

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

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

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

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
JUSTICE et al.,

Defendants.

**PLAINTIFFS’ OPPOSITION TO DEFENDANTS’ REQUEST FOR A STAY OF
DEADLINE TO FILE A STATUS REPORT IN LIGHT OF LAPSE OF
APPROPRIATIONS**

Plaintiffs submit this opposition to Defendants’ request to stay this Court’s October 3, 2025 deadline, ECF 145, to file a joint status report regarding the timing for the parties to file a Motion to Enter Final Judgment and an accompanying Proposed Order.

Defendants contend that a stay is necessary because “[a]bsent an appropriation, Department of Justice attorneys and employees of the federal Defendants are prohibited from working, even on a voluntary basis, except in very limited circumstances,” under 31 U.S.C. § 1342. Mot. at 1-2. This prohibition under § 1342 does not apply if the request for a stay is denied. See *Kornitzky Group, LLC v. Elwell*, 912 F.3d 637, 638 (D.C. Cir. 2019) (discussing how denial of the government’s motions to stay when federal appropriations have lapsed is consistent with § 1342). Further, the Department of Justice’s FY 2026 Contingency Plan recognizes that “[i]f a court denies such a request and orders a case to continue, the Government will comply with the court’s order”

as it “would constitute express legal authorization for the activity to continue.” *U.S. Dep’t of Justice FY 2026 Contingency Plan* at 3 (Sept. 29, 2025), <https://www.justice.gov/jmd/media/1377216/dl>. The government provides no rationale for why this Court should not take a similar approach here, particularly where the government is seeking to stay a deadline that the Parties have been aware of for over a week and was only a few days away at the time of the shutdown, and requires nothing more than a status report.

A stay is unwarranted and would needlessly delay entry of final judgment. The Court ordered the Parties to file a status report by September 19, 2025 indicating whether issues needed to be resolved before a final judgment issued. ECF 143. The Parties agreed that no further issues needed to be resolved before a final judgment issued and sought a brief, two-week extension of the deadline to focus on issues regarding the implementation of this Court’s September 3, 2025 Order. ECF 144. The Parties had been discussing implementation issues, but those conversations stalled earlier this week prior to the government shutdown and will not progress while the shutdown is ongoing. Thus, there is no basis for further delaying entry of final judgment in this matter.

Plaintiffs provided Defendants with their proposed final judgment over two weeks ago, on September 16, 2025. In the intervening weeks, despite prompting from Plaintiffs, Defendants have not raised any concerns or objections regarding this draft. On October 1, Plaintiffs informed Defendants that they intended to submit their proposed judgment to the Court with the status report on Friday and remained open to any feedback on that document. Plaintiffs’ have attached their proposed final judgment as Exhibit A.

For the forgoing reasons, Plaintiffs respectfully request that the Court deny Defendant’s Motion to stay the deadline for filing the status report and proceed to enter final judgment in this

matter, which will have been decided one month ago on October 3. Plaintiffs do not oppose a stay of any other deadlines during the government shutdown.

Dated: October 2, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

Counsel for Plaintiffs certify that they have submitted the foregoing document with the clerk of court for the District of Massachusetts, using the electronic case filing system of the Court. Counsel for Plaintiffs hereby certify that they have served all parties electronically or by another manner authorized by Fed. R. Civ. P. 5(b)(2).

/s/ Joseph Sellers
Joseph Sellers

EXHIBIT A

**UNITED STATES DISTRICT COURT
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AMERICAN ASSOCIATION OF
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Case No. 1:25-CV-10910-ADB

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Defendants.

[PROPOSED] ORDER AND FINAL JUDGMENT

For all the reasons stated in this Court’s September 3, 2025 Memorandum and Order, ECF No. 141 (the “Memorandum and Order”), which is incorporated herein, and pursuant to Federal Rule of Civil Procedure 58, it is hereby ORDERED, ADJUDGED, AND DECREED that:

1. The Termination Letters¹ are hereby **DECLARED** to violate Title VI of the Civil Rights Act, 42 U.S.C. § 2000d *et seq.*, under 5 U.S.C. § 706(2)(C), (D) and judgment on Count I is therefore entered in favor of Plaintiffs on that basis.

¹ The term “Termination Letters” refers to: the May 6, 2025 Termination Letter from the National Institutes of Health; the May 9, 2025 Termination Letter from the United States Department of Agriculture; the May 9, 2025 Termination Letter from the National Aeronautics and Space Administration; the May 12, 2025 Termination Letter from the Department of Commerce; the May 12, 2025 Termination Letter from the Department of Defense; the May 12, 2025 Termination Letter from the Department of Energy; the May 12, 2025 Termination Letter from the Department of Housing and Urban Development; the May 12, 2025 Termination Letter from the National Science Foundation; the May 12, 2025 Termination Letter from the Department of Education; the May 19, 2025 Termination Letter from the Centers of Disease Control and Prevention; and the May 27, 2025 Termination Letter from the General Services Administration. All other capitalized terms not defined herein have the same meaning as in the Memorandum and Order.

2. The Freeze Orders² are hereby **DECLARED** arbitrary and capricious in violation of 5 U.S.C. § 706(2)(A) and judgment on Count II is therefore entered in favor of Plaintiffs in part on that basis.

3. The Freeze Orders are hereby **DECLARED** to violate the First Amendment under 5 U.S.C. § 706(2)(B) and judgment on Count IV is therefore entered in favor of Plaintiffs on that basis.

4. The Freeze Orders are **VACATED AND SET ASIDE** as arbitrary and capricious, in violation of 5 U.S.C. § 706(2)(A).

5. The Freeze Orders and Termination Letters are **VACATED AND SET ASIDE** as violative of the First Amendment under 5 U.S.C. § 706(2)(B).

6. All freezes and terminations of funding to Harvard made pursuant to the Freeze Orders and Termination Letters on or after April 14, 2025 are **VACATED AND SET ASIDE**.

7. The Termination Letters are **VACATED AND SET ASIDE** as violative of Title VI under 5 U.S.C. § 706(2)(C), (D).

8. All terminations of funding to Harvard made pursuant to the Termination Letters are **VACATED AND SET ASIDE**.

9. Defendants, their agents, and anyone acting in concert or participation with Defendants are hereby **PERMANENTLY ENJOINED** from:

- a. Implementing, instituting, maintaining, or giving any force or effect to Defendants' Freeze Orders, Termination Letters, and attendant unconstitutional conditions, as well as any terminations of, freezes of, or refusing to grant or to continue federal funding undertaken pursuant to the Freeze Orders and Termination Letters and their attendant unconstitutional conditions, including but not limited to:

² The term "Freeze Orders" refers to the April 14 Freeze Order and the May 5 Freeze Order as defined by the Memorandum and Order.

- (i) The April 3, 2025 Letter from the Federal Task Force to Combat Antisemitism;
 - (ii) The April 11, 2025 Letter from the Federal Task Force to Combat Antisemitism;
 - (iii) The April 14, 2025 Freeze Order;
 - (iv) The May 5, 2025 Freeze Order;
 - (v) The May 6, 2025 Termination Letter from the National Institutes of Health;
 - (vi) The May 9, 2025 Termination Letter from the United States Department of Agriculture;
 - (vii) The May 9, 2025 Termination Letter from the National Aeronautics and Space Administration;
 - (viii) The May 12, 2025 Termination Letter from the Department of Commerce;
 - (ix) The May 12, 2025 Termination Letter from the Department of Defense;
 - (x) The May 12, 2025 Termination Letter from the Department of Energy;
 - (xi) The May 12, 2025 Termination Letter from the Department of Housing and Urban Development;
 - (xii) The May 12, 2025 Termination Letter from the National Science Foundation;
 - (xiii) The May 12, 2025 Termination Letter from the Department of Education;
 - (xiv) The May 19, 2025 Termination Letter from the Centers of Disease Control and Prevention;
 - (xv) The May 20, 2025 announcement by the Department of Health and Human Services to cut \$60 million in multi-year grants to Harvard; and
 - (xvi) The May 27, 2025 Termination Letter from the General Services Administration.
- b. Issuing any other termination, fund freezes, stop work orders, or otherwise withholding payment on existing grants or other federal funding, or

refusing to award future grants, contracts, or other federal funding to Harvard in retaliation for the exercise of its First Amendment rights or the rights of its faculty and staff, for the purpose of suppressing disfavored speech, or on any purported grounds of discrimination without compliance with the terms of Title VI.

10. Judgment shall enter in favor of Defendants and against Plaintiffs on Counts III, V, and VII. Judgment shall enter in favor of Defendants in part on Count II with respect to the Termination Letters.

11. This Judgment constitutes final resolution of all claims and operates as a final judgment pursuant to Federal Rule of Civil Procedure 58(b)(2) and the Court's determination that "all claims have been resolved and ... a final judgment should issue." ECF No. 143.

12. The Court retains jurisdiction to enforce this Judgment.

The Clerk is directed to enter judgment in conformity with the foregoing forthwith.

Dated: October __, 2025

HON. ALLISON D. BURROUGHS
U.S. DISTRICT JUDGE