

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

AMERICAN ACADEMY OF PEDIATRICS,
AMERICAN COLLEGE OF PHYSICIANS,
INC., AMERICAN PUBLIC HEALTH
ASSOCIATION, INFECTIOUS DISEASES
SOCIETY OF AMERICA, MASSACHUSETTS
PUBLIC HEALTH ASSOCIATION D/B/A
MASSACHUSETTS PUBLIC HEALTH
ALLIANCE, SOCIETY FOR MATERNAL-
FETAL MEDICINE, THE MASSACHUSETTS
CHAPTER OF THE AMERICAN ACADEMY
OF PEDIATRICS, JANE DOE 1, JANE DOE 2,
and JANE DOE 3,

Plaintiffs,

vs.

ROBERT F. KENNEDY, JR., in his official
capacity as Secretary of the Department of Health
and Human Services; UNITED STATES
DEPARTMENT OF HEALTH AND HUMAN
SERVICES; JIM O'NEILL, in his official capacity
as Acting Director of Centers for Disease Control
and Prevention; CENTERS FOR DISEASE
CONTROL AND PREVENTION; and DOES 1–
50, inclusive,

Defendants.

Case No. 1:25-cv-11916-BEM

STATUS REPORT

Pursuant to the Court's Order of June 25, 2026 (ECF 323), the parties submit the following Status Report regarding the six Administrative Records ("ARs") and a proposed briefing schedule for the remaining record disputes.

Plaintiffs' Report

The government has made rolling productions of the ARs in this case, with the first AR produced on March 12, 2026, regarding the May 2025 Secretarial Directive regarding the Covid-

19 vaccine (AR #1). The government made supplemental productions on AR #1, #3 (ACIP reconstitution), and #4 (childhood schedule) on June 8. Since June 8, the parties have met and conferred on multiple occasions by video and email. Those efforts have been exhausted, and disputes remain on whether all ARs are complete as set forth in Plaintiffs' counsel's email to defense counsel on July 8. (See Exhibit A, attached hereto). Accordingly, Plaintiffs intend to file a Motion to Complete Administrative Records by Friday, July 17.

Defendants' Report

As set forth in Defendants' renewed motion to stay, Defendants request the Court postpone briefing about any record disputes until at least the stay motion is resolved. ECF No. 325, at 3. This "brief deferral costs nothing." *Id.* 10. By contrast, it ensures the parties do not waste time and effort now litigating record disputes when the Court might stay the case (in whole or in part) "and may spare the Court from issuing rulings that the First Circuit's forthcoming decision could unsettle." *Id.*

However, if the Court is inclined to set a briefing schedule now, Defendants ask that their opposition to Plaintiffs' forthcoming Motion to Complete the Administrative Records be due on August 14, 2026. If past is prologue, Plaintiffs' Motion may raise dozens of objections to the completeness of the six ARs. It will require significant time for Defendants to rebut each of these objections. Additionally, over the next several weeks, Defendants' litigation counsel have dispositive motion briefing due in multiple cases and multiple oral arguments scheduled around the country. Accordingly, Defendants request until August 14 to respond to Plaintiffs' forthcoming Motion to Complete the Administrative Records.

Respectfully submitted,

By: /s/ James W. Harlow

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Dated: July 10, 2026

Respectfully submitted,

By: /s/ James J. Oh (IL Bar No. 6196413)

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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that this document was filed and served through the ECF system upon the following parties on this 10th day of July 2026:

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

Jay Bhattacharya, MD, PhD, in his official
capacity as Acting Director Centers for
Disease Control and Prevention

c/o Leah Belaire Foley, US Attorney
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/s/ James J. Oh
James J. Oh

EXHIBIT A

James J. Oh

From: Harlow, James W. (CIV) <James.W.Harlow@usdoj.gov>
Sent: Thursday, July 9, 2026 2:50 PM
To: James J. Oh; Belfer, Isaac C.
Cc: Richard H. Hughes IV; Kathleen Barrett; Daniella R. Lee; Elizabeth McEvoy; Robert Wanerman
Subject: RE: Meet and Confer on Supplemental Administrative Records

*** EXTERNAL EMAIL ***

Defendants' position remains that ARs 1-6 all are complete.

For purposes of the JSR due tomorrow, Defendants will reiterate our view that record disputes should be tabled until after the renewed stay motion. But recognizing that the Court may disagree, I'm happy to discuss a proposed briefing schedule for your motion to complete the record. Do you have a desired date for filing the motion?

James

From: James J. Oh <JOh@ebglaw.com>
Sent: Wednesday, July 8, 2026 11:54 PM
To: Harlow, James W. (CIV) <James.W.Harlow@usdoj.gov>; Belfer, Isaac C. <Isaac.C.Belfer@usdoj.gov>
Cc: Richard H. Hughes IV <RHHughes@ebglaw.com>; Kathleen Barrett <KBarrett@ebglaw.com>; Daniella R. Lee <DLee@ebglaw.com>; Elizabeth McEvoy <EMcEvoy@ebglaw.com>; Robert Wanerman <RWanerman@ebglaw.com>
Subject: [EXTERNAL] RE: Meet and Confer on Supplemental Administrative Records

James,

Thank you for your responses today to my July 7 email, which followed-up on our July 6 meet and confer. With regard to your #4, below, we do not agree that a motion to complete the record should be tabled until after the Court resolves the stay motion. With regard to your request for plaintiffs to specifically identify documents that plaintiffs believe are properly part of the Administrative Records in this case but were excluded, please allow me to remind you that I have sent correspondence to you and Isaac detailing with specificity categories of documents that Plaintiffs believe are missing from ARs ## 1, 3, and 4. For your convenience, I identify the correspondence I have previously sent on ARs 1, 3, and 4, as well as address the other ARs:

AR #1 (May 27, 2025 Secretarial Directive): the government produced AR #1 on March 12. I sent a letter to you and Isaac on March 31, 2026, letter listing 32 categories of documents that Plaintiffs contend are missing from AR #1. I re-sent my March 31 letter as an attachment to a May 18, 2026, email. On June 8, Defendants supplemented ARs ## 3-5, but, since my March 31 letter, Defendants have not supplemented AR #1. In your email

below, you confirmed that AR #1, “as certified, is complete.” Plaintiffs have satisfied their meet and confer obligation on AR #1.

AR #2 (September 2025 ACIP vote on the Covid vaccine): Defendants produced this AR on April 13. Since then, Defendants have made no supplemental production and have represented that AR #2, as certified, is complete. Plaintiffs believe that this AR is not complete. Defendants produced in this AR the agenda for the June 25, 2025, ACIP meeting (3349-50). At that meeting, six presentations were made on COVID-19, none of which focused on an informed consent process for the Covid vaccine. Yet, in document 2361-62, titled “Next ACIP Meeting: Anticipated Votes,” the document states that a vote at the September 18-19 ACIP meeting was anticipated on COVID-19 Vaccines as follows: “It is the sense of the committee that the CDC engages in an effort to promote more consistent and comprehensive informed consent processes, and as part of that considers adding language accessible to patients and medical providers to describe at least the six risks and uncertainties included in the WG chair presentation.” There are no documents in this AR that predate September 18 that explain why the ACIP voted on September 19, 2025, to make the Covid vaccine SCDM for everyone 6 months and older. In spite of Defendants’ certification that this AR is complete, please advise by close of business on Monday, July 13, whether Defendants will search for and produce documents that predate September 19, 2025, that explain how and why the ACIP voted on September 19 to make the Covid vaccine SCDM for all, who was involved in that decision, and what evidence, data, and documents were relied upon, or, alternatively, advise whether Defendants stand on their position that this AR is complete.

AR #3 (ACIP Reconstitution): an AR on the ACIP Reconstitution was produced on April 17, 2026. In an email on April 18, 2026, I listed six categories of documents missing from this AR. In response to my meet and confer efforts on this AR, Isaac sent an email on April 22, 2025, in which he stated that Defendants intended to file a motion to stay proceedings. On May 1, the Court denied the motion to stay, and on June 8, Defendants made a supplemental production of documents (which I agree contains emails that indicate how individuals other than James Pagano were first identified as a candidate for the ACIP). You have confirmed that this AR “is complete, including as to emails involving Aaron Siri (or his law firm) and conflicts vetting.” Plaintiffs have satisfied their meet and confer obligation on AR #3.

AR #4 (Childhood Schedule): this AR (less Confidential documents) was produced on May 1. Attached to an email that I sent to you and Isaac on May 21 was a document titled CATEGORIES OF DOCUMENTS MISSING FROM AR #4 (CHILDHOOD IMMUNIZATION SCHEDULE) that listed 10 categories of documents that Plaintiffs contended were missing from this AR. Defendants made a supplemental production to this AR on June 8,

2026. You have stated that Defendants' "position remains that, as certified, the records are complete." Plaintiffs have satisfied their meet and confer obligation on AR #4.

AR #5 (December 2025 ACIP vote on Hep B): Defendants made an initial production of this AR on May 5, 2026, and a supplemental production on June 8, 2026. At the June, 2025 ACIP meeting, the Hepatitis B vaccine was not on the agenda. The Hep B vaccine was, however, on the agenda at the ACIP meeting on both September 18 and 19. There are no documents in this AR that predate the September 18-19 ACIP meeting that explain how and why the Hep B vaccine wound up on the agenda for the September 18-19 ACIP meeting, nor any documents dated between the September 18-19 ACIP meeting and the December ACIP meeting that explain why the ACIP voted at the December 4-5 meeting to eliminate the recommendation that newborns receive the Hep B vaccine. Although Defendants just served on July 2 a revised Certification of Supplemental Administrative Record representing that this AR is "complete," please advise by COB on Monday, July 13, whether Defendants will search for and produce the documents specified in this paragraph or whether they stand on their position that this AR is complete.

AR #6 (ACIP June 2025 Thimerosal vote): Defendants produced this AR on May 13, 2026, and have not made a supplemental production. The topic of thimerosal in vaccines was not on the agenda for the April 15-16, 2025, ACIP meeting, but then appears on the agenda for the June 25-26 meeting of the newly-constituted ACIP. There are no documents in this AR that explain how and why thimerosal was on the agenda for the June 25-26 meeting, why there was a vote, or why Lyn Redwood was designated to make a presentation on thimerosal on June 26, 2025, at the ACIP meeting. Please advise by COB on Monday, July 13, whether Defendants will search for and produce the documents specified in this paragraph or whether they stand on their representation that this AR is complete.

If you would like to discuss, please advise.

Thank you.

Jimmy

James J. Oh

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