining defendants from implementing the unlawful directives referred to collectively as the "Challenged Directives," as defined in the proposed order attached as Exhibit A to this motion. These Challenged Directives have functioned to restrict NIH funding for existing research opportunities or research awards to projects or grant recipients that relate to topics disfavored by defendants. And they have resulted in the delay, suspension, or cancellation of the procedural steps necessary to review and dispose of plaintiffs' NIH grant applications. Plaintiffs satisfy the requirements for preliminary injunctive relief.

First, plaintiffs are likely to succeed on the merits of their claims that the Challenged Directives are unlawful in multiple respects. As explained in the accompanying memorandum of

¹ Colorado is also a plaintiff in this action but is not a party to this motion.

law, the Challenged Directives and their implementation violate the Administrative Procedure Act (APA) and the U.S. Constitution and constitute *ultra vires* Executive action.

Second, plaintiffs will suffer immediate and irreparable harm if the Challenged Directives remain in effect: the cessation of funding will immediately jeopardize contemplated and ongoing research programs that cannot proceed without continued financial support. Some of plaintiffs' public institutions are being forced to stop research activities, reduce personnel, and even shut down programs, including active clinical trials. Moreover, defendants' actions 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 heavily in favor of a preliminary injunction. Plaintiffs have a substantial interest in the continued successful operation of research programs at their institutions of higher learning. And the only "harm" defendants will face from a preliminary injunction is that they will have to continue to fulfill their long-established responsibility to support public health research, rather than abandon it with the effect of jeopardizing biomedical research nationwide.

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) (waiving 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). To the extent a bond is required, plaintiffs request that the bond be nominal, consistent with the practice in this Circuit. *See Maine v. U.S. Dep't of Agriculture*, 1:25-cv-131, 2025 WL 1088946, at *29–30 (D. Me. Apr. 11, 2025) (collecting cases).

In support of this request for a preliminary injunction, plaintiffs rely on the memorandum of law, declarations, and evidence filed in support of this motion.

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

April 14, 2025

Respectfully submitted.

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* admitted *pro hac vice*

** application for *pro hac vice* admission forthcoming

LOCAL RULE 7.1 CERTIFICATE

I, Gerard J. Cedrone, certify that on April 8 and 9, 2025, I conferred with counsel for defendants regarding this motion, as set forth in plaintiffs' assented-to motion to set a briefing schedule (ECF No. 58).

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