IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

AMERICAN ACADEMY OF PEDIATRICS, et al.,	)	
Plaintiffs-Appellees,	)	
v.	)	No. 26-1503
ROBERT F. KENNEDY JR., et al.	)	
Defendants-Appellants.	)	

MOTION FOR LEAVE TO FILE BRIEF AS *AMICI CURIAE* IN SUPPORT OF DEFENDANTS-APPELLANTS

Amici Curiae America's Future and the Center for Medical Freedom of the Conservative Legal Defense and Education Fund hereby move for leave to file a brief *amicus curiae* in support of the Defendants-Appellants and Reversal. It is hereby stated as follows:

1. *Amici* America's Future and Conservative Legal Defense and Education Fund are nonprofit organizations, exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code. Each entity is dedicated, *inter alia*, to the correct construction, interpretation, and application of law. Their interest also includes the health of our nation's citizens, separation of powers, and related issues.

2. *Amici curiae* have experience with respect to the issues presented by this case and have a significant interest in the outcome of this case and believe that this brief will be of assistance to the Court in consideration of the issues.

3. The attached *amicus* brief is within the limit allowed by FRAP, Rule 29(a)(5).

4. Counsel for Plaintiffs-Appellees have consented to the filing of this *amicus* brief. As of the time of this filing, counsel for Defendants-Appellants have not responded to *amici*'s request for consent.

WHEREFORE, we respectfully request that this Court grant leave to file an *amicus curiae* brief in support of Defendants-Appellants and Reversal.

Respectfully submitted,

/s/ William J. Olson

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June 24, 2026

CERTIFICATE OF COMPLIANCE WITH RULE 27(d)(2)(A)

IT IS HEREBY CERTIFIED:

1. That the foregoing Motion for Leave to Brief as *Amici Curiae* complies with the type-volume limitation of Rule 27(d)(2)(A), Federal Rules of Appellate Procedure, because this motion contains 213 words, excluding the parts of the brief exempted by Rule 32(f).

2. This motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using WordPerfect version 21.0.0.194 in 14-point Times New Roman.

/s/ William J. Olson
William J. Olson
Attorney for *Amici Curiae*
America's Future, *et al.*

Dated: June 24, 2026

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing Motion for Leave to Brief as *Amici Curiae*, was made, this 24th day of June 2026, by the Court's Case Management/Electronic Case Files system upon the attorneys for the parties.

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No. 26-1503

In the United States Court of Appeals for the First Circuit

AMERICAN ACADEMY OF PEDIATRICS, et al.,
Plaintiffs-Appellees,

v.

ROBERT F. KENNEDY, JR., et al.,
Defendants-Appellants.

On Appeal from the United States District Court for the District of Massachusetts

Brief *Amicus Curiae* of America's Future, and the Center for Medical Freedom of the Conservative Legal Defense and Education Fund in Support of Defendants-Appellants and Reversal

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1, *amici* do not have parent corporations, they are not publicly traded companies, and no publicly held corporation owns 10% or more of their stocks.

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INTEREST OF *AMICI CURIAE*[1]

The *amici* herein, America's Future and Conservative Legal Defense and Education Fund (and its Center for Medical Freedom), are nonprofit organizations exempt from federal income taxation under Internal Revenue Code section 501(c)(3), whose activities include filing *amicus* briefs in important constitutional and public policy cases including several *amicus* briefs relating to vaccine policy referenced *infra*.

STATEMENT OF THE CASE

In recent years, vaccine recommendations have generally been made by the Centers for Disease Control and Prevention ("CDC") after consideration by the Advisory Committee on Immunization Practices ("ACIP"). On June 9, 2025, Secretary Kennedy terminated all 17 Biden-era members of ACIP, and beginning on June 11, 2025, appointed 15 new members. In September 2025, ACIP voted to change the recommendation on COVID-19 "vaccinations" for healthy children and pregnant women from "routine" to "Shared Clinical Decision Making" or "SCDM" status, meaning that the "vaccine" would not be recommended as general practice for those populations.

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[1] No party's counsel authored the brief in whole or in part. No party or party's counsel contributed money that was intended to fund preparing or submitting the brief. No person other than these *amici curiae*, their members, or their counsel contributed money that was intended to fund preparing or submitting this brief.

The American Academy of Pediatrics, whose members make enormous profits from administrating mandated vaccines, filed suit against Secretary Kennedy and the Department of Health and Human Services ("HHS"), ostensibly under the Administrative Procedure Act ("APA"), challenging any changes to vaccine mandates, and the membership of the ACIP. The government responded with a motion to dismiss on both standing and merits grounds, which the district court denied in January. *See Am. Acad. of Pediatrics v. Kennedy*, 814 F. Supp. 3d 150 (D. Mass. Jan. 6, 2026) ("*AAP I*").

In March 2026, the district court granted in part plaintiffs' motion for preliminary relief. To invoke authority under the APA, the district court first interpreted the change to the COVID-19 "vaccine" recommendations as being a "final agency action." It found that, since federal law requires private insurers to pay for all vaccinations recommended by the CDC, a CDC de-listing would have financial consequences for plaintiffs sufficient to confer standing. *Am. Acad. of Pediatrics v. Kennedy*, Memorandum Order on Plaintiffs' Motion for Preliminary Injunction at 12-14 (D. Mass. Mar. 16, 2026) ("*AAP II*").

On the merits, the district court asserted that any changes in the COVID-19 mandates were "contrary to law," because it believed "[t]he CDC must, at least, consider ACIP's recommendations before adopting an immunization schedule."

Id. at 15. The court further found that the actions were arbitrary and capricious, because the CDC's rationale for the change to the COVID-19 "vaccine" recommendation was "without sufficient explanation." *Id.* at 21.

The court also found that plaintiffs had standing to challenge Secretary Kennedy's reconstitution of ACIP. It determined that the Federal Advisory Committee Act ("FACA") requires that "the membership of the [ACIP] ... be **fairly balanced** in terms of the points of view represented and the functions to be performed." *Id.* at 26 (emphasis added). It then accepted plaintiffs' contention that "the majority [of the current ACIP] shares Secretary Kennedy's anti-vaccine views," and found the ACIP not to be "fairly balanced." *Id.* at 28-29.

Declining to use the word "enjoin" for reasons that are unclear, the district court ordered that CDC Director O'Neill's January 2026 memo revising the COVID-19 vaccine recommendations should be "stayed." The court also determined to "stay" "thirteen of the fifteen appointments and all votes taken by the reconstituted ACIP." Appellant Br. at 12. The Court ruled that vaccine changes could not be put into effect without the recommendation of the ACIP, and then ruled that 13 of the ACIP members appointed by Kennedy could not meet, effectively freezing in place all Biden Administration recommendations. *See id*. at 13.

On appeal, the government argues that the Secretary's appointment of ACIP panel members was not an agency action at all and is a constitutionally committed executive branch function that is not judicially reviewable under the APA.

Judge Brian Murphy

District Judge Murphy's extraordinary "stay" of Trump Administration executive branch appointments to ACIP operates to preserve the prior vaccine decisions of the Biden Administration, while preventing changes by the Trump Administration. This repeats a pattern established by Judge Murphy where, without any statutory authority, he issued an extraordinary injunction of a Trump Administration immigration policy which operated to preserve the immigration policies of the Biden Administration.[2] After his preliminary injunction was stayed by the U.S. Supreme Court, in a proceeding in which these *amici* filed an amicus brief,[3] Judge Murphy appeared to disregard the Supreme Court's stay of his injunction, thereby requiring the High Court to issue a rare "clarifying" ruling.

> On June 23, we stayed the April 18 preliminary injunction pending disposition of any appeal and petition for writ of certiorari. Later that day, however, the District Court issued a minute order stating that the

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[2] Judge Murphy was appointed by President Biden and confirmed by the U.S. Senate on December 2, 2024, after a cloture vote of 50 to 49, during the lame duck period at the end of the Biden Administration.

[3] *See* Brief *Amicus Curiae* of America's Future, et al. (June 5, 2025) in *DHS v. D.V.D.*, U.S. Supreme Court, No. 24A1153.

> May 21 remedial order "remain[ed] in full force and effect," "notwithstanding" our stay of the preliminary injunction.... The only authority it cited was the dissent from the stay order. The Government has moved for "an order clarifying" our stay.... The motion for clarification is granted. Our June 23 order stayed the April 18 preliminary injunction in full. The May 21 remedial order cannot now be used to enforce an injunction that our stay rendered unenforceable.... **[A] claim that a lower court has failed to give effect to an order of this Court is properly addressed here**.... "Assuming as we do" that the District Court will now conform its order to our previous stay and cease enforcing the April 18 injunction through the May 21 remedial order, we have no occasion to reach the Government's other requests for relief.... If the Government wishes to seek additional relief in aid of the execution of our mandate, it may do so through mandamus. [*Dep't of Homeland Sec. v. D.V.D.*, 145 S. Ct. 2627, 2629-30 (July 3, 2025) (emphasis added).]

ARGUMENT

I. THE DISTRICT COURT USURPED GENERAL SUPERVISORY AUTHORITY OVER ACIP APPOINTMENTS.

A. The Secretary Has Authority to Remove Biden-era Members of the ACIP.

The Advisory Committee on Immunization Practices is an advisory committee appointed by the Secretary of HHS to make public health recommendations on the safety and efficacy of vaccines. The district court accepted plaintiffs' characterization that "this entire reconstitution was a pretextual effort to replace the prior ACIP members with individuals whose views aligned with Secretary Kennedy's 'anti-vaccine agenda' and circumvented established, rigorous application and vetting procedures." *AAP II* at 8, n.17.

However, the President's power to remove those serving in the executive branch of government should not be viewed a radical concept, especially after May 22, 2025 — when the U.S. Supreme Court reaffirmed the President's authority to fire and replace executive branch officials in *Trump v. Wilcox*, 145 S. Ct. 1415, 1416 (2025) (*per curiam*) ("Because the Constitution vests the executive power in the President ... he may remove without cause executive officers who exercise that power on his behalf....").

B. Filling Vacancies and FACA's "Fair Balance Requirement."

Although the district court did not actually reinstate the Biden Administration's appointees, it made it near impossible for the Trump Administration to appoint replacements. The district court assumed the authority to review each of 13 Kennedy appointments individually to evaluate which appointees were qualified and which were not. *See AAP II* at 29-30. The court reported: "[a]t least six ACIP members ... **appear** to lack *any* expertise or professional qualifications *related to vaccines or immunization*." *Id.* at 29-30 (italics original, bold added). "An additional three ... **appear** to lack the qualifications and experience to constitute *expertise in vaccines and immunization*.... A committee of non-experts cannot be said to embody '**fairly**

balanced ... points of view' within the relevant scientific community." *Id.* at 30-31 (italics original, bold added).

It was solely in the two words "fair" and "balanced" found in FACA that the court asserted its authority to review every Trump Administration appointee. FACA does "require[] [an agency] to maintain a **fair balance** on its committees." *AAP II* at 26 (emphasis added). However, FACA does not create a private right of action for a challenge to be brought based on a claim this standard was violated. As the government argues, any enforcement of this standard is by congressional oversight, congressional appropriations, and the political process. *See* Appellant Br. at 19. Moreover, the statute does not specify precisely or even generally which interests must be balanced. Consider whether the Biden-era appointees were balanced according to other criteria.

1. Does the "fair balance" standard require that one-fifth of ACIP members oppose all vaccines, reflecting the view of the American People, as well as many scientists and other physicians?

> Reference: A July 2024 Gallup Poll found that **20 percent** of Americans believed that **vaccines are more dangerous than the diseases they prevent** (up from 11 percent in 2019 and 6 percent in 2001).[4]

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[4] "Far Fewer in U.S. Regard Childhood Vaccinations as Important," *Gallup* (Aug. 7, 2024).

2. Does the "fair balance" standard require that one-third of ACIP members oppose those "vaccines" which are actually "experimental gene modification," reflecting the view of the American People, as well as many scientists and other physicians? (*See* Section II.A, *infra*.)

> Reference: An April 2025 Kaiser Family Foundation (KFF) poll found that **only 32 percent** of U.S. adults viewed mRNA vaccines as "generally safe."[5]

From its opinion, it is obvious that the district court believes that "fair balance" requires that most ACIP members must support keeping the COVID-19 "vaccine" on the "routine" vaccination list as under the Biden Administration, rather than sharing Secretary Kennedy's evidence-based vaccine views. *See AAP II* at 28. The district court identified the only factor it viewed as important when it rejected the Trump-era ACIP members because "they do not represent points of view within the relevant expert community" — *i.e.*, they are **not sufficiently pro-vaccine**. *Id*. at 31. Thus, the district court simplified qualifications to serving on ACIP to a single issue: (i) pro-vaccine; or (ii) anti-vaccine. Actual science is a bit more complicated.

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[5] Alex Montero, Grace Sparks, Julian Montalvo III, Ashley Kirzinger, and Liz Hamel, "KFF Tracking Poll on Health Information and Trust: Vaccine Safety and Trust," *KFF* (May 6, 2025).

Based on ACIP's record discussed in Section II, *infra*, there is no indication whatsoever that during the Biden Administration there was ever a single ACIP member who was not a committed vaccine enthusiast, until Secretary Kennedy's appointments. Thus, by the district court's sole metric, all the Biden Administration appointees were well qualified.

C. The District Court Does Not Speak for Science.

It should be noted that the district court also invoked high-sounding principles. "Science, like law, is far from a perfect instrument of knowledge." "Nevertheless, science is still the best we have." *AAP II* at 1 (internal quotations omitted). The court did not explain how or why its understanding of science was superior to that of the Secretary of Health and Human Services or how "science" gave a federal court jurisdiction over the membership of this federal advisory body.

In its ode to science, the court sounded as if it was channeling Fauci's view that he "represents science."[6] (How Fauci performed his duties needs to be reconsidered in view of the recent declassification of documents discussed in section II, D, *infra*.) Still more lacking from his opinion was support for the

[6] In November 2021, while the government's response to COVID-19 was still causing significant disruption, Fauci infamously claimed that any opposition to his policies was "criticizing science, because I represent science."

constitutional authority of Article III federal judges to second-guess executive branch appointments, substituting a single district court's "scientific" judgments for those of the cabinet member appointed by a President who was chosen by the American people to fill those positions.

Nonetheless, the court determined that "the newly appointed members [of ACIP] appear distinctly unqualified" and "do not represent points of view within the relevant expert community." *Id*. at 31. The court relied on "the constellation of the evidence" — using a phrase reminiscent of "emanations" and "penumbras" — to claim authority to determine that "the new members lack relevant experience" and thus "the reconstitution of ACIP was arbitrary and capricious." *Id*. at 34.

There was no basis in FACA, the APA, or any other provision of law which empowered the district court to have barred from service ACIP members appointed by the Trump Administration.

II. THE DISTRICT COURT IMPLICITLY APPROVED THE ACIP'S ABYSMAL RECORD OF BLIND PROMOTION OF VACCINES.

The district court described the Biden-era ACIP as "non-partisan, science-backed" and praised "the importance and value of having such **independent experts** involved in setting our national public health agenda." *AAP II* at 2 (emphasis added). The district court described ACIP as a critical part of "an

apparatus that marries the **rigors of science** with the execution and **force of the United States** government." *Id*. at 1 (emphasis added). As James Madison explained in a speech at the Virginia ratifying convention: "[t]he essence of Government is power [force]; and power lodged as it must be, in human hands, will ever be liable to abuse." (Dec. 2, 1829). The district court appeared to ignore Madison's caution about susceptibility to abuse. It assumed that being pro-vaccine is being pro-science.

Normally, a judge would be cautious about issuing such a blanket approval of all of the actions of the ACIP as it operated under the Biden Administration, but there was no such caution shown here. The district court made no independent inquiry into the operation of Biden-era ACIP and gave no reason to conclude that the Biden-era ACIP was not abusing or neglecting its power. However, there is every reason to believe that the court concluded ACIP was serving science solely based on an unexamined and unproven assumption, that routinely approving — and mandating — all vaccines was the role of ACIP.

A. ACIP Expressed No Problem with Expanding the Definition of the Word "Vaccine" to Include "Experimental Gene Therapy."

For a century, "vaccines" have involved the administration of a dead or attenuated pathogen to trigger the body to develop an immunity. Until Merriam-Webster's dictionary definition of the word "vaccine" was changed in May, 2021

to include the experimental gene therapy used in all three COVID-19 shots, they would never have been considered vaccines. This change in definition was believed to be necessary to "sell" the COVID-19 shots to the public. Stefan Oelrich, President of Pharmaceuticals at Bayer, explained this rhetorical device at the World Health Summit:

> "ULTIMATELY, the mRNA vaccines are an example for that sort of gene therapy. I always like to say, if we had surveyed, two years ago, the public, 'would you be willing to take gene or cell therapy and inject it into your body?' we probably would have had a 95 per cent refusal rate. I think this pandemic has opened many people's eyes to innovation in a way that was maybe not possible before." [Paul Craig Roberts, "Big Pharma Executive Admits the Covid 'vaccine' is Gene Therapy," *Institute for Political Economy* (Nov. 21, 2021).]

For this reason, these *amici* refer to the COVID-19 "shot," or the COVID "vaccine" (using quotation marks).

B. ACIP's Role in Promoting COVID-19 Vaccines.

ACIP's meetings relating to approval of COVID-19 vaccines began in mid-2020. The day after the FDA issued the Emergency Use Authorization ("EUA") for **Pfizer-BioNTech** COVID-19 vaccine (for ages ≥16), on December 12, 2020, ACIP voted 11–0 to issue an interim recommendation for its use. Immediately after the FDA issued its EUA for the **Moderna** COVID-19 vaccine (ages ≥18), ACIP recommended its use on December 19-20, 2020. ACIP followed FDA approval with recommendations for the **Janssen (J&J)** vaccine beginning in

February 2021. Although there were some recusals due to conflicts of interest, these *amici* located **no record of any votes by any members of ACIP against** recommending COVID-19 vaccines from 2020 through 2025. Thus, within a day or two of FDA approval of each emergency use authorization, the ACIP members appear to have believed that they had all the information they needed to recommend that the COVID-19 "vaccines" be approved by the CDC Director. These reflexive actions by ACIP more resemble its function as a "rubber stamp" for the FDA than the thoughtful deliberations of an advisory committee designed to advise the CDC Director. Certainly automatic approvals did not inspire the confidence of the American people when at least some learned that there had been no dissenting voices or votes whatsoever.

Once ACIP recommendations are approved by the CDC Director, they became official CDC policy, and are published in the CDC's *Morbidity and Mortality Weekly Report*. At that point, by operation of pre-existing laws or policies, the recommendations frequently become mandatory, such as for government elementary schools.[7] Additionally, other governmental (or non-governmental) agencies can choose to mandate those recommendations. With

[7] *See, e.g.*, "ACIP Recommendations," Centers for Disease Control (Aug. 8, 2025); A. Baker White, "States Seek Policy Guidance Beyond ACIP Vaccine Recommendations," Association of State and Territorial Health Officials (Oct. 24, 2025).

respect to the COVID-19 shot, the Office of Occupational Safety and Health ("OSHA") of the U.S. Department of Labor issued an "interim final rule" which mandated COVID-19 shots for millions of American workers. The U.S. Supreme Court was required to strike down this mandate as exceeding the authority of OSHA. *See NFIB v. Department of Labor*, 595 U.S. 109 (2022).[8] The Center for Medicare and Medicaid Services mandated the vaccine for certain healthcare workers, which mandate the Supreme Court allowed to stay in effect. *See Biden v. Missouri*, 595 U.S. 87 (2022).[9]

Had there been any meaningful dialogue, or expressions of dissent within ACIP to the COVID-19 shot mandates, untold persons might have been protected from the mandate for "experimental gene therapy" masquerading as a vaccine (*see* Section II.A, *supra*), which government data demonstrated to be unsafe (see Section II.C, *infra*).

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[8] *See* Center for Medical Freedom, et al. Brief *Amicus Curiae* in Support of Applicants (Dec. 30, 2021) filed in *Nat'l Fed'n of Indep. Bus. (NFIB) v. DOL, OSHA*, U.S. Supreme Court, Nos. 21A244 and 21A247.

[9] *See* Brief *Amicus Curiae* of America's Future, et al. (June 21, 2022) filed in *Missouri v. Biden*, U.S. Supreme Court, No. 21-1463.

C. Government Data Demonstrate the COVID Shots Were And Are Not Safe.

The federal government created the Vaccine Adverse Event Reporting System ("VAERS") in 1990, as an outgrowth of the National Childhood Vaccine Injury Act of 1986. It was designed, and currently operates, to track "adverse events" of vaccines. Currently, the VAERS Analysis website[10] shows **over 39,000 reported deaths associated with the COVID-19 shots** — over three times more than all other vaccines combined for the last 35 years. While certainly not every death reported was caused by the COVID-19 shots, this number of individual reports is shocking. Had any significant number of deaths been reported for any other vaccine, most believe it would have been pulled off the market immediately. The Biden-era ACIP apparently never found these many thousands of deaths sufficiently concerning to prevent them from continuing to issue a long string of COVID-19 shot approvals and mandates.

D. Office of the Director of National Intelligence Declassified Records Demonstrating the Government Concealed the Origins of the COVID-19 Virus.

Recent declassifications of classified federal records by the Office of the Director of National Intelligence ("ODNI") add many reasons to question the

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[10] "VAERS Summary for COVID-19 Vaccines through 5/29/2026," *VAERS Analysis* (June 5, 2026)

district court's assumption that the ACIP, the CDC, and the health establishment supervised by the highest paid federal employee, Fauci, were operating in pursuit of science in adopting COVID-19 shot policies. To develop a vaccine, and an understanding of how it spread, it likely would have been important to know the origin of the COVID-19 virus, but Fauci worked hard to cover up its origin story, and his role in it. In reality, the so-called "scientists" and "experts" who served at the end of the Biden Administration (and likely long before that) who wielded the "force of the ... government" betrayed both science and the people they purport to serve. The common denominator behind the ACIP's actions appears to be less their deep and abiding protection of the public health, and more a commitment to serve the pharmaceutical industry which has become fabulously wealthy from ACIP's support of all things vaccine.

On June 18, 2026, outgoing DNI Tulsi Gabbard released nearly 400 pages of previously classified documents, internal emails, intelligence assessments, scientific communications, and related materials concerning the origins of SARS-CoV-2, the virus behind the COVID-19 pandemic.[11] The fact that these documents were hidden from the American People through the use of the classification power provides the first red flag. These records provide

[11] ODNI, "Fauci Funded Wuhan Lab Research That Sparked COVID" (June 18, 2026).

unprecedented insight into the early pandemic response, U.S.-funded research abroad, and the institutional dynamics that shaped official assessments. These records demonstrate that there was little candor with the American People, and complete resistance to alternative, often beneficial, therapies offered by some medical professionals.

A May 2020 Lawrence Livermore National Laboratory assessment — previously undisclosed — concluded that all conditions necessary for an accidental release of a laboratory-modified coronavirus were present at the Wuhan Institute of Virology ("WIV") in the months leading up to the outbreak. *See* June 18, 2026 release, Part 1, pp. 1-5. The report emphasized biosafety shortcomings at the facility, ongoing research on bat coronaviruses (including work that could enhance transmissibility or pathogenicity). Analysts noted that these factors created an environment ripe for a potential spillover event involving a modified or studied virus.

The declassified records detail substantial U.S. government funding — primarily through the National Institute of Allergy and Infectious Diseases ("NIAID") headed by Fauci — for research on bat coronaviruses at the WIV. Fauci and NIAID personnel recommended specific experts for consultations. *See id.* page 24. It appears everyone being funded by Fauci suspended independent

thought and adopted the "party line," which would risk an interruption of a vital revenue stream for their research, their hospitals, and their medical schools. Rather than encouraging divergent thinking, uniformity and conformity were demanded of everyone inside and outside of government. Such forced conformity led not to public confidence, but to public skepticism, and to public cynicism.

E. Many Vaccines on the Schedule Approved by Prior ACIP Members Have Not Been Tested against a True Placebo.

A foundational principle of evidence-based medicine is the randomized, double-blind, placebo-controlled trial using an **inert placebo** (*e.g.*, saline). This approach isolates the adverse effects of the intervention from other causes. Yet it is unclear if the vaccines on the current CDC childhood and adult schedules have undergone inert placebo testing for their final formulations.

Although the 1954 Salk polio vaccine field trial may have used a saline placebo,[12] in recent years, and particularly once vaccines are licensed and recommended, subsequent versions, combinations, or updates are typically tested against other vaccines (active controls) or observed without a true placebo.[13]

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[12] "Evaluation of the 1954 field trial of poliomyelitis vaccine," https://hdl.handle.net/2027/umn.31951p00220193g.

[13] Johns Hopkins University, "*Vaccine Safety Trials and Placebos: An Explainer*," https://publichealth.jhu.edu/ivac/vaccine-safety-trials-and-placebos-an-explainer.

Supposedly, ethical concerns drive this practice: once a vaccine is deemed effective, withholding it from control groups in new trials is viewed as unacceptable. As a result, long-term safety profiles rely heavily on post-licensure surveillance systems like VAERS (*see* Section II.C., *infra*) rather than gold-standard pre-licensure placebo-controlled data. However, the government has ignored its own VAERS reporting.

For instance, many combination vaccines (*e.g.*, DTaP, MMR, or newer formulations) were approved based on immunogenicity (antibody response) comparisons to existing vaccines, not inert placebos. Annual influenza vaccines and updated COVID-19 formulations similarly bypass large-scale inert placebo trials due to their iterative nature. Critics, including some members of the reconstituted ACIP, argue this creates gaps in understanding baseline adverse event rates and cumulative effects of the full schedule. Without true placebo controls, it becomes difficult to definitively attribute observed health outcomes to vaccination versus other factors. This evidentiary shortfall underscores the need for the ACIP to include — not exclude — vaccine skeptics.

F. Prior ACIP Members Have Well Served Big Pharma with the Massive Increases in the Number of Required Vaccinations over the Past 30 Years.

The CDC's recommended childhood immunization schedule has undergone extraordinary expansion over the past three decades. In the mid-1990s, children typically received around **10-12 doses** protecting against 7-8 diseases by age 6 (including DTP, polio, MMR, Hib, and hepatitis B). Today, the schedule calls for over **70 doses** by age 18 when accounting for all recommended vaccines, boosters, and multi-valent combinations — covering more than a dozen diseases. *See* "Child and Adolescent Immunization Schedule by Age (Addendum updated July 2, 2025)," CDC (July 2, 2025).

This growth stems from the introduction of new vaccines such as varicella (1995), pneumococcal conjugates (2000 onward), hepatitis A (2006), rotavirus (2006), HPV (2006), annual influenza, meningococcal vaccines, and others, alongside expanded booster recommendations and catch-up schedules.

The scale of this expansion has resulted in massive financial gains for vaccine manufacturers, who largely enjoy wholesale immunity from suit.[14] The global vaccine market, heavily influenced by CDC recommendations that drive near-universal uptake in insured populations, has grown into a multi-billion-dollar

[14] *See* "Vaccine Injury Compensation Programs," College of Physicians of Philadelphia.

industry.[15] This financial incentive has raised concerns about the danger of potential corrupting influence on schedule expansions and the adequacy of safety evaluations for the cumulative regimen.

CONCLUSION

Presidential elections are held so that the People can have a voice in how they are governed. Secretary Kennedy is seeking to carry out the policies of President Trump, who was elected 18 months ago. Bureaucrats and even federal judges have been known to desire to preserve the policies of the prior administration, seeking to run out the clock on the new President who only serves for four years, after all. If stays of the sort used here are allowed to continue, the entire system breaks down, and the confidence of the American People in their national government erodes.

For the foregoing reasons, this Court should reverse the district court's order.

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[15] *See* study @Waboche, "RFK Jr on child vaccines," *YouTube* (July 23, 2025); *see also*, "FACA: Conflicts of Interest and Vaccine Development — Preserving the Integrity of the Process," U.S. House of Representatives Committee on Government Reform (June 15, 2000); and Majority Staff Report, "Conflicts of Interest in Vaccine Policy Making," U.S. House of Representatives Committee on Government Reform (Aug. 21, 2000).

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH RULE 32(a)

IT IS HEREBY CERTIFIED:

1. That the foregoing Brief *Amicus Curiae* of America's Future, et al., in Support of Defendants-Appellants and Reversal contains 4,515 words, excluding the parts of the brief exempted by Rule 32(f).

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using WordPerfect version 21.0.0.194 in 14-point Times New Roman.

/s/ *William J. Olson*
William J. Olson
Attorney for *Amici Curiae*

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing Brief *Amicus Curiae* of America's Future, et al., in Support of Defendants-Appellants and Reversal, was made, this 24th day of June, 2026, by the Court's Case Management/Electronic Case Files system upon the attorneys for the parties.

/s/ *William J. Olson*
William J. Olson
Attorney for *Amici Curiae*