UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS–HARVARD FACULTY CHAPTER et al.,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF JUSTICE et al.,

Defendants.

Case No. 1:25-CV-10910-ADB

DECLARATION OF DANIEL H. SILVERMAN IN SUPPORT OF PLAINTIFFS' MEMORANDUM IN FURTHER SUPPORT OF THEIR MOTION FOR SUMMARY JUDGMENT AND IN OPPOSITION TO DEFENDANTS' CROSS-MOTION FOR SUMMARY JUDGMENT

I, Daniel H. Silverman, declare as follows:

1. I am a Partner at the law firm Cohen Milstein Sellers & Toll PLLC and am duly licensed to practice in the State of Massachusetts (BBO# 704387).

2. I am counsel for Plaintiffs American Association of University Professors ("AAUP"), American Association of University Professors–Harvard Faculty Chapter ("AAUP–Harvard"), and International Union, United Automobile, Aerospace and Agricultural Implement Workers of America ("UAW") in the above-captioned litigation

3. I submit this declaration in support of Plaintiffs' Memorandum in Further Support of Their Motion for Summary Judgment and in Opposition to Defendants' Cross-Motion for Summary Judgment, filed herewith.

4. Attached hereto as **Exhibit 1** is a true and correct copy of the supplemental declaration of Molly Forrest Franke executed on June 27, 2025.

5. Attached hereto as **Exhibit 2** is a true and correct copy of the supplemental declaration of Kelsey Tyssowski executed on June 27, 2025.

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on this 30th day of June, 2025, in Boston, Massachusetts.

Signed: */s/ Daniel H. Silverman*
Daniel H. Silverman (BBO # 704387)
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Boston, MA 02130
(617) 858-1990

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SUPPLEMENTAL DECLARATION OF MOLLY FORREST FRANKE

I, Molly Forrest Franke, hereby declare as follows:

1. I am a Professor in the Department of Global Health and Social Medicine at Harvard Medical School as well as an Associate Professor in the Department of Epidemiology at the Harvard T.H. Chan School of Public Health ("HSPH").

2. I am a member of the American Association of University Professors ("AAUP") and AAUP–Harvard Faculty Chapter.

3. I am over the age of 18 and competent to testify as to the matters set forth in this affidavit based on my own personal knowledge.

4. I previously submitted a declaration in the above captioned case with the plaintiffs' motion for summary judgment. I am submitting this supplemental declaration to explain the federal grant application and approval process and to emphasize that each federal grant is specific to the principal investigator ("PI") and researchers listed on the initial grant application.

5. I have been awarded 12 federal grants over the course of my career (nine as PI and three as co-investigator) and am well-positioned to speak about the grant application and approval process.

6. Federal grants award a specific amount of funding for specific work to be done by specific individuals listed on the initial grant application. The grants I have received are awarded specifically to me and the other scientists listed on the grant application.

7. A huge amount of work goes into a new federal grant application. For National Institutes of Health ("NIH") applications, there are three submission cycles each year. Researchers such as myself prepare grant applications 4-6 months in advance of cycle deadlines. This preparation involves developing the scientific approach, budget, and budget justification. This includes working with partners at subcontractor institutions to determine the cost of conducting the proposed scientific research. A clear scope of work is developed for each subcontract partner. In parallel to the scientific approach and cost projections, we prepare the human subjects protection plan and data management plan, solicit letters of support from stakeholders, and prepare biosketches (abbreviated curriculum vitaes tailored to the application's topic) for each investigator. A new grant application is often several hundred pages long.

8. To prepare these applications, I also work with the administration at Harvard Medical School, in addition to the administrations at other Harvard schools and subcontractor institutions. The administration of the affiliated Harvard school(s) ensures regulatory compliance, including confirmation that the application does not overlap with other grant funding held by each investigator.

9. A few months after a new grant application is submitted, it is sent to a study section at the funding agency, such as the NIH, where it undergoes peer review, evaluation, and scoring.

That evaluation and score are then taken to a council meeting, and the council of the awarding agency decides whether it will fund the proposed grant based on the score and evaluation. This process is similar across all NIH institutes, but the criteria, such as required score, can vary. The process is highly competitive, and applications are rarely funded on the first submission.

10. Each grant application lists Key Personnel (defined by NIH as those who "contribute in a substantive, meaningful way to the scientific development or execution of the project"). This includes the specific PI investigator and each researcher who will be working on the grant. The expertise of the PI and the collective research team, as well as their history of collaboration, are among the three factors considered by peer reviewers when assessing the overall potential impact of the application.

11. Following the initial grant award, a renewal process is conducted annually. A few months in advance of each new grant year, the awarding agency, such as the NIH, has a process where the PI reports on accomplishments, challenges, spending, training opportunities, and staffing. The PI must justify any changes in staffing and scope of work and explain any delays. The goal of the renewal review is to ensure everything is on track without any major changes or problems. Minor changes in staff time spent on the project are permissible; however, significant changes in effort by Key Personnel must be justified and pre-approved by the NIH.

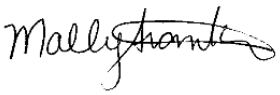
12. Once a grant has been awarded, changing the PI or the prime institution requires prior approval from the funding agency, and the PI listed on the grant would need to have a strong justification for the change. The awarding institute or agency would then determine whether the change was justified. Changing a PI mid-way through a grant is rare.

13. Changing the PI of a grant resubmission also requires adhering to specified procedures for documenting and justifying the change. For example, I have one submitted grant

application that has been reviewed by the NIH and has a good score. Still, because the federal government has terminated grants to Harvard researchers, I am contemplating whether my team could move the work to a different institution under a different PI. To do this, I would need to identify an alternative researcher at a different institution with the skills, expertise, partnerships, and authority to lead this work and justify this change to the peer review panel. This is rarely plausible.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: June 27, 2025

Signed: 

Molly Forrest Franke
Professor, Harvard Medical School
Associate Professor, Harvard T.H. Chan School of Public Health

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SUPPLEMENTAL DECLARATION OF KELSEY TYSSOWSKI

I, Kelsey Tyssowski, declare as follows:

1. I am a Postdoctoral Research Associate in the Departments of Organismic & Evolutionary Biology and Molecular & Cellular Biology at Harvard University.

2. I hold a PhD in Biological and Biomedical Sciences from Harvard University and a Bachelor's Degree in Molecular Biology and Neuroscience from Wesleyan University.

3. I am a member of Harvard Academic Workers, one of the two collective bargaining units of Harvard's chapter of the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America ("HAW–UAW").

4. I am over the age of 18 and competent to testify as to the matters set forth in this affidavit based on my own personal knowledge.

5. I previously submitted a declaration in the above captioned case with the Plaintiffs' motion for summary judgment. I am submitting this supplemental declaration to explain my process of applying for and receiving a K99/R00 grant from the National Institutes of Health.

6. I wrote and applied for an NIH K99/R00 grant specifically for my research comparing different subspecies of deer mice with innate behavioral differences to understand how the nervous system enables skilled movement.

7. The K99/R00 grant is designed for postdoctoral scientists and provides funding support in two phases. The first (K99) phase supports postdoctoral research training in a lab. The second (R00) phase provides the scientist funding to continue their research for up to three years upon securing a tenure-track faculty position.

8. I was awarded the grant on March 21, 2024. I am listed on NIH's Notice of Award as the Principal Investigator leading the research the grant supported until it was terminated in May 2025. Harvard University received funding from the NIH during the K99 phase of my grant because I am a postdoctoral researcher at Harvard.

9. As stated in my prior declaration, I was in the K99 phase of my grant when my funding was terminated. I had a little under a year left in the K99 phase of my grant, and I had planned to use the R00 phase of my grant, which would have covered my salary and research costs, to fund the first few years of research in my own lab.

10. With the loss of the K99 grant, I have also lost the R00 phase of the grant, which I am concerned will negatively impact my chances of getting a tenure-track faculty job. I will be applying to tenure-track faculty positions at universities across the United States. If my funding had not been terminated, it is very likely the R00 phase of my grant would have supported my independent research as a tenure-track faculty member at a different university than Harvard.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: June 27, 2025

Signed: */s/ Kelsey Tyssowski*

Kelsey Tyssowski
Postdoctoral Research Associate