

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

COMMONWEALTH OF
MASSACHUSETTS, *et al.*,

Plaintiffs,

v.

ROBERT F. KENNEDY, JR., in his official
capacity as Secretary of Health and Human
Services, *et al.*,

Defendants.

Civil Action No. 1:25-cv-10814-WGY

AMERICAN PUBLIC HEALTH
ASSOCIATION, *et al.*,

Plaintiffs,

v.

NATIONAL INSTITUTES OF HEALTH, *et al.*,

Defendants.

Civil Action No. 1:25-cv-10787-WGY

NOTICE OF PRODUCTION

Pursuant to this Court's order, defendants have produced records to supplement the Certified Administrative Record for phase one of the above-captioned proceedings. The supplemental documents are described in the attached Designation and Certification of the Administrative Record. This new production includes various documents that may contain commercial information, but that defendants have not yet been able to review given the expedited compilation. Defendants have therefore produced them by sending a box.com link to

plaintiffs, and by delivering one paper copy of the entire production to chambers on June 13, 2025, and a second copy on June 16, 2025.

Respectfully submitted,

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Assistant Attorney General

LEAH B. FOLEY
United States Attorney

KIRK T. MANHARDT
Director

MICHAEL J. QUINN
Senior Litigation Counsel

Dated: June 13, 2025

/s/ Thomas W. Ports, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

Dated: June 13, 2025

/s/ Thomas W. Ports, Jr.
Thomas W. Ports, Jr.

/s/ Anuj Khetarpal
Anuj Khetarpal

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DESIGNATION AND CERTIFICATION OF THE ADMINISTRATIVE RECORD

I, Raymond Jacobson, Ph.D., hereby declare and certify as follows:

1. I am employed by the National Institutes of Health (NIH) and serve as the Director, Division of Receipt and Referral, of the Center for Scientific Review (CSR). I have held this position since December 2024 and have been employed by NIH in various capacities since 2009.

2. As the Director, Division of Receipt and Referral, I oversee the Division of Receipt and Referral's functions regarding the receipt and scientific referral of grant

applications submitted to NIH and other HHS agencies. In that capacity, I oversee and supervise the NIH staff that compiled the administrative records in this case. To the best of my knowledge, information, and belief, the records described below and shared with plaintiffs on June 2, 2025, in conjunction with the record produced on June 2, 2025, constitute the true, accurate, and complete¹ administrative records for the grant terminations challenged in this case, and—assuming they were challengeable final agency actions—the true, accurate, and complete administrative records for plaintiffs’ challenged directives. Each document is a true and correct copy of a record retained in the files of the Department of Health and Human Services and the National Institutes of Health.

3. NIH produced the Administrative Record for *Massachusetts v. Kennedy*, 1:25-cv-10814, on June 2, 2025. Doc No. 118. NIH also provided a copy of that record to Plaintiffs in *American Public Health Association v. HHS* because, as the Court recognized, the records substantially overlap.

4. The non-overlapping administrative record produced today is based on the entries in the PDF document that Plaintiffs provided on May 27, 2025. The complete non-overlapping record consists of the documents with Bates range NIH_GRANTS_004271-6963.

5. I understand that the Court ordered NIH to complete the record by (1) adding forms and guidance for assessment of pending grant awards or actions and (2) adding any

¹ Other than the notice of award for individual terminated grants, the record omits the thousands of additional pages in each grant file related to the grant application and approval process, including omitting any reports filed by the grantee. I understand that counsel for defendants described this planned approach in the May 13 hearing. Tr. at 18. Omitting these documents avoided the time required to review documents to redact sensitive, confidential information. This review was not possible in the time provided.

records about the alleged use of AI in grant terminations. For the first part of the Court's order, today's production includes true and correct copies of all records retained in the files of the Department of Health and Human Services and the National Institutes of Health; there are no other pre-complaint records for the first part of the Court's order to complete the record. Defendants are working to comply with the second part of the Court's order.

In accordance with 28 U.S.C. § 1746 I hereby certify and declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed on June 13, 2025 at Bethesda, Maryland.

s/Raymond Jacobson

Raymond Jacobson, Ph.D.