IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

AMERICAN ACADEMY OF PEDIATRICS, *et al.*, *Plaintiffs,* vs. ROBERT F. KENNEDY, JR., in his official capacity as Secretary of the Department of Health and Human Services; *et al.*, *Defendants.*	Case No. 1:25-cv-11916 (BEM)

PLAINTIFFS' MOTION FOR LEAVE TO FILE SUPPLEMENTAL DECLARATIONS IN SUPPORT OF THEIR MOTION FOR PRELIMINARY INJUNCTION

Plaintiffs respectfully move for leave to file three supplemental declarations in further support of their Motion for Preliminary Injunction: (1) Diana Zuckerman, Ph.D. (attached as Exhibit A); (2) Susan J. Kressly, M.D., FAAP (attached as Exhibit B); and (3) Suzanne Berman, M.D. (attached as Exhibit C). The supplemental declarations respond directly to arguments Defendants raised in their opposition and are intended to assist the Court in evaluating whether Plaintiffs satisfy the elements of a motion for preliminary injunction. In support of their Motion, Plaintiffs state:

1. On January 26, 2026, Plaintiffs filed their Motion for Preliminary Injunction and 29 supporting declarations challenging Defendants' January 5, 2026, changes to the CDC childhood immunization schedule (the "January 5 Schedule Change") and the impending February 25-26, 2026 ACIP meeting. *See* ECF 237. Defendants' Opposition (ECF 232) disputes the imminence of harm, the existence of an imbalance or inappropriate influence on the current Advisory Committee on Immunization Practices ("ACIP") or the failure to follow required

process. *See* ECF 232. Defendants argue further that Plaintiffs have only speculation of improper outside influence, manipulation, or deviation from FACA's statutory requirements. *See id.* In light of those arguments, Plaintiffs seek leave to supplement the record with declarations that directly respond to Defendants' Opposition.

2. District courts possess broad discretion to manage the evidentiary record in preliminary injunction proceedings. *See Rice v. Wells Fargo Bank, N.A.*, 2 F.Supp.3d 25, 31 (D. Mass. 2014) ("[T]his court has broad discretion in deciding what evidence to consider in connection with a motion for preliminary injunction, including hearsay."). Preliminary injunction proceedings are inherently flexible and may rely on affidavits and supplemental submissions. *See Asseo v. Pan. Am. Grain Co., Inc.*, 805 F.2d 23, 26 (1st Cir. 1986) (holding affidavits and hearsay materials are often received in preliminary injunction proceedings, particularly where the type of evidence is appropriate "given the character and objectives of the injunctive proceeding"). Courts routinely allow supplementation where it promotes judicial economy and allows the Court to consider developments relevant to the issues presented. *See Alan L. v. Lexington Pub. Schs.*, 2025 WL 3767420, at *6 (D. Mass. 2025) (court granted plaintiff's motion for leave to file supplemental declaration in support of motion for preliminary injunction five weeks after plaintiff filed motion for preliminary injunction and three weeks after defendant opposed the motion for preliminary injunction).

3. The declaration of Dr. Diana Zuckerman (attached as Exhibit A) directly rebuts Defendants' arguments that Plaintiffs have only "speculative accusation," not "concrete facts" to support their unfair balance and inappropriate influence claims pursuant to the Federal Advisory Committee Act ("FACA"). (ECF 232, pp. 24-30). The declaration of Diana Zuckerman, Ph.D. provides concrete facts in addition to those stated in their preliminary injunction papers.

4. Dr. Zuckerman's declaration states that seven months ago, **on June 12, 2025**, three days after the Secretary fired all 17 members of the ACIP and one day after he announced appointments of eight of the current ACIP members, Elizabeth Brehm, a partner at Siri & Glimstad, contacted her and stated that she was assisting Aaron Siri in identifying potential candidates for the ACIP. *See* Ex. A at ¶¶ 6-9. Aaron Siri is actively engaged in vaccine-related litigation and regulatory advocacy, has been publicly identified as a legal adviser to the Secretary, and presented for over an hour and a half at the December 5, 2025 ACIP meeting on the "Childhood/Adolescent Immunization Schedule." *See* ECF No. 180-1 at ¶ 41. Exactly one month after Siri's presentation, Defendant, Jim O'Neill, Acting Director of the CDC, announced the January 5, 2026, changes to the childhood schedule. Dr. Zuckerman's declaration provides concrete facts under oath of inappropriate outside influence and is directly relevant to whether Defendants violated the APA by, *inter alia*, failing to adhere to the ACIP's Membership Balance Plan ("MBP") and the "Candidate Identification Process" set forth therein. *See* ECF No. 184 at 44-45. The MBP requires formal candidate identification and vetting procedures designed to ensure neutrality and balance. *See id.*

6. Since Plaintiffs filed their preliminary injunction motion, additional information has surfaced regarding the impact of the January 5, 2026, CDC Childhood Schedule Change (the "January 5 Action") and the anticipated action at the February 25-27, 2026, ACIP meeting to align federally funded vaccination programs with the January 5 schedule. The supplemental declarations of Dr. Kressly (attached as Exhibit B) and Dr. Berman (attached Exhibit C) attest to accumulating harms that the January 5 schedule change cause their organization and practice. Those material harms will be amplified at the next ACIP meeting scheduled for February 25-27, 2026, if, as ACIP Vice Chair Robert Malone stated in his substack, "the ACIP … vote[s] during their next meeting

to approve language aligning the Congressionally mandated Vaccines for Children program with the new schedule."[1] This vote would immediately alter reimbursement structures, provider participation, and access, and, once implemented these changes would be exceedingly difficult, if not impossible, to unwind. The pattern the Defendants have followed is that they forecast what they intend to do, and then they do it. Medical organizations and practitioners must plan for what federal health authorities forecast. Dr. Kressly and Dr. Berman's declarations attest to the diversion of resources that they have already experienced to address and plan for the accumulating and imminent harm.

7. The supplemental declarations do not add new legal claims and do not expand the scope of requested relief; they simply update the factual record in light of arguments made in Defendants' Opposition.

8. The Court has broad discretion regarding what evidence to consider in preliminary injunction proceedings, and included in that broad discretion is the ability to consider supplemental declarations. *See D.V.D. v. U.S. Dep't of Homeland Sec.*, 784 F.Supp.3d 401, 412 n. 2 (D. Mass. 2025) ("The Court has 'broad discretion in deciding what evidence to consider in connection with a motion for preliminary injunction.'") (quoting *Rice v. Wells Fargo Bank, N.A.*, 2 F.Supp.3d 25, 31 (D. Mass. 2014); *see also Alan L.*, 2025 WL 3767420, at *6 (noting supplemental declarations were allowed in preliminary injunction proceedings). Where, as here, the Court has not yet ruled and the challenged conduct is ongoing, supplementation promotes judicial efficiency and provides the Court with a more fulsome record. Furthermore, any perceived prejudice can be cured by permitting Defendants to file a response, to which Plaintiffs would not object to the filing.

[1] *See* Robert W. Malone, HHS, CDC to Make Announcement on Children's Health Tomorrow, Malone News (Dec. 18, 2025), https://www.malone.news/p/hhs-cdc-to-make-announcement-on-childrens

9. Counsel for Plaintiffs conferred via email with counsel for Defendants on February 12, 2026. Defendants oppose this Motion. Plaintiffs' Local Rule 7.1 Certification is attached hereto.

For the foregoing reasons, Plaintiffs respectfully request that the Court grant leave to file the Supplemental Declarations of Diana Zukerman, Ph.D. (Exhibit A), Susan J. Kressly, M.D., FAAP (Exhibit B), and Suzanne Berman, M.D. (Exhibit C).

Dated: February 12, 2026

Respectfully submitted,

By: */s/ James J. Oh* (IL Bar No. 6196413)
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LOCAL RULE 7.1 CERTIFICATE REGARDING PLAINTIFFS' MOTION FOR LEAVE TO FILE SUPPLEMENTAL DECLARATIONS IN SUPPORT OF THEIR MOTION FOR PRELIMINARY INJUNCTION

Per Local Rule, 7.1, counsel for Plaintiffs state that they conferred with counsel for Defendants by email on February 12, 2026, and counsel for Defendants oppose the filing of Plaintiffs' Motion for Leave to File Supplemental Declarations in Support of their Motion for Preliminary Injunction.

/s James J. Oh

James J. Oh

CERTIFICATE OF SERVICE

I hereby certify that this document was filed and served through the ECF system upon the following parties on this 12th day of February 2026:

Robert F. Kennedy, Jr., in his official capacity as Secretary of Health and Human Services

c/o Leah Belaire Foley, US Attorney
Michael L. Fitzgerald
Office of the US Attorney for the District of Massachusetts
1 Courthouse Way, Suite 9200
Boston, Massachusetts 02210
michael.fitzgerald2@usdoj.gov

Jim O'Neill, in his official capacity as Acting Director Centers for Disease Control and Prevention

c/o Isaac Belfer
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/s/ James J. Oh
James J. Oh

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

AMERICAN ACADEMY OF PEDIATRICS, *et al.*, *Plaintiffs,* vs. ROBERT F. KENNEDY, JR., in his official capacity as Secretary of the Department of Health and Human Services, *et al.*, *Defendants.*	Case No. 1:25-cv-11916 (BEM)

DECLARATION OF DIANA ZUCKERMAN, Ph.D.

I, Diana Zuckerman, Ph.D., declare pursuant to 28 U.S.C. § 1746 that the following is true and correct and within my personal knowledge.

1. I am over the age of 18 years old. All of the facts set forth in this declaration are based on my personal knowledge.

2. I received my doctorate in psychology from The Ohio State University and completed post-doctoral training in epidemiology and public health at Yale Medical School.

3. After working in academia, I worked as a staff member in Congress, at the U.S. Department of Health and Human Services, and in the White House.

4. I held leadership positions in several nonprofit organizations after my government service.

5. In March 1999, I founded the National Center for Health Research (NCHR), where I currently am President.

6. On June 12, 2025, I was contacted by email by Elizabeth Brehm. The email stated:

On Thu, Jun 12, 2025 at 5:44 PM Elizabeth Brehm <[redacted]> wrote:

> Hi Diane,
>
> Pleasure to meet you. I received your email address from [Redacted Name]. I wanted to see if you had a few minutes to chat about ACIP today/this evening. If so, can you please share the bet number to reach you at?
>
> Thanks,
>
> Elizabeth
>
> Elizabeth A. Brehm, Esq.
> Siri | Glimstad
>
> 745 Fifth Avenue
> Suite 500
>
> New York, NY 10151
> Direct: 929-220-2758
>
> Main: 888-747-4529
> Fax: 646-417-5967
> www.sirillp.com

7. I responded to Ms. Brehm's email a few minutes later as follows:

From: **Diana Zuckerman** <[redacted]>
Date: Thu, Jun 12, 2025 at 5:51 PM
Subject: Re: ACIP
To: Elizabeth Brehm <[redacted]>

Hi Elizabeth,

I am free after 7:30 Eastern. Does that work for you? [redacted]

Diana Zuckerman, Ph.D.
President
National Center for Health Research
1001 Connecticut Ave, NW, Ste. 1100
Washington, DC 20036
www.center4research.org
www.stopcancerfund.org

8. On the evening of June 12, 2025, sometime after 8:00 p.m., I spoke with Ms. Brehm by telephone. She identified herself as an attorney at Siri & Glimstad and stated that she was assisting Mr. Siri in identifying potential candidates for the ACIP. At that time, the name Aaron Siri was not familiar to me. I started the interview by providing information about my concerns about the research used to approve the Covid vaccines, but she changed the subject because she instead wanted my views on "the vaccine schedule" for children. When I asked her what she meant by the vaccine schedule, she was somewhat vague but mentioned the large number of vaccines that children have to get. I responded that I know some parents are unhappy that young children are given many vaccines at once, but that there is flexibility in the timing of when children get vaccines and that one reason pediatricians generally prefer to give children multiple vaccines at the same doctor's visit is concern that the parent will not bring the child back in a timely manner for the other vaccines. She did not seem interested in the timing issue, and asked me if I thought parents should have more say in which vaccines their children receive. I said parents do have a say and that parents could make choices based on religious or medical reasons. I don't recall if she used the word "mandate," but she conveyed that parents did not have the choices that they should have.

9. Then she asked me if I thought that the decision regarding childhood vaccines should be a decision made only between the parents and the doctor. I responded that there is a need for evidence-based guidelines because some doctors are more knowledgeable about vaccines than others, and some parents are more knowledgeable than others. I pointed out that doctors can be unduly influenced by information from pharmaceutical companies or from social media or other biased sources and that's why parents and physicians benefit from unbiased sources of information. She then said she wanted to be clear and she directly asked if I "would be comfortable

saying" that I believe that the decision regarding childhood vaccines should be a decision only made between the parents and the doctor. I said I wouldn't. It was clear to me that was not the answer she was looking for because she ended the interview very quickly after that.

10. I asked her if she wanted my c.v. or bio and she said yes, I should send the bio that night since they wanted to make the decision about additional ACIP members very soon, but I had the impression she was just trying to end the interview politely. I sent her my bio that night by email, and she replied to my email as follows:

From: **Elizabeth Brehm** <[redacted]>
Date: Thu, Jun 12, 2025 at 9:32 PM
Subject: RE: ACIP
To: Diana Zuckerman <[redacted]>

Received – thank you so much for taking the time to talk to me and to put this together and send tonight. Appreciate it. Will review.

11. After June 12, 2025, I did not hear anything from her, her law firm, or anyone else about joining the ACIP.

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

Diana Zuckerman, Ph.D.

Diana Zuckerman, Ph.D.

Executed on February 12, 2026

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

AMERICAN ACADEMY OF PEDIATRICS, *et al.*, *Plaintiffs,* vs. ROBERT F. KENNEDY, JR., in his official capacity as Secretary of the Department of Health and Human Services, *et al.*, *Defendants.*	Case No. 1:25-cv-11916 (BEM)

SECOND SUPPLEMENTAL DECLARATION OF SUSAN J. KRESSLY, M.D., FAAP

I, Susan J. Kressly, M.D., FAAP, declare pursuant to 28 U.S.C. § 1746 that the following is true and correct and within my personal knowledge.

1. I make this statement based on personal knowledge and if called as a witness could and would testify competently thereto. I am over the age of 18 and make this declaration based on my personal knowledge. I submitted a declaration describing the immediate, devastating harms caused by Defendants challenged agency actions, as alleged in the Fourth Amended Complaint and in support of the Plaintiffs' motion for preliminary injunction. This Supplemental Declaration is based on new information that has come to my attention since the signing of my declaration and addresses the additional, imminent, and devastating harms that will continue if the January 5, 2026 Childhood Schedule changes ("January 5 Action") is not enjoined and if Advisory Committee on Immunization Practices ("ACIP") is permitted to hold its scheduled meeting on February 25–26, 2026 ("February ACIP Meeting").

2. I am the immediate past President of the American Academy of Pediatrics (AAP). During my term as President, I led and managed all of the AAP's relationships with our members, operations of AAP, and the standards that our members follow to provide the highest level of care to their patients. I also play a crucial role in developing the AAP's public policies. As such, I have in-depth knowledge of the operations of AAP, its members, the standard of care for our physician members, and the facts and circumstances set forth herein.

3. I am concerned about the downstream harms to vaccine access through the Vaccines for Children ("VFC") program that may result if the February ACIP meeting takes place. Based on public statements made by ACIP Vice Chair Robert Malone that "the ACIP will need to vote during their next meeting to approve language aligning the Congressionally mandated Vaccines for Children program with the new schedule,"[1] I anticipate that the agenda for the February ACIP meeting, when it is published, will include that ACIP will consider a vote related to the Vaccines for Children ("VFC") program.

4. This statement by the ACIP Vice Chair illustrates that the current ACIP members do not understand how the VFC program works. 42 U.S. Code § 1396s(e) allows ACIP to establish the list of vaccines that are distributed through the VFC program (the "VFC List"). Generally, once ACIP has voted for a vaccine to be included in the VFC program, no additional vote is needed to align the VFC List with the schedule if the recommendation is changed.

5. The January 5 Action downgraded several routine vaccines to SCDM. Based on the ACIP Vice Chair's comments that "the ACIP will need to vote during their next meeting," I am extremely concerned ACIP will use that opportunity to remove these downgraded vaccines from the VFC program entirely. This would be devastating to VFC program providers and patients

[1] Dr. Robert W. Malone, HHS, CDC to Make Announcement on Children's Health Tomorrow, SUBSTACK (Dec., 18, 2025) https://www.malone.news/p/hhs-cdc-to-make-announcement-on-childrens.

throughout the nation. If an ACIP vote removes the downgraded vaccines from the VFC program entirely at the February meeting, the damage could not be undone.

6. Should ACIP meet in February and vote to remove these vaccines from the VFC program entirely, the result will be fragmentation of the VFC ecosystem and reduced access to the downgraded vaccines for VFC-eligible children.

7. These changes create direct harms to VFC providers because they prevent us from doing what we know we are ethically obligated to do to: follow the science and protect the child. If the organization a physician works for can no longer provide the downgraded vaccines through the VFC program, the physician may be unable to provide these vaccines to VFC-eligible families who want to be vaccinated. That breaks the promise to treat the child to the best of our ability. It also goes against HHS's insistence that "[n]o family will lose access."[2] These issues erode families' trust in their physicians and in our public health systems.

8. Removing downgraded vaccines from the VFC program will create a serious equity problem. VFC providers are required to maintain separate inventories of VFC-supplied and privately purchased vaccines. If a vaccine is no longer available through the VFC program but is available to privately insured patients, children seen in the same practice will face different access to that vaccine solely based on their insurance coverage status: privately insured children can receive the vaccine without cost-sharing, while VFC-eligible patients will be forced to pay out of pocket. That forces pediatricians to provide a different level of care to different populations, which is professionally and ethically untenable.

[2] *CDC Acts on Presidential Memorandum to Update Childhood Immunization Schedule*, CTRS. FOR DISEASE CONTROL & PREVENTION (Jan. 5, 2026), https://www.hhs.gov/press-room/cdc-acts-presidential-memorandumupdate-childhood-immunization-schedule.html.

9. VFC providers must also comply with strict program rules to maintain their provider status. One such rule is that VFC providers must complete a Vaccine Borrowing Report whenever a privately purchased vaccine is administered to a VFC-eligible child. In many states, this practice may be prohibited except in narrow circumstances. In practical terms, this puts physicians in a difficult position. Even when the vaccine is physically in the refrigerator as private stock, administering it to a VFC-eligible child imposes immediate operational costs: staff time to document and reconcile inventories, update logs, and complete required reports—all of which is typically uncompensated. In states where vaccine borrowing is prohibited, providers would have to choose between denying VFC-eligible children access to the vaccine or exposing the practice to loss of VFC provider status. Either option widens access gaps and makes equitable care harder to deliver within the same practice.

10. The harms also extend beyond individual practices to the broader public health infrastructure. If ACIP votes in February to remove certain vaccines from VFC entirely, the safety-net delivery system loses access to those doses across the board. That would not simply shift VFC-eligible children from one site to another. Federally qualified health centers and local health departments that rely on VFC supply would be unable to obtain and administer those vaccines as well. The result is a system-wide access gap for VFC-eligible children. If the 50% of U.S. children who are VFC-eligible lose access to downgraded vaccines because they are no longer available through VFC, outbreaks are more likely to spread further and cause more severe harm. Outbreak response depends on rapid vaccination to protect schools and communities. When such a large share of children cannot obtain the vaccine promptly because their families cannot afford it out of pocket, vaccination efforts cannot scale fast enough to meet public health needs.

11. Finally, even if ACIP does not take that vote in February, the January downgrade is already causing harm because, under VFC rules, VFC providers are not required to stock the downgraded vaccines. As a result of HHS' action including the January 5 Action, pediatric practices are operating under more financial strain than ever. Therefore, over time, many practices will respond by carrying less inventory of the downgraded vaccines or none at all to avoid waste, storage constraints, and uncompensated administrative work. Ultimately, practices may reasonably question the point of remaining VFC providers at all. That would have the same effect as removing the downgraded vaccines from the VFC program entirely and erode efforts over the last decade to expand VFC participation and increase vaccine access.

12. I routinely communicate with pediatric clinicians and other "boots on the ground" providers regarding vaccine delivery and patient concerns. Over recent weeks, I have been hearing with increasing frequency that parents are arriving for well-child visits visibly frightened that their children's vaccine access is going away. Even when HHS officials state that vaccine access will not change, many families report that they do not believe those assurances. Clinicians describe spending substantial portions of appointments, and additional follow-up time outside of visits, reassuring families that their practices will continue to follow the American Academy of Pediatrics (AAP) schedule and that recommended vaccines will remain available.

13. This erosion of trust is consistent with Kaiser Family Foundation (KFF)'s recently published findings from its Tracking Poll on Health Information and Trust regarding trust in the CDC and views of federal childhood vaccine schedule changes.[3] KFF reported that less than half the public has a "great deal" or "fair amount" of trust in the CDC to provide reliable information

[3] Audrey Kearny, et al., *KFF Tracking Poll on Health Information and Trust: Trust in the CDC and Views of Federal Childhood Vaccine Schedule Changes*, KFF (February 6, 2026), https://www.kff.org/health-information-trust/trust-in-cdc-and-views-of-federal-childhood-vaccine-schedule-changes/. A true and correct copy of this study is attached to this declaration as **Exhibit A.**

about vaccines. Among people who had heard at least something about recent federal childhood vaccine schedule changes, substantially more said the changes make them less trusting of federal health agencies (53%) than more trusting (14%). KFF further reported that public trust in the CDC "remains at its lowest point since the beginning of the COVID-19 pandemic."

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

Executed on February 11, 2026 in Palm Coast, Florida.

Susan J. Kressly, MD, FAAP

Susan J. Kressly, M.D., FAAP
On behalf of the American Academy of Pediatrics

EXHIBIT A

KFF The independent source for health policy research, polling, and news.

Poll Finding

KFF Tracking Poll on Health Information and Trust: Trust in the CDC and Views of Federal Childhood Vaccine Schedule Changes

Authors: Audrey Kearney, Isabelle Valdes, Shannon Schumacher, Mardet Mulugeta, Ashley Kirzinger, and Liz Hamel

Published: Feb 6, 2026

News Release: Poll: Trust and Confidence in the CDC Remain at Low Point After Changes to Recommended Childhood Vaccines; More Say the Changes Will Hurt than Help Children's Health

Findings

Key Takeaways

In the weeks following the Trump administration's announcement of changes to the recommended childhood vaccine schedule, the public's trust in the CDC remains at its lowest point since the COVID-19 pandemic, including a 9-percentage point drop among Democrats in recent months saying they trust the CDC for reliable vaccine information. Just over half (55%) of Democrats and fewer Republicans (43%) and independents (46%) now say they trust the agency for vaccine information. In addition, fewer than half of adults (44%) express confidence in U.S. federal health agencies to make recommendations about the childhood vaccine schedule.

Among the half of U.S. adults who report hearing about the recent changes to the childhood vaccine schedule, more say the changes will have a negative impact (54%) on children's health than a positive one (26%). Partisans are split, with most Democrats who are aware of the change saying it will have a negative impact on children (83%, or 63% of all Democrats), while Republicans are more likely to say it will have a positive impact (47% of Republicans who are aware of the change, or 34% of all Republicans). About one in five Republicans who are aware of the changes say they will negatively impact children's health and an additional one in five say they are not sure.

At least eight in ten U.S. adults across partisans and parents are confident – including about half who of adults who are "very confident" – in the safety of measles, mumps, and rubella (MMR) and polio vaccines, two longstanding childhood vaccines that continue to be recommended as routine. Majorities of adults are also confident in the safety of two of the vaccines that are no longer universally recommended for children following recent changes, hepatitis B (70%) and flu (65%), though fewer are "very confident," and views are somewhat divided along partisan lines. Fewer (48%) adults are confident in the safety of COVID-19 vaccines for children, including just one in four who are "very confident." Partisan divisions are sharpest when it comes COVID-19 vaccines, with just three in ten Republicans compared to eight in ten Democrats expressing confidence that they are safe for children.

Confidence and Trust in Federal Health Agencies

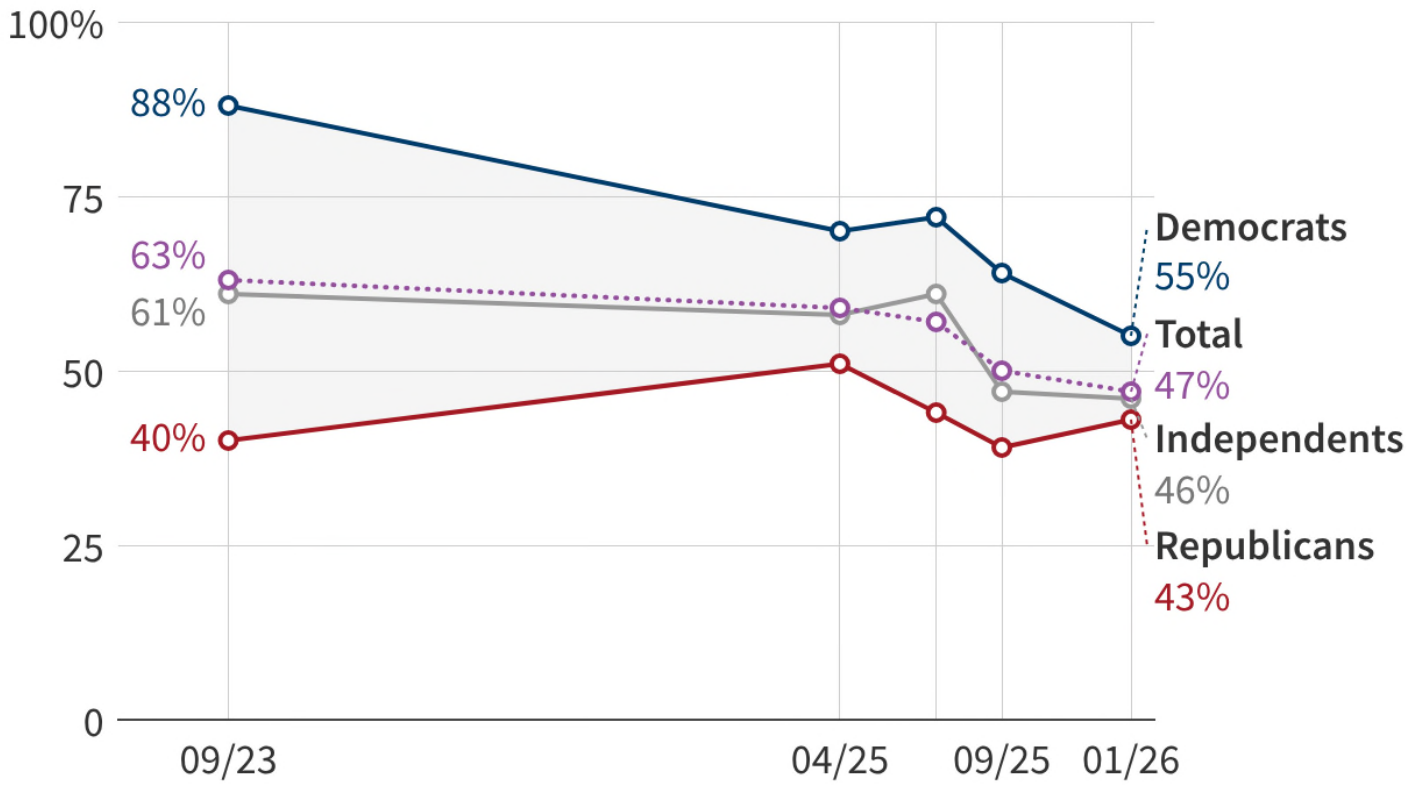
In January, the U.S. Centers for Disease Control and Prevention (CDC) announced the Trump administration's major changes to the federally recommended vaccination schedule for children. This change – along with changes that started in October 2025 – reduces the number of diseases targeted for routine vaccination from 17 to 11, positioning the U.S. as an outlier among peer nations.[1] In the weeks following this change, the latest KFF Tracking Poll on Health Information and Trust finds that the public's trust in the CDC remains at its lowest level since the beginning of the COVID-19 pandemic. Fewer than half (47%) of the public says they have a "great deal" or "fair amount" of trust in the CDC to provide reliable information about vaccines.

Trust among Democrats has declined by nine percentage points since September 2025 (from 64% to 55%) and is down sharply from 88% in September 2023. About four in ten Republicans (43%) and half of independents (46%) say they trust the CDC for reliable information about vaccines, similar to the shares who said the same in September of last year.

Figure 1

The Share of Democrats Who Trust the CDC for Vaccine Information Continues To Decline

Percent who have a **great deal** or **fair amount** of trust in the U.S. Centers for Disease Control and Prevention (CDC) to provide reliable information about vaccines:



Note: See toplines for full question wording.

Source: KFF Health Tracking Polls and Tracking Polls on Health Information and Trust

KFF

One year into President Trump's second term, fewer than half of adults are confident in federal health agencies like the CDC and the U.S. Food and Drug Administration (FDA) to carry out some of their responsibilities, including making recommendations for children's vaccines. Most adults (56%) say they have "little" to "no confidence" in federal health agencies to make recommendations about childhood vaccine schedules, including three in ten (29%) who have no confidence "at all." Just over four in ten have "a lot" (15%) or "some" (29%) confidence in the agencies' ability to do this.

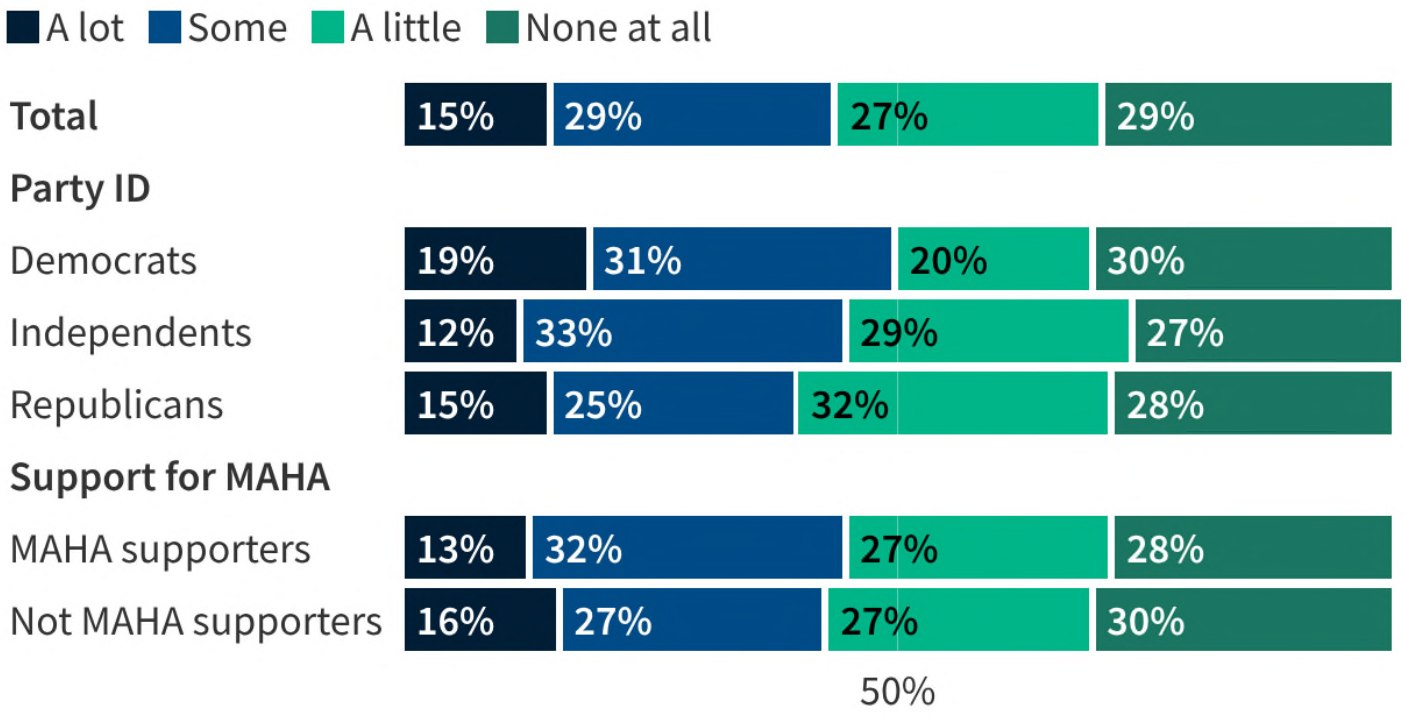
About half of Democrats (51%) say they have at least “some” confidence in government health agencies to make recommendations about childhood vaccine schedules, compared to fewer Republicans (40%). Forty-five percent of independents say they are confident in government health agencies to make these recommendations, while 55% say they have “a little” confidence or “none at all.”

Mirroring Republicans, fewer than half of supporters of the Make America Healthy Again (MAHA) movement say they trust U.S. federal health agencies to make recommendations about vaccine schedules (45%). Overall, 45% of U.S adults say they are supporters of the MAHA movement, and this group is largely made up of Republicans and Republican leaners (65%) and Make America Great Again (MAGA) supporters (53%).

Figure 2

Less Than Half of U.S. Adults Are Confident in Federal Health Agencies To Make Recommendations for Childhood Vaccines

How much confidence do you have in federal government health agencies like the CDC and FDA to make recommendations about childhood vaccine schedules?



Note: See topline for full question wording.

Source: KFF Tracking Poll on Health Information and Trust (Jan. 13-20, 2026)

KFF

This limited confidence extends beyond childhood vaccine recommendations to other core responsibilities of federal health agencies. Fewer than half of the public have at least “some” confidence in the agencies to ensure safety and effectiveness of vaccines approved for use in the U.S. (46%), make decisions based on science rather than the personal views of agency officials (38%), or act independently, without interference from outside interests (34%).

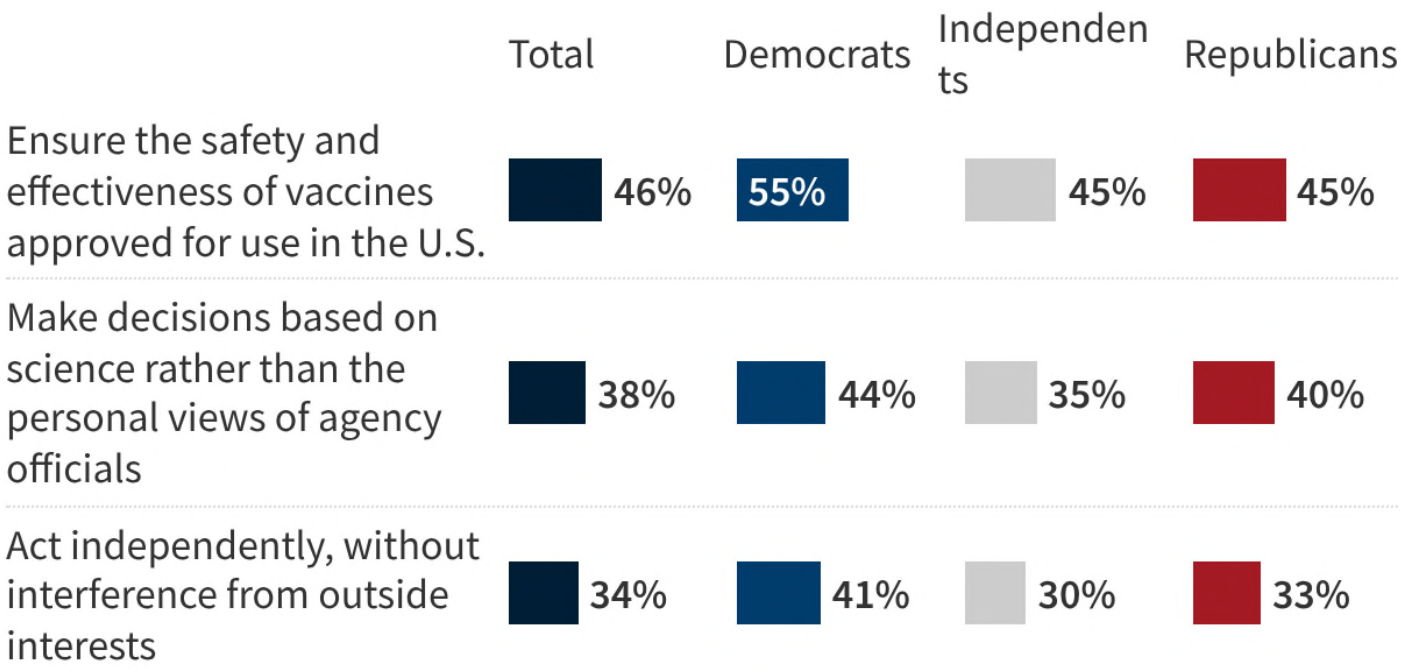
Democrats have more confidence than Republicans in these agencies to ensure vaccine safety and effectiveness (55% of Democrats vs. 45% of Republicans) and act

independently, without outside interference (41% of Democrats vs. 33% of Republicans). Similar minorities of Democrats (44%) and Republicans (40%) express confidence in federal health agencies to make decisions based on science rather than personal views of agency officials.

Figure 3

Across Partisanship, Fewer Than Half Are Confident in Government Health Agencies To Act Independently or To Make Decisions Based on Science

Percent who say they have **a lot** or **some** confidence in federal government health agencies like the FDA and FDA to do each of the following:



Note: See topline for full question wording.

Source: KFF Tracking Poll on Health Information and Trust (Jan. 13-20, 2026)

KFF

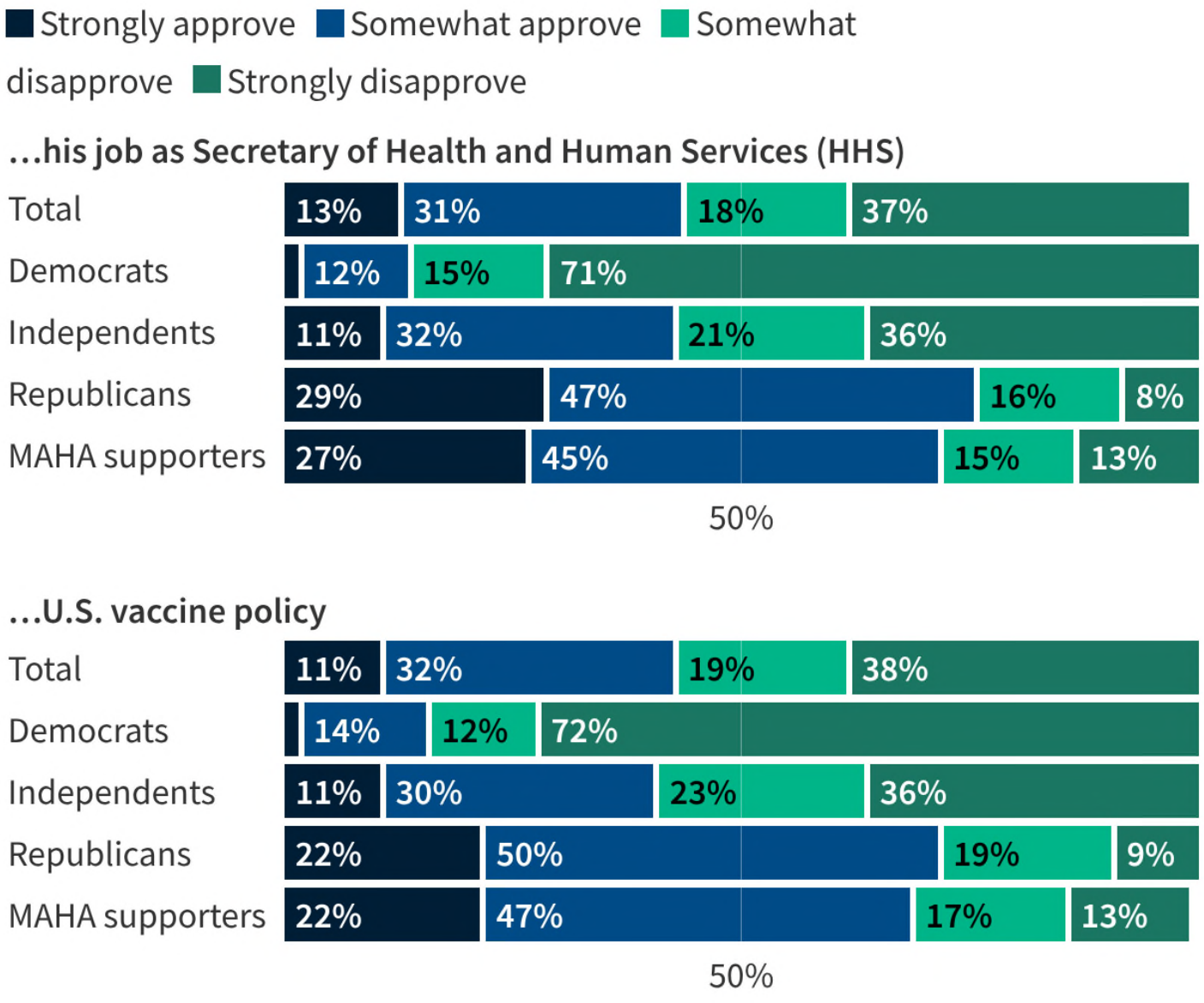
KFF's latest Tracking Poll on Health Information and Trust finds that a majority of the public continue to disapprove of Robert F. Kennedy Jr.'s job performance as Health and Human Services (HHS) Secretary and his handling of U.S. vaccine policy. About four in ten (44%) say they approve of his handling of his job as HHS Secretary, compared to over half who say they disapprove (55%). Similarly, about four in ten

(43%) approve of Kennedy's handling of U.S. vaccine policy while nearly six in ten (57%) disapprove. This is a slight change from September when 37% approved of his handling of vaccine policy, but views remain sharply divided along partisan lines, with large shares of Democrats disapproving and large shares of Republicans approving. Among supporters of the MAHA movement, about seven in ten approve of Kennedy's job performance overall (72%) and his handling of vaccine policy (69%).

Figure 4

Most of the Public Overall Disapprove of Kennedy's Job Performance and Handling of Vaccine Policy; Most MAHA Supporters and Republicans Approve

Do you approve or disapprove of the way Robert F. Kennedy Jr. is handling...



Note: See topline for full question wording.

Source: KFF Tracking Poll on Health Information and Trust (Jan. 13-20, 2026)

KFF

Reactions to the Federal Changes in the Recommended Childhood Vaccine Schedule

About half of the public, and a similar share of parents, say they have heard “a lot” (14%) or “some” (38%) about the federal government’s recent changes to the recommended childhood vaccine schedule. The other half report limited awareness, including three in ten who have not heard much (28%) and one in five who have heard “nothing at all” (21%).

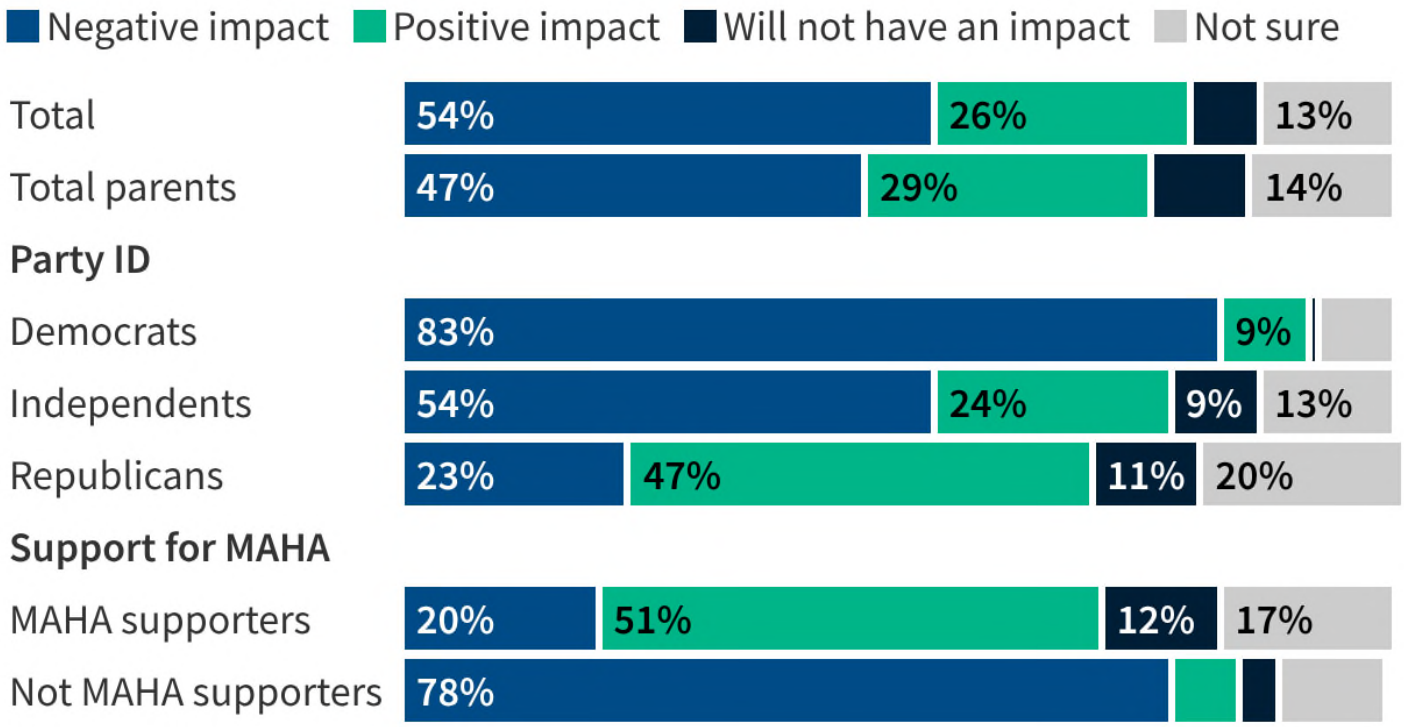
Among those who have heard at least “some” about the changes, reactions tilt negative but are more positive among Republicans and MAHA supporters. For example, among the half of the public who have heard about the recent changes to the childhood vaccine recommendations, twice as many say the change will have a negative impact on children’s health (54%) as say it will have a positive impact (26%). Views of how the change will impact children is divided among partisans, with about eight in ten Democrats who are aware of the change saying it will negatively impact children’s health (83%, or 63% of total Democrats). Nearly half of Republicans who are aware of the change say it will have a positive impact (47%, or 34% of total Republicans). About one in five Republicans who have heard about the change say it will either have a negative impact (23%) or aren’t sure of the impact it will have (20%).

Again, mirroring views of Republicans overall, about half of MAHA supporters who are aware of the changes say they will positively impact children’s health (51%, 33% of total MAHA supporters), compared to one in five who say it will have a negative impact on children’s health.

Figure 5

Adults Who Have Heard of Recent Changes to the Childhood Vaccination Schedule Twice as Likely To Say It Will Have a Negative Impact on Kids Than a Positive One

Do you think the federal government's recent update to the childhood vaccine schedule will have a negative impact on children's health in the U.S. overall, a positive impact, or will it not impact children's health in the U.S.?



Note: Among those who said they have heard or read "a lot" or "some" about the federal government recently announcing changes to the recommended childhood vaccine schedule. See topline for full question wording.

Source: KFF Tracking Poll on Health Information and Trust (Jan. 13-20, 2026)

KFF

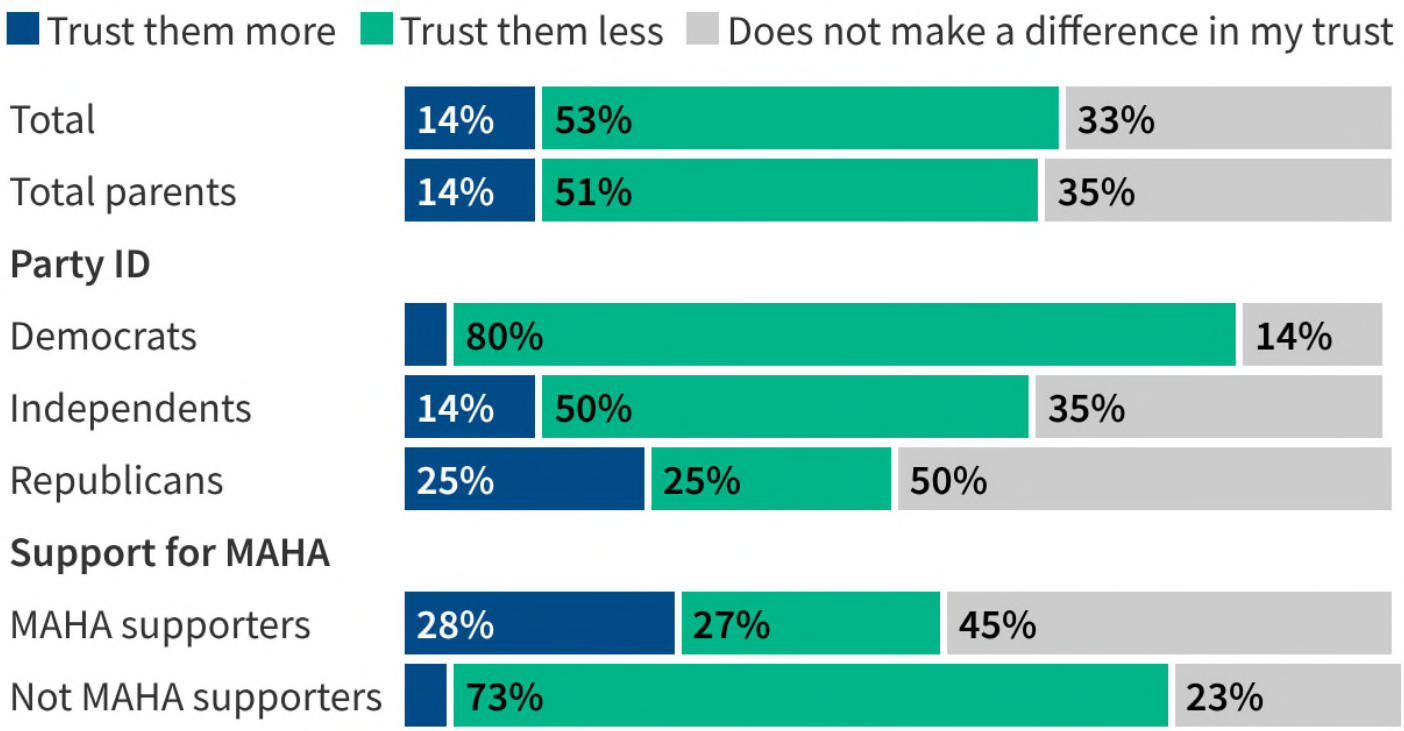
In a statement made about the change, Health Secretary Kennedy predicted it would "rebuild trust in public health." However, those who are aware of recent changes to the federal vaccine recommendations are also nearly four times as likely to say that the change makes them less trusting of federal health agencies such as the FDA and CDC (53%) rather than more trusting (14%), while one-third of this group (33%) say the change does not make a difference in their trust.

Supporters of the MAHA movement have mixed reactions. Similar shares of MAHA supporters who are aware of the change say it makes them trust federal agencies more (28%) or less (27%), while at least four in ten (45%) say this does not affect their level of trust. Partisans are divided, with most Democrats who are aware of the change saying it makes them less trusting of federal health agencies (80%) while about half of Republicans saying it does not impact their trust.

Figure 6

Half of Republicans Who've Heard of Recent Childhood Vaccine Schedule Changes Say Trust in Health Agencies Isn't Affected, Most Democrats Say Trust Declines

Would you say this change makes you trust federal health agencies, such as the FDA and CDC, more, trust them less, or does it not make a difference?



Note: Among those who said they have heard or read "a lot" or "some" about the federal government recently announcing changes to the recommended childhood vaccine schedule. See topline for full question wording.

Source: KFF Tracking Poll on Health Information and Trust (Jan. 13-20, 2026)

KFF

Confidence in Safety of Vaccines for Children

While large majorities of adults are confident in the safety of several vaccines for children, including both the polio vaccine and the measles, mumps, and rubella (MMR) vaccine, public confidence in vaccine safety is somewhat lower for vaccines the federal government has recently shifted from routine recommendations to shared clinical decision-making for children.

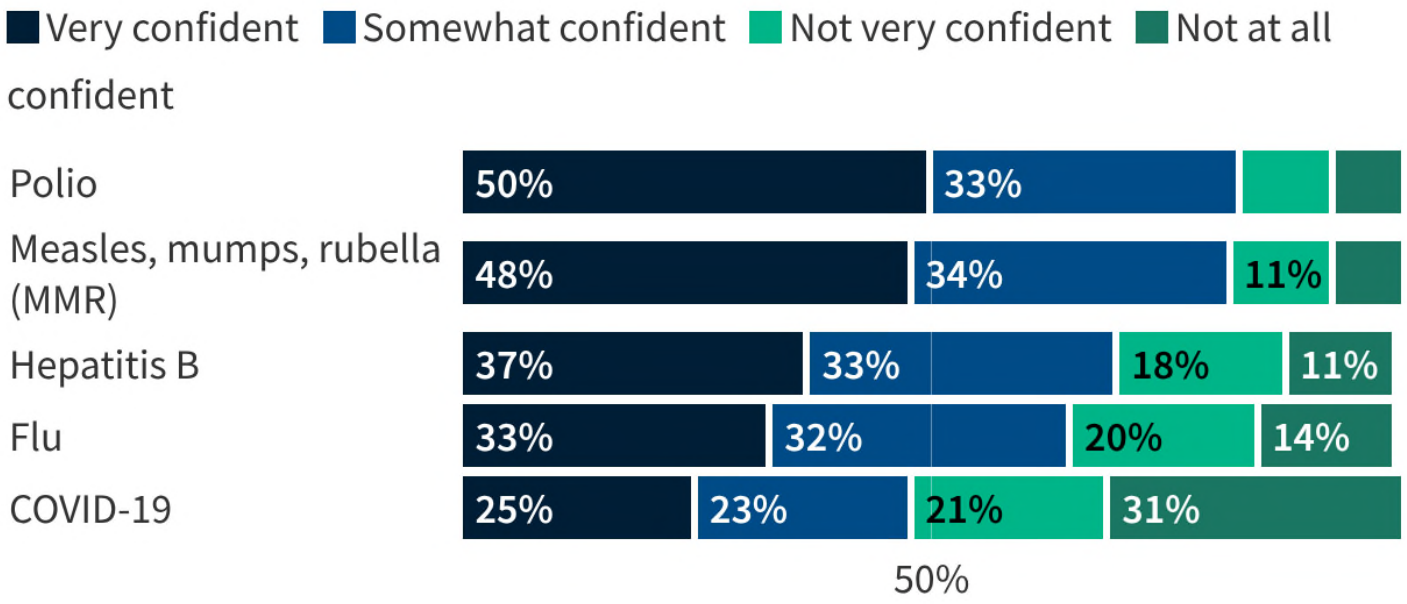
Large majorities of adults say they are confident that polio vaccines (82%) and MMR vaccines (81%) are safe for children, including about half who say they are “very confident” (50% and 48% respectively). Both the MMR and polio vaccines continue to be recommended for routine immunization for all children.

While most adults are at least “somewhat confident” in the safety of hepatitis B (70%) and flu vaccines (65%) for children, smaller shares report being “very confident” (37% and 33% respectively). Confidence is lowest for the COVID-19 vaccine, with fewer than half of adults (48%) saying they are confident the COVID-19 vaccine is safe for children, including just one in four who are very confident. Three in ten adults say they are “not at all confident” in the safety of the COVID-19 vaccine for children, more than twice the share for any of the other vaccine asked about in this poll. These three vaccines were moved off the routine recommendation list to shared clinical decision-making, meaning vaccination is now determined through provider-patient discussions rather than recommended for all children.

Figure 7

Large Majorities of the Public Are Confident in the Safety of Polio, MMR, Hepatitis B Vaccines for Kids; Fewer Are Confident in Flu or COVID-19 Vaccine Safety

How confident are you, if at all, that the following vaccines are safe for **children**?



Note: See topline for full question wording.

Source: KFF Tracking Poll on Health Information and Trust (Jan. 13-20, 2026)

KFF

Confidence in long-standing childhood vaccines like MMR and polio is bipartisan, with at least eight in ten across parties saying they are confident these vaccines are safe for children. While at least half across partisans express confidence in the safety of hepatitis B and flu vaccines for children, views are more partisan for these two vaccines that have recently been the subject of changing recommendations from federal health authorities. More than eight in ten (85%) Democrats say they are confident that the hepatitis B vaccine is safe for children, compared with smaller shares of independents (69%) and Republicans (61%). The poll finds a similar pattern for flu vaccines, with about eight in ten Democrats expressing confidence, larger than the share of independents (67%) or Republicans (52%) who say the same.

The partisan divide is widest for the COVID-19 vaccine. About eight in ten Democrats say they are confident in the safety of COVID-19 vaccines for children, nearly three times the share of Republicans who say the same (79% vs. 28%). About four in ten (45%) independents say they are confident in the safety of this vaccine for children. Partisanship has played a significant role in views of the COVID-19 vaccine since it was first available to the U.S. public in 2021.

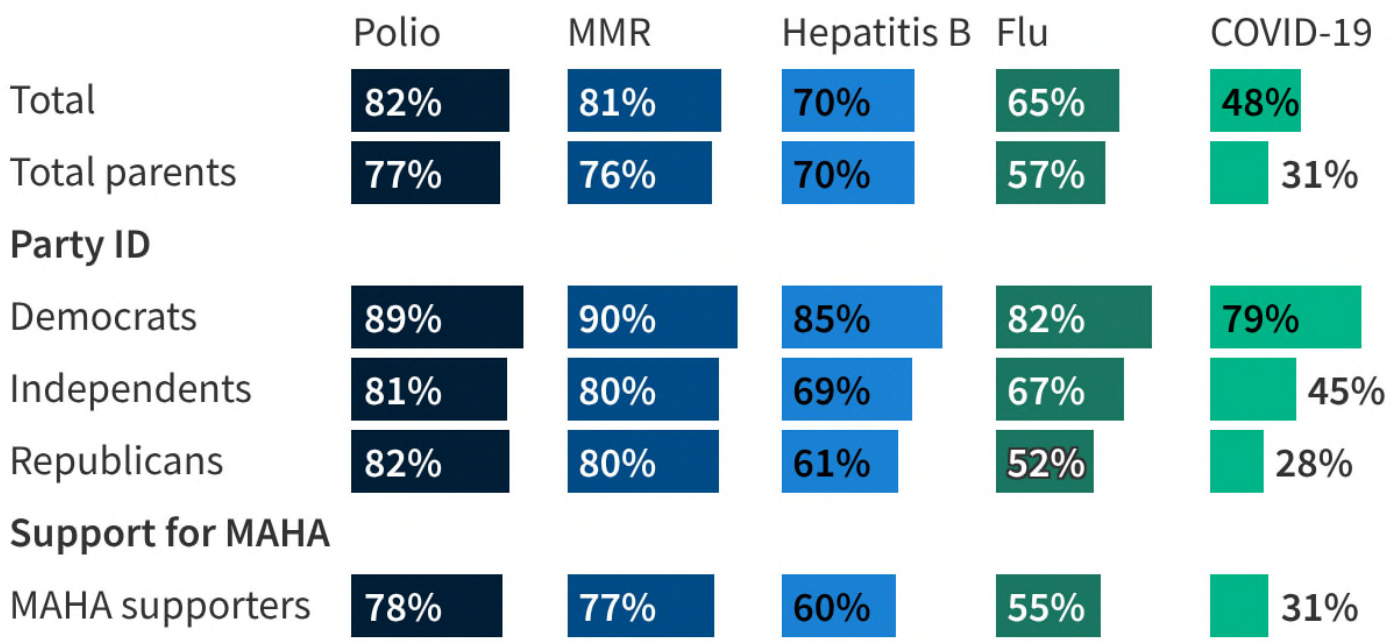
MAHA supporters are among the groups least confident in the safety of the COVID-19 vaccine for children (31%). However, a majority of MAHA supporters are confident in the safety of the polio vaccines (78%) and MMR vaccines (77%), and to a lesser extent heptatitis B (60%) and the flu vaccine (55%).

Like the public overall, larger shares of parents express confidence in the safety of polio (77%) vaccines, MMR (76%), and to a lesser extent hepatitis B (70%) vaccines for children, compared to the flu (57%) or COVID-19 (31%) vaccines. This is consistent with poll findings from a KFF/Washington Post Survey of Parents, conducted last summer, which showed that trust in the flu and COVID-19 vaccines' safety for children was divided along partisan lines, while at least eight in ten parents across partisanship were confident in the safety of polio and MMR vaccines.

Figure 8

Partisans Divide on Confidence in Flu, COVID-19, and Hepatitis B Vaccine Safety for Children; Large Majorities Are Confident in MMR, Polio Vaccine Safety

Percent who say they are **very** or **somewhat confident** that the following vaccines are safe for children:



Note: MMR refers to the measles, mumps, and rubella vaccine. See topline for full question wording.

Source: KFF Tracking Poll on Health Information and Trust (Jan. 13-20, 2026)

KFF

1. With the changes to the vaccine schedule, the measles, mumps, rubella (MMR) vaccine and the polio vaccine remain routinely recommended for all children, while the flu and COVID-19 vaccines have been moved to shared clinical decision-making (SCDM). The hepatitis B vaccine is also no longer being recommended as routine, and instead only for certain high-risk groups and SCDM for others. See the new federally recommended childhood immunization schedule here: https://www.hhs.gov/childhood-immunization-schedule/index.html and KFF analysis of the changes here: https://www.kff.org/other-health/the-new-federal-vaccine-schedule-what-changed/ ↩

Methodology

This *KFF Tracking Poll on Health Information and Trust* was designed and analyzed by public opinion researchers at KFF. The survey was conducted January 13-20, 2026, online and by telephone among a nationally representative sample of 1,426 U.S. adults in English (*n=1,355*) and in Spanish (*n=71*). The sample includes 1,028 adults (*n=60* in Spanish) reached through the SSRS Opinion Panel either online (*n= 1,003*) or over the phone (*n=25*). The SSRS Opinion Panel is a nationally representative probability-based panel where panel members are recruited randomly in one of two ways: (a) Through invitations mailed to respondents randomly sampled from an Address-Based Sample (ABS) provided by Marketing Systems Groups (MSG) through the U.S. Postal Service's Computerized Delivery Sequence (CDS); (b) from a dual-frame random digit dial (RDD) sample provided by MSG. For the online panel component, invitations were sent to panel members by email followed by up to three reminder emails.

Another 398 (*n=11* in Spanish) adults were reached through random digit dial telephone sample of prepaid cell phone numbers obtained through MSG. Phone numbers used for the prepaid cell phone component were randomly generated from a cell phone sampling frame with disproportionate stratification aimed at reaching Hispanic and non-Hispanic Black respondents. Stratification was based on incidence of the race/ethnicity groups within each frame. Among this prepaid cell phone component, 149 were interviewed by phone and 249 were invited to the web survey via short message service (SMS).

Respondents in the prepaid cell phone sample who were interviewed by phone received a $15 incentive via a check received by mail or an electronic gift card incentive. Respondents in the prepaid cell phone sample reached via SMS received a $10 electronic gift card incentive. SSRS Opinion Panel respondents received a $5 electronic gift card incentive (some harder-to-reach groups received a $10 electronic gift card). In order to ensure data quality, cases were removed if they failed two or more quality checks: (1) attention check questions in the online version of the

questionnaire, (2) had over 30% item non-response, or (3) had a length less than one quarter of the mean length by mode. Based on this criterion, 2 cases were removed.

The combined cell phone and panel samples were weighted to match the sample's demographics to the national U.S. adult population using data from the Census Bureau's 2025 Current Population Survey (CPS), September 2023 Volunteering and Civic Life Supplement data from the CPS, and the 2025 KFF Benchmarking Survey with ABS and prepaid cell phone samples. The demographic variables included in weighting for the general population sample are gender, age, education, race/ethnicity, region, civic engagement, frequency of internet use and political party identification. The weights account for differences in the probability of selection for each sample type (prepaid cell phone and panel). This includes adjustment for the sample design and geographic stratification of the cell phone sample, within household probability of selection, and the design of the panel-recruitment procedure.

The margin of sampling error including the design effect for the full sample is plus or minus 3 percentage points. Numbers of respondents and margins of sampling error for key subgroups are shown in the table below. For results based on other subgroups, the margin of sampling error may be higher. Sample sizes and margins of sampling error for other subgroups are available on request. Sampling error is only one of many potential sources of error and there may be other unmeasured error in this or any other public opinion poll. KFF public opinion and survey research is a charter member of the Transparency Initiative of the American Association for Public Opinion Research.

Group	N (unweighted)	M.O.S.E.
Total	1,426	± 3 percentage points

Group	N (unweighted)	M.O.S.E.
Party ID		
Democrats	473	± 6 percentage points
Independents	483	± 6 percentage points
Republicans	367	± 6 percentage points
MAGA Republicans/Republican-leaning independents	352	± 6 percentage points
MAHA supporters	618	± 5 percentage points
Parents or guardians of children under 18 living in their household	436	± 6 percentage points

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

AMERICAN ACADEMY OF PEDIATRICS, *et al.*, *Plaintiffs,* vs. ROBERT F. KENNEDY, JR., in his official capacity as Secretary of the Department of Health and Human Services, *et al.*, *Defendants.*	Case No. 1:25-cv-11916

SECOND SUPPLEMENTAL DECLARATION OF SUZANNE BERMAN, M.D.

I, Suzanne Berman, M.D., declare pursuant to 28 U.S.C. § 1746 that the following is true and correct and within my personal knowledge.

1. I make this declaration based on personal knowledge and if called as a witness, I could and would testify competently to the statements contained herein. I am over the age of 18. I previously submitted a declaration in support of Plaintiffs' Fourth Amended Complaint and Motion for Preliminary Injunction describing the immediate, devastating harms resulting from Defendants' challenged agency actions. This Supplemental Declaration addresses additional and imminent harms that will occur if (1) the January 5, 2026 changes to the CDC Childhood Immunization Schedule ("January 5 Schedule Change") remain in effect and (2) the Advisory Committee on Immunization Practices ("ACIP") is permitted to proceed with its scheduled February 25-27, 2026 meeting ("February ACIP Meeting"), at which alignment of the Vaccines for Children ("VFC") program with the revised schedule is expected to be considered.

2. I co-own Plateau Pediatrics in Crossville, Tennessee. I oversee the business, compliance, and operational aspects of the practice. Approximately 70–75% of my pediatric patients are insured through Medicaid.

3. Based on public statements by ACIP leadership and the January 5 Schedule Change reclassification of several childhood vaccines from "routine" to "shared clinical decision-making" ("SCDM"), there is a substantial likelihood that the February ACIP Meeting will include a vote to "align" the VFC program with the revised schedule. There is a very real risk that vaccines moved to SCDM will be removed entirely from the VFC program. The consequences of such a vote would be immediate. VFC providers may not administer federally supplied vaccine outside the VFC program. If these vaccines are removed from the program, my practice must immediately stop using VFC inventory for those vaccines. That would require us either to cease offering the vaccines to Medicaid-insured children or to purchase private stock at our own expense.

4. Vaccine procurement is not instantaneous. It requires advance ordering, minimum purchase quantities, and upfront payment. Because the February ACIP Meeting is imminent and the agenda remains unpublished, I must divert my time and resources to make purchasing decisions now without knowing whether these vaccines will remain covered under VFC. That uncertainty itself is disruptive to me and my practice. If I reduce orders to limit financial exposure, I risk shortages for children who present for vaccination in the coming weeks. If I purchase additional private inventory in anticipation of removal from VFC, I assume significant financial risk that cannot later be undone.

5. If vaccines are removed from VFC, Medicaid reimbursement mechanisms are unlikely to immediately absorb those costs at market rates. Many vaccines cost my practice $100, $200, or more per dose outside the VFC program. My experience with non-VFC vaccines

demonstrates that Medicaid reimbursement frequently falls below acquisition cost. For example, a vaccine costing $120 to acquire may be reimbursed at $80; a vaccine costing $30 may be reimbursed at $20. When multiplied across a high-volume pediatric population, those losses compound rapidly. If vaccines are removed from VFC following the February ACIP Meeting, each administration to a Medicaid-insured child would generate a direct financial loss. Those losses cannot later be recovered from families due to federal billing restrictions–as a Medicaid-participating provider, I am prohibited from charging Medicaid families more than a nominal co-pay. They also cannot realistically be recouped through retroactive reimbursement adjustments. Once vaccine inventory is purchased or administered at a loss, the financial harm is complete. If I attempted to charge TennCare patients the full cash price of the vaccine to make myself whole, I could be excluded entirely from the Medicaid program. Opting out of TennCare, or risking exclusion from the program, would leave the county my practice serves with no practical medical care for most children. These harms cannot be reversed by a later court ruling.

6. If a provider serves both VFC-eligible and privately insured patients, VFC rules state that the provider must stock both VFC and private inventory for the same vaccine. In rural areas like mine, where access to pediatric care is already limited, many surrounding practices operate on narrow margins and may choose not to stock private inventory of vaccines that cannot also be obtained through VFC. If multiple practices reduce vaccine offerings, families may have no practical local option. My practice cannot absorb unlimited overflow from other providers. In an outbreak situation, I would be forced to ration supply and prioritize existing patients, creating immediate public health risk and operational strain.

7. As a practicing pediatrician responsible for ordering, counseling on, and administering vaccines, many of them through the VFC program, I rely on ACIP's published

GRADE evidence summaries, Evidence to Recommendation ("ETR") analyses, and explanatory MMWR guidance to guide my conversations with patients and their families. When a vaccine recommendation changes, I use these resources to understand how to apply the updated guidance to my patients and how to clearly explain the change to them. In stark contrast, these supporting materials were not published for the January 5 Schedule Change. The scientific assessment and decision memo that were published alongside the January 5 Schedule Change did not follow the ACIP process and cannot substitute for it. They did not include the GRADE methodology or ETR framework, nor was any supporting MMWR published. As a result, I do not have the scientific review framework and underlying evidentiary support and analysis that I ordinarily use to counsel parents, address concerns, and justify my clinical decisions. This lack of information is already affecting my practice. If ACIP votes to remove several vaccines from the VFC program using the scientific assessment and decision memo, the impact will worsen as families seek to understand why certain recommendations have shifted and why vaccine access through the VFC program has changed. This is especially disruptive for my practice where the vast majority of my patients are VFC-eligible.

8. Without GRADE tables, ETR analyses, or an MMWR explaining the rationale and scope of the January 5 Schedule Change, I cannot provide the level of evidence-based explanation that parents in my practice reasonably expect. If ACIP votes in February to remove vaccines from VFC program based on the January 5 revised schedule, the harm will escalate. I will be required to implement changes affecting VFC-eligible children in my practice while still lacking the robust, scientific analysis and written guidance necessary to explain the change and maintain parental confidence. That combination, mandatory programmatic change without the robust evidentiary

foundation and review process that I can reference, creates immediate and serious disruption in the care I provide to the children and their parents in my practice.

9. The February ACIP Meeting is scheduled to occur in two weeks. If the ACIP votes to remove the vaccines that were downgraded as a result of the January 5 schedule changes from the VFC program, I will be forced to make immediate decisions about inventory, reimbursement risk, and whether I can continue offering these vaccines to the majority of my patients. Those consequences occur at the time of the vote and implementation (not months later); as a result, I have to take action now to attempt to prepare my practice for this likely vote. In addition, missed vaccination opportunities cannot be recreated. Financial losses incurred by my practice from unreimbursed vaccine administration cannot be recovered. Once my practice adjusts inventory, participation, or service offerings, those structural changes cannot be quickly reversed. As a practicing pediatrician and practice owner, permitting the February ACIP Meeting to proceed under these circumstances will cause immediate, concrete, and devastating harm to me and my practice and to the stability of vaccine delivery in my community.

I declare under penalty of perjury and laws of the United States, including 28 U.S.C.§ 1746, and the laws of Tennessee, that the foregoing is true and correct.

Executed on February 12, 2026 in Crossville, Tennessee.

/s/ Suzanne Berman

Dr. Suzanne Berman

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

AMERICAN ACADEMY OF PEDIATRICS, *et al.*, *Plaintiffs,* vs. ROBERT F. KENNEDY, JR., in his official capacity as Secretary of the Department of Health and Human Services; *et al.*, *Defendants.*	Case No. 1:25-cv-11916 (BEM)

[PROPOSED] ORDER

This matter comes before the Court on Plaintiffs' Motion for Leave to File Supplemental Declarations in Support of Their Motion for Preliminary Injunction. Having reviewed the Motion, and for good cause shown, it is hereby ORDERED that the Motion is GRANTED.

It is hereby ORDERED that Plaintiffs' Motion for Leave to File Supplemental Declarations in Support of Their Motion for Preliminary Injunction is GRANTED. Plaintiffs are granted leave to file the Supplemental Declarations which are attached as Exhibits A–C to the Motion for Leave to File Supplemental Declarations. The Supplemental Declarations will be deemed filed and served as of the date the Court signs the Order granting the Motion for Leave to File Supplemental Declarations.

SO ORDERED.

Dated: _____

_____
HON. BRIAN E. MURPHY
U.S. DISTRICT JUDGE