

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

AMERICAN ACADEMY OF PEDIATRICS,
et al.,

Plaintiffs,

v.

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' OPPOSITION TO DEFENDANTS' RENEWED MOTION TO STAY
PROCEEDINGS PENDING APPEAL AND TO POSTPONE RECORD DISPUTE**

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I. INTRODUCTION

A stay of proceedings in this Court at this point in time makes little sense if an “orderly and prompt resolution of this case” is really Defendants’ goal. (*See* ECF 325 at p. 2). Their appeal to the First Circuit is only of this Court’s stay of the Secretary’s ACIP appointments, both sides already have filed their principal briefs in the First Circuit, Defendants’ reply brief is due in the First Circuit on July 27, and, in granting Defendants’ motion to expedite the appeal, the First Circuit stated that the appeal “will” be decided expeditiously. Thus, a decision on the appeal appears likely in August. In the meantime, after staggered and much-delayed initial productions of the six administrative records (“ARs”) in this case, and after the parties exhausted a long, drawn-out meet and confer process on the completeness of the six ARs, Plaintiffs filed a Motion to Complete the Administrative Records on July 17. (*See* ECF 328). Defendants’ response to that motion is due August 14, and a hearing on the motion to complete the records is scheduled for August 18. By that time, the appeal may have been decided. Under these circumstances, in the interest of an “orderly and prompt resolution of this case,” a stay now makes no sense. Continuing with the hearing on August 18 on Plaintiffs’ Motion to Complete the Administrative Records does.

Based on the timing of this renewed motion to stay (and the timing of Defendants’ first motion to stay), this motion is a transparent attempt to delay producing a complete administrative record on the Plaintiffs’ claim that Defendant, Robert F. Kennedy, Jr. (the “Secretary”), violated the Federal Advisory Committee Act (“FACA”) and the Administrative Procedure Act (“APA”) when he appointed unqualified individuals to the Advisory Committee on Immunization Practices (“ACIP”). Like the first time they tried to stay these proceedings, Defendants have failed to show good cause for a stay. Their motion should be denied.

II. BACKGROUND FACTS

A. First Motion to Stay Proceedings

The sequence leading to Defendants’ renewed motion to stay proceedings in this Court mirrors the sequence leading to their first motion to stay proceedings. Defendants filed both motions to stay immediately after Plaintiffs informed them that they intended to file a motion to complete the administrative records.

On April 17, 2026, Defendants served a “Certification of Administrative Record” that stated that the “attached partial administrative record is ... a true and correct copy of the non-privileged and non-confidential information that was directly or indirectly considered in connection with HHS’s reconstitution of the” ACIP. (AR #3).¹ That Certification stated in a footnote that “Index entries marked with an asterisk (*) indicate that some or all of the documents have been withheld as confidential.”² In an email sent the next day, the Plaintiffs questioned the Confidential designations and also identified categories of documents missing from the administrative records.³ Plaintiffs asked to meet and confer, and if Defendants refused, asked whether they would agree that the email “satisfies Plaintiffs’ obligations under the local rules to meet and confer before filing a motion.”⁴ Defendants responded on April 21 to state that they were “working diligently ... and [would] send you a substantive response as soon as possible.”⁵ Defendants’ substantive response, sent on April 22, was to state that: “tomorrow, 4/23, Defendants intend to file a motion seeking to stay proceedings until the later of May 15, 2026 (the deadline to appeal the Court’s preliminary relief order) or the resolution of any appeal taken by Defendants

¹ See Declaration of James Oh (“Oh Decl.”) at Exhibit A, Certification of Administrative Record (April 17, 2026).

² See *id.*

³ See Oh Decl. at Ex. B, Plaintiffs’ counsel’s April 18, 2026, email correspondence.

⁴ See *id.*

⁵ See Oh Decl. at Ex. C, Defendants’ counsel’s April 21, 2026, email correspondence.

from the Court’s preliminary relief order.”⁶ Defendants filed their first motion to stay on April 23, 2026 (ECF 304) and a Notice of Appeal on April 30, 2026 (ECF 306).⁷ This Court denied the motion to stay on May 1, 2026. (ECF 311).

B. Renewed Motion to Stay

After the Court entered a protective order on June 1 (ECF 320), Defendants produced on June 8 documents designated Confidential in ARs # 3 (ACIP reconstitution), AR #4 (changes to Centers for Disease Control and Prevention’s childhood immunization schedule), and AR #5 (ACIP vote on newborn Hepatitis B immunizations), as well as Certifications of Supplemental Administrative Record that failed to state that any of these ARs were complete.⁸ Defendants served on July 2 another Certification of Administrative Record for ARs ## 3-5 that certified that the ARs are “true, correct, and complete.”⁹

On July 6, in a meet and confer session Plaintiffs “questioned the completeness of all of the records.”¹⁰ In that meet and confer, Plaintiffs stated their intention to file a motion to complete the record.¹¹ The next day, Defendants filed their “Renewed Motion to Stay Proceedings Pending Appeal And To Postpone Record Disputes.” (ECF 325).

⁶ See Oh Decl. at Ex. D, Defendants’ counsel’s April 22, 2026, email correspondence.

⁷ See Oh Decl. at Ex. E, First Circuit Order. Defendants moved to expedite the appeal, which the First Circuit granted and set the following briefing schedule: Defendants’ opening brief due June 16; Plaintiffs’ response due July 16; and Defendants’ reply due no later than 11 days after July 16, *i.e.*, no later than July 27. The First Circuit’s Order stated further that “Oral argument, to the extent deemed necessary [Defendants did not request oral argument], will be scheduled as soon as practicable after the completion of briefing, and this matter will be resolved without undue delay.”

⁸ See Oh Decl. at Ex. F, Plaintiffs’ counsel’s June 29, 2026, email correspondence.

⁹ See Oh. Decl. at Ex. G, Defendants’ counsel’s July 2, 2026, email correspondence.

¹⁰ As set forth in Plaintiffs’ Motion to Complete Administrative Records filed on July 17, 2026, none of the six ARs that Defendants have produced in this case are complete. (See ECF 329).

¹¹ See Oh. Decl. at Ex. H, Plaintiffs’ counsel’s July 7, 2026, email correspondence to Defendants’ counsel.

III. ARGUMENT

A. The Applicable Legal Standard

In this circuit, “[a]n appeal from the grant or denial of a preliminary injunction does not divest the trial court of jurisdiction or prevent it from taking other steps in the litigation while the appeal is pending.” *Contour Design, Inc. v. Chance Mold Steel Co.*, 649 F.3d 31, 34 (1st Cir. 2011) (quoting 11A Wright & Miller, *Federal Practice and Procedure* § 2962, at 438-39 (2d ed. 1995)). Thus, “absent a stay, further proceedings in the same controversy often may continue in the district court while an appeal in an earlier phase is pending. To conduct a trial and grant or deny a permanent injunction based on that trial is standard practice.” *Id.* (citations omitted) (holding that district court remained free to proceed toward permanent relief while preliminary-injunction appeal was pending). Further, “stays cannot be cavalierly dispensed: there must be good cause for their issuance; they must be reasonable in duration; and the court must ensure that competing equities are weighed and balanced.” *Marquis v. F.D.I.C.*, 965 F.2d 11248, 1155 (1st Cir. 1992).

B. For the Second Time, Defendants Fail To Establish Good Cause to Justify A Stay of Proceedings.

Defendants argue that changed circumstances warrant a stay because a stay would lead to efficiencies, and the equities favor a stay. Neither argument has merit.

1. The Slight Change in Circumstances Would Not Lead to Greater Efficiencies in these Proceedings.

The changed circumstance here is slight. Defendants appeal only one part of the Court’s Order of March 16, 2026 (the “March 16 Order”): the stay of the Secretary’s appointments to the ACIP. (ECF 325-4 at p. 1). As of this filing, Defendants’ reply brief in the First Circuit is due July 27, and the First Circuit has indicated it will decide the appeal with alacrity. *See* Oh Decl. at Ex.

5. A hearing on this motion is scheduled for July 23. At most, it seems, a stay of these proceedings would last about a month.

In the meantime, Plaintiffs filed a Motion to Complete the Administrative Records on July 17. (ECF 329). Per their request in the Status Report filed July 10, which the Court granted, Defendants' response to the Motion to Complete the Administrative Records is due August 14, and a hearing on that motion is scheduled for August 18. (ECF 328). By that time, the First Circuit may have already decided the appeal. The First Circuit's decision will not be on the merits of Count II (the ACIP reconstitution claim), as it will decide only whether the temporary stay was providently granted. Accordingly, a decision favorable to Defendants on the one issue they have appealed will not moot Count II. Indeed, Defendants concede in their appellate brief that "[r]eversing the relief as to Count II does not erase the FACA evidence or shield the agency from scrutiny. The agency must still address a fair balance issue, to the extent one exists." (ECF 325-4 at p. 64). Moreover, the appeal will not disturb Plaintiffs' other claims one way or another, since Defendants have not appealed any other relief that the Court granted in the March 16 Order. Accordingly, regardless of how the First Circuit decides the appeal, the Motion to Complete the Administrative Records will need to be decided. Finally, Defendants' claim that time may be wasted on summary judgment briefing is not within the realm of possibility, as the procedural posture of the proceedings before this Court are such that there is no chance that the parties will engage in summary judgment briefing while the appeal is pending.

Both cases that Defendants cite to support their renewed request for a stay based on changed circumstances are distinguishable and inapplicable here. In *San Luis Obispo Coastkeeper v. County of San Luis Obispo*, 2025 WL 2092809 (C.D. Cal. June 18, 2025), after the district court granted plaintiffs' motion for preliminary injunction, defendant "under[took] several

measures to remedy and prevent harm” consistent with the preliminary injunction order and thereafter filed an interlocutory appeal. Accordingly, the defendant had “timely complied with the actions mandated by the preliminary injunction order” when it filed a motion to stay proceedings in the district court during pendency of their appeal. Moreover, by that time, the parties had engaged in “extensive discovery” that had “involved production of voluminous documents and evidence.” The district court granted the motion to stay because “a partial stay of this action would not impair the progress achieved by the injunctive measures implemented thus far,” and because defendant, “a local public agency with limited staff capacity,” had “limited resources to maintain its normal operations” while continuing to engage in additional discovery and motion practice before the district court while also pursuing an appeal. Here, in contrast, Defendants have done nothing to comply with the Court’s order on Plaintiffs’ motion for preliminary injunction, repeatedly delayed production of the administrative records, produced incomplete administrative records, have the largest budget of any United States administrative agency, and have the might of the United States Department of Justice defending them. The facts of *San Luis Obispo* stand in stark contrast to the facts of this case.

Oregon v. Azar is likewise inapplicable due to the different procedural posture of that case when defendants sought a stay of proceedings in the district court. *Oregon v. Azar*, 2019 WL 9045195 (D. Or. Sept. 17, 2019). There, “[w]ith a fully developed administrative record and virtually no issues of fact, both parties agree[d] that the issues in this case are legal in nature.” *Id.*, at *1. Here, in contrast, the record is far from developed, and Plaintiffs only just filed a Motion to Complete the Administrative Records. Accordingly, the interests of judicial economy weigh in favor of continuing to develop the administrative records in this case while the narrow appeal to the First Circuit is pending. *Contour Design*, 649 F.3d at 34 (“further proceedings in the same

controversy often may continue in the district court while an appeal in an earlier phase is pending.”).

2. The Equities and Public Interest Favor Continuing These Proceedings While the Appeal is Pending.

Plaintiffs’ Motion to Complete the Administrative Records attempts to move this case closer to the ultimate question in this case: whether there are reasonable explanations for the Secretary’s challenged actions on vaccines. “The reasoned explanation requirement of administrative law, after all, is meant to ensure that agencies offer genuine justifications for important decisions, reasons that can be scrutinized by courts and the interested public.” *Department of Commerce, et al. v. New York, et al.*, 588 U.S. 752, 785 (2019). Defendants, however, attempt with this Motion to delay providing reasoned explanation for their actions. In response to Plaintiffs’ Motion to Complete Administrative Records, Defendants will be hard-pressed to dispute that they wrongfully withheld electronic communications and other documents that demonstrate that the Secretary began “an informed consent campaign” as soon as he entered office, that he had decided to reconstitute the ACIP even before his confirmation, and that the Secretary gave instructions on what to put on agendas for ACIP meetings. (*See* ECF 330 at pp. 8, 10, 16). A stay here would unnecessarily delay decision on Plaintiffs’ motion that asks the Court to require Defendants to produce the documents that provide explanations, reasonable or not, for actions the Secretary has taken on vaccines that affect every person in this country.

If the Court is not inclined to stay all proceedings, Defendants alternatively request a partial stay only on Count II “to defer briefing on record disputes until it resolves this Motion.” The intent of this request is clear – to delay as long as possible producing documents that will reveal the truth of why the Secretary reconstituted the ACIP with the individuals whom he appointed. Furthermore, Defendants’ attempt to delay briefing on record disputes is inconsistent with the motion to expedite

the appeal they filed in the First Circuit. In their motion to expedite the appeal, Defendants claimed that this Court “froze[] the architecture of the national immunization system” and “stayed the committee out of existence,” at a “critical” time, [when] the “2026-2027 respiratory virus season (i.e., RSV, influenza, COVID) begins in the fall.”¹² (ECF 325-1 at pp. 1-2, 4-5, 11). These statements mischaracterize the Court’s March 16 Order. The March 16 Order stays only the Secretary’s appointments to the ACIP. It does not prohibit him from appointing new, qualified members, consistent with FACA’s fair balance requirement nor does it prohibit the Secretary from temporarily appointing ex-officio members as voting members on the ACIP. He has had ample time to appoint a new ACIP in time for them to meet and to vote on the flu immunization recommendations for the upcoming respiratory virus season.¹³ Indeed, the March 16 Order states that “it is the agency’s job and prerogative” to fairly balance the ACIP’s members, and “it would be inappropriate” to “enjoin the ACIP from meeting” or to “select-by-veto a different ACIP.” (ECF. 291 at p. 44). That Defendants want to delay motion practice on the administrative records in this Court flies in the face of their claim in the First Circuit that their appeal needs to be decided urgently and expeditiously because of the upcoming fall respiratory virus season.

The March 16 Order left the Secretary with the ability to fix the problems he created by, *inter alia*, appointing qualified experts in vaccinology, epidemiology, and infectious diseases to the ACIP. He wrongly blames this Court for his inaction. The Defendants’ motion to stay fails to provide any cause to delay proceedings in this Court, including motion practice on the administrative records.

¹² In their opening brief in the First Circuit, Defendants further mischaracterized the March 16 Order, claiming that the Order “transferred vaccine policy authority from the Executive Branch to a single district judge,” that the government cannot “reconvene [the ACIP] without judicial permission,” and “[s]hould a pathogen emerge tomorrow, the government’s only path to respond would run through the district court.” See ECF 325-4 at p. 10.

¹³ That Defendants waited until April 30 to file a Notice of Appeal of the Court’s March 16 Order (ECF 306) and then waited until June 12 to move to expedite the appeal calls into question the genuineness of Defendants’ alleged concern about an ACIP acting this year on flu immunizations for the fall.

IV. CONCLUSION

For these reasons, Plaintiffs respectfully request that the Court deny Defendants' renewed motion to stay.

Dated: July 21, 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 21st 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

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Kyle Diamantas, in his official capacity as
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/s/ James J. Oh

James J. Oh

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

AMERICAN ACADEMY OF PEDIATRICS,
et al.,

Plaintiffs,

v.

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 JAMES J. OH

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the following is true and correct:

1. I am lead trial counsel for Plaintiffs in the above-titled action.
2. Attached as Exhibit A is Defendants' Certification of Administrative Record, (April 17, 2026).
3. Attached as Exhibit B is a true and correct copy of the April 18, 2026, email correspondence between Plaintiffs' and Defendants' counsel.
4. Attached as Exhibit C is a true and correct copy of the April 21, 2026, email correspondence between Plaintiffs' and Defendants' counsel.
5. Attached as Exhibit D is a true and correct copy of the April 22, 2026, email correspondence between Plaintiffs' and Defendants' counsel.

6. Attached as Exhibit E is a true and correct copy of the United States Court of Appeals for the First Circuit, Case No. 26-1503, June 16, 2026's Order, granting Defendants' Motion to Expedite Appeal and For Expedited Briefing Schedule.

7. Attached as Exhibit F is a true and correct copy of the June 29, 2026, email correspondence between Plaintiffs' and Defendants' counsel.

8. Attached as Exhibit G is a true and correct copy of the July 2, 2026, email correspondence between Plaintiffs' and Defendants' counsel.

9. Attached as Exhibit H is a true and correct copy of the July 7, 2026, email correspondence between Plaintiffs' and Defendants' counsel.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 21, 2026.

/s/ James J. Oh
James J. Oh

EXHIBIT A

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

AMERICAN ACADEMY OF PEDIATRICS,

et al.,

Plaintiffs,

v.

ROBERT F. KENNEDY, JR., *et al.*,

Defendants.

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

CERTIFICATION OF ADMINISTRATIVE RECORD

I, Matthew Zorn, Deputy General Counsel, of the United States Department of Health and Human Services (HHS), certify that the attached partial administrative record is to the best of my knowledge a true and correct copy of the non-privileged and non-confidential information that was directly or indirectly considered in connection with HHS's reconstitution of the Advisory Committee on Immunization Practices (ACIP) through January 13, 2026. This partial record does not include documents that contain confidential information.

Executed this 17th day of April, 2026 in Washington, D.C.

**MATTHEW C.
ZORN -S**

Matthew Zorn

Deputy General Counsel

Immediate Office of the General Counsel

U.S. Department of Health and Human Services

Digitally signed by MATTHEW C.
ZORN -S
Date: 2026.04.17 20:34:49 -04'00'

***AAP v. Kennedy*, No. 1:25-cv-11916 (D. Mass.)**
Reconstitution of the Advisory Committee on Immunization Practices (ACIP)
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Document(s)¹	Bates Range
May 23, 2025 Executive Order on Restoring Gold Standard Science	HHS_AAP 003601 - HHS_AAP 003612
June 9, 2025 Press Release	HHS_AAP 003613 - HHS_AAP 003615
June 9, 2025 Decision Memo re: Termination of Current Advisory Committee on Immunization Practices (ACIP)	HHS_AAP 003616 - HHS_AAP 003616 HHS_AAP 003617 - HHS_AAP 003617
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June 9, 2025 Wall Street Journal Op-Ed by HHS Secretary Robert F. Kennedy, Jr.	HHS_AAP 003618 - HHS_AAP 003620
July 21, 2003 United Press International Article, "The Vaccine Conflict"	HHS_AAP 003621 - HHS_AAP 003638
August 21, 2000 House Committee on Government Reform Report on Conflicts of Interest in Vaccine Policy Making	HHS_AAP 003639 - HHS_AAP 003684
December 2009 HHS Office of the Inspector General Report re: CDC's Ethics Program for Special Government Employees on Federal Advisory Committees	HHS_AAP 003685 - HHS_AAP 003737
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¹ Index entries marked with an asterisk (*) indicate that some or all of the documents have been withheld as confidential.

***AAP v. Kennedy*, No. 1:25-cv-11916 (D. Mass.)**
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Reconstitution of the Advisory Committee on Immunization Practices (ACIP)
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EXHIBIT B

From: James J. Oh
Sent: Saturday, April 18, 2026 5:19 PM
To: Belfer, Isaac C.
Cc: Robert Wanerman; Elizabeth McEvoy; Daniella R. Lee; Kathleen Barrett; Harlow, James W.
Subject: RE: AAP AR #3 - Request to Meet and Confer

Isaac,

Following-up on the Certified Administrative Index on AR#3 re the Reconstitution of the ACIP that was produced last evening, the footnote on page 1 of the Certification of the Administrative Record states: "Index entries marked with an asterisk (*) indicate that some or all of the documents have been withheld as confidential." I request a Zoom meet and confer this Monday, April 20, for you to explain what the footnote means. Does this mean that the government will produce the documents marked with an asterisk once a protective order is in place? Or does this footnote mean that the government will not produce them because they are privileged and therefore confidential. I note that there are no corresponding Bates #s next to the documents on the index with an asterisk, and there are no gaps in the Bates numbering of the documents that were produced that are not marked with an asterisk, indicating that the government has no intention of producing the documents marked with an asterisk unless compelled by a court order. I could be wrong about this, which is why I think it best that we talk about this in a call.

AR#3 Documents Marked with an Asterisk

By the title of the documents on the certified index, I don't see how most, if not all, of the documents marked with an asterisk could be "Confidential," whatever that means in this context. Questions about the documents marked with an asterisk include the following:

1. Decision Memos:
 - a. June 9, 2025 Decision Memo re: Removal of Current and Prospective ACIP Members
 - b. June 24, 2025 Decision Memos re: Appointment of New Members to the ACIP, CDC
 - c. June 24, 2025 Decision Memo re: Nominations to ACIP
 - d. November 26, 2025 Decision Memo re: Nomination to the ACIP
 - e. December 3, 2025 Decision Memo re: Chair and Vice Chair Nominations to the ACIP
 - f. December 23, 2025 Decision Memo re: Nominations to the ACIP
 - g. I don't understand how these Decision Memos could be Confidential where the government has produced other Decision Memos that have not been marked Confidential. See May 27, 2025 Decision Memo re: Recission of CDC Recommendations for COVID-19 Vaccines for Healthy Children and Pregnant Women," HHS_AAP 000092-93; and October 3, 2025 Decision Memo re ACIP Recommendation for COVID-19 Vaccination," HHS_AAP 1914-17.
2. June 9, 2025 Notification Letters of ACIP Termination.
 - a. Assuming that these are the letters sent to the terminated ACIP Members on June 9 (which I understand actually were short emails), I don't understand how a letter sent to a fired ACIP Member and third party could be considered Confidential.
3. Attachment D – Financial Operating Plan attached to the September 10, 2025 Decision Memo and December 3, 2025 Decision Memo re: Chair and Vice Chair Nominations to the ACIP.

- a. Please explain why the Financial Operating Plan presumably for the ACIP, a federal advisory committee, is Confidential and not knowledge the public is entitled to know.
4. Attachment E – Curricula Vitae of Nominees attached to September 10, 2025 Decision Memo, November 26, 206 Decision Memo.
 - a. I am having difficult understanding why anyone’s curriculum vitae is Confidential, where the CVs were submitted to the federal government for a position on a public federal advisory committee.
5. HS-532 Requests for Approval of Nominees for Public Advisory Committees attached to:
 - a. June 24, 2025 Decision Memo
 - b. September 10, 2025 Decision Memo
 - c. November 26, 2025 Decision Memo re Nomination to the ACIP
 - d. December 3, 2025 Decision Memo re: Chair and Vice Chair Nominations to the ACIP
 - e. December 23, 2025 Decision Memo re Nominations to the ACIP
 - f. Please explain why these Requests for Approval are confidential.
6. Biographies of ACIP Candidates
 - a. I don’t understand how these possibly could be Confidential.
7. HHS Correspondence with **External** Stakeholders re: ACIP Reform and Committee Nominations (emphasis added)
 - a. Correspondence with external stakeholders cannot be privileged, since it is correspondence with a third party.
 - b. The description of this correspondence indicates that this correspondence goes to the heart of Plaintiffs’ FACA claim re inappropriate influence by special interests and, therefore, should be produced.
8. Communications between HHS and Potential ACIP Nominees.
 - a. I need to hear an explanation as to why these communications are considered Confidential and have not been produced.
9. ACIP Nominations Submitted to the CDC Website and Resource Mailbox
 - a. I need to hear an explanation as to why these documents are considered Confidential and have not been produced.
10. HHS Meeting re: Potential ACIP Nominees
 - a. I need to hear an explanation as to whether this is one document or many, why the document(s) is/are Confidential, and whether Defendants will identify at least how many meetings occurred and who attended. At a minimum, the information on the identities of who participated in these meetings cannot be protected from disclosure.
11. Public and Congressional Comments on ACIP Reconstitution.
 - a. If these are public documents, how can they be Confidential?

Missing from AR#3

When we meet and confer, we also need to discuss what is missing from AR#3, including, but not limited to, the following:

1. In his June 9, 2025, WSJ Commentary announcing the firing of the ACIP, RFK justified the terminations because “[t]he committee has been plagued with persistent conflicts of interest.” Presumably, the Secretary has documentation of the then 17 members’ conflicts of interest that justified their terminations. Please produce such documents. Alternatively, please confirm that the Secretary did not review and/or does not possess any such documents.
2. The CDC’s website currently states: “Upon appointment, each voting member is required to file an Office of Government Ethics 450 form (OGE450), a Confidential Financial Disclosure Report, which is

reviewed by the ACIP Secretariat, the Federal Advisory Committee Management Branch and the Office of General Counsel at CDC.” <https://www.cdc.gov/acip/apply-for-membership/index.html> (visited on 4/18/26).

- a. Please produce the OGE450s for every new ACIP member appointed by the Secretary or confirm that they do not exist.
 - b. For example, [REDACTED] that met for the first time on June 25, 2026, was an expert witness in legal cases against Merck. Presumably, he made disclosures about his role as an expert witness against Merck or any other pharmaceutical companies. [REDACTED]
[REDACTED] Please produce such disclosures or confirm that he did not make them before, during, or after his appointment to the ACIP.
3. AR#3 includes no documents that ACIP candidates are supposed to submit for selection to the ACIP, including at least two letters of recommendation and a cover letter that includes a statement of interest. See <https://www.cdc.gov/acip/apply-for-membership/index.html>. Please produce such documents or confirm that they do not exist.
 4. In a June 12, 2025, post on X, [REDACTED] stated: “i have already completed three months of ethics vetting and COI training by appropriate HHS officials.” No documents were produced in AR#3 on the ethics vetting and training [REDACTED] claims he completed or that any other ACIP member appointed by the Secretary completed. Please produce those documents.
 5. In her Declaration filed on the record on [REDACTED] attested that she was vetted for a position on the ACIP by a partner at Aaron Siri’s law firm. Nothing was produced in AR#3 regarding Siri’s law firm’s involvement in the nomination and/or vetting process for [REDACTED] or any other candidate. Please produce those documents.
 6. As you know, a new ACIP Charter was published on April 9, 2026. Plaintiffs find the new Charter to be suspect and problematic. The facts indicate that Defendants, prompted by Aaron Siri and the Informed Consent Action Network, adopted the new Charter specifically to do an end-run around Judge Murphy’s March 16, 2026, preliminary injunction order. See <https://www.facebook.com/del.bigtree/posts/huge-news-after-a-court-ruling-wiped-out-recent-vaccine-program-changes-made-by-/10162096421190964/>. The new Charter is thus related and relevant to Plaintiffs’ ACIP Reconstitution claim. Accordingly, it is Plaintiffs’ position that any and all documents related to the new ACIP Charter should be produced as part of AR#3.

If you decline to meet and confer on Monday, or if Defendants take the position that none of the documents marked with an asterisk will be produced, please let me know whether you agree that this email satisfies Plaintiffs’ obligation under the local rules to meet and confer before filing a motion.

Thank you.

Jimmy

James J. Oh

Epstein Becker Green
227 W. Monroe
Suite 4500
Chicago, IL 60606

EXHIBIT C

From: Belfer, Isaac C. <Isaac.C.Belfer@usdoj.gov>
Sent: Tuesday, April 21, 2026 5:50 PM
To: James J. Oh
Cc: Robert Wanerman; Elizabeth McEvoy; Daniella R. Lee; Kathleen Barrett; Harlow, James W.
Subject: RE: AAP AR #3 - Request to Meet and Confer

*** EXTERNAL EMAIL ***

Hi Jimmy,

Thank you for your patience, and apologies for the delay in responding. Defendants are actively considering all the issues raised in your emails, and there are ongoing discussions among several different government offices. James and I are working diligently to move these discussions forward and send you a substantive response as soon as possible.

Although we're not in a position to have a meaningful discussion today, we're aiming to get back to you in the next day or two. Once we do so, we're hopeful that the parties can resolve many of the issues you raised amongst themselves.

Thanks,
Isaac

Isaac C. Belfer
U.S. Department of Justice
Civil Division | Federal Programs Branch
(202) 305-7134 | Isaac.C.Belfer@usdoj.gov

EXHIBIT D

From: Belfer, Isaac C. <Isaac.C.Belfer@usdoj.gov>
Sent: Wednesday, April 22, 2026 9:05 PM
To: James J. Oh; Kathleen Barrett
Cc: Daniella R. Lee; Elizabeth McEvoy; Richard H. Hughes IV; Harlow, James W.
Subject: RE: AAP Proposed Protective Order
Attachments: AAP - Proposed Protective Order - 2026.04.08 Draft - DOJ revisions.docx

*** EXTERNAL EMAIL ***

Jimmy,

In the attached draft, we revised the proposed protective order in tracked changes based on your comments. Our responses to your comments are below in red. If you have any questions, please let us know.

Additionally, tomorrow, 4/23, Defendants intend to file a motion seeking to stay proceedings until the later of May 15, 2026 (the deadline to appeal the Court's preliminary relief order) or the resolution of any appeal taken by Defendants from the Court's preliminary relief order. The requested stay will promote judicial economy, conserve Court and party resources, and avoid the potential for inconsistent rulings because a decision on appeal could narrow the issues in dispute or provide guidance on how to resolve them. A stay of proceedings would not harm Plaintiffs because Defendants do not seek to stay the Court's preliminary relief order, and that order remains in full effect and continues to protect Plaintiffs against any irreparable harm.

Would you please let us know Plaintiffs' position on this stay motion? If the motion is opposed, we plan to ask the Court to order expedited briefing on the motion and decide it as soon as practicable.

Thanks,
Isaac

Isaac C. Belfer
U.S. Department of Justice
Civil Division | Federal Programs Branch
(202) 305-7134 | Isaac.C.Belfer@usdoj.gov

EXHIBIT E

**United States Court of Appeals
For the First Circuit**

No. 26-1503

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; MASSACHUSETTS CHAPTER OF THE AMERICAN ACADEMY OF PEDIATRICS; JANE DOE; JANE DOE 2; JANE DOE 3,

Plaintiffs - Appellees,

V.

ROBERT F. KENNEDY, JR., in the official capacity as Secretary of the Department of Health and Human Services; UNITED STATES FOOD & DRUG ADMINISTRATION; JAY BHATTACHARYA, in the official capacities as Director of the National Institutes of Health and as Acting Director of Centers for Disease Control and Prevention; NATIONAL INSTITUTES OF HEALTH; CENTERS FOR DISEASE CONTROL AND PREVENTION; UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; KYLE DIAMANTAS, in the official capacity as Acting Commissioner of the Food and Drug Administration, DOES 1-50, Inclusive,

Defendants - Appellants.

ORDER OF COURT

Entered: June 16, 2026

This matter is before the court on defendants-appellants' "motion to expedite appeal and for expedited briefing schedule" and on plaintiffs-appellees' opposition to that motion. Those filings are resolved as follows. Briefing in this matter will proceed on the following schedule:

-- the opening brief shall be filed by June 17, 2026;

-- the response brief shall be filed by July 16, 2026;

-- any reply brief shall be filed within 11 days following service of the response brief, but also may be filed in advance of that date.

Briefing extensions should not be expected. Oral argument, to the extent deemed necessary, will be scheduled as soon as practicable after the completion of briefing, and this matter will be resolved without undue delay.

By the Court:

Anastasia Dubrovsky, Clerk

cc:

Donald Campbell Lockhart, Abraham R. George, Thomas Pulham, Michael L. Fitzgerald, Ashley Cheung Honold, Matthew Charles Zorn, Isaac Belfer, Douglas C. Dreier, James W. Harlow, Stanley Edmund Woodward, Jr., Robert E. Wanerman, Stuart M. Gerson, Elizabeth J. McEvoy, Kathleen Barrett, James J. Oh, Jeremy A. Avila, Richard H. Hughes, IV, William Walters, Maurice Wells, Daniella R. Lee, Gianna Monet Costello, Robert N. Meltzer, Richard Jaffe, Jose A. Perez, Francisco Maria Negrón, Jr., Molly A. Meegan, Thanithia R. Billings, Meaghan Hannan Davant, Kimberly A. Parker, Mark L. Hanin, Andrew Matthew London, Caroline Lindsay Farrell, Ashley H. Wisneski, Holly E. Peterson, Kevin M. Serafino, David Steven Schumacher, Wendy Ellen Parmet, Heather M. Romero, Julia Caldwell, Andrew J. Pincus, Natasha Harnwell-Davis, Allison Aviki, Graham White, Crystal Paulino, Megan Barbero, Kyle H. Keraga, Sarah Allen, Marilyn J. Icsman

EXHIBIT F

[FILED UNDER SEAL]

EXHIBIT G

From: Belfer, Isaac C. <Isaac.C.Belfer@usdoj.gov>
Sent: Thursday, July 2, 2026 5:32 PM
To: James J. Oh; Harlow, James W. (CIV)
Cc: Richard H. Hughes IV; Kathleen Barrett; Daniella R. Lee; Elizabeth McEvoy; Robert Wanerman
Subject: RE: Meet and Confer on Supplemental Administrative Records
Attachments: AAP v. Kennedy_AR4_Certified Revised AR Index (2026.07.02).pdf; AAP v. Kennedy_AR5_Certified Revised AR Index (2026.07.02).pdf; AR PROD003_REPROD.zip; AAP v. Kennedy_AR3_Certified Revised AR Index (2026.07.02).pdf

*** EXTERNAL EMAIL ***

Jimmy,

Thanks for your email. Attached are revised certified indices for AR nos. 3–5, which certify that the ARs are “true, correct, and complete.” There is no requirement that AR certifications be sworn under penalty of perjury or filed on the docket.

As stated in my prior email, we have agreed to remove the confidentiality designation from HHS_AAP014712–15. A version of that document without the confidentiality designation is attached. We also agree to remove the confidentiality designations from HHS_AAP015771–72 and HHS_AAP014636–40 and will produce versions of those documents without the confidentiality designations next week.

We appreciate your proposing redactions to certain documents. However, any discussion of redactions is premature at this point. Paragraph 4 of the Stipulated Protective Order provides that the parties will discuss redactions *after* any documents containing Confidential Information are submitted to the Court under seal. After such a filing, the parties will “confer about whether it is reasonably feasible and not unduly burdensome to redact the Confidential Information contained in the documents filed under seal,” and “[t]o the extent such redactions are reasonably feasible and not unduly burdensome, the filing parties shall file on the public docket versions of the documents that redact any Confidential Information.” ECF No. 320 at 4. Preparing redactions for only those documents filed under seal is “more efficient and expeditious” than redacting all confidential documents in the ARs on the front end, given that many of those documents may never be filed on the docket. ECF No. 318 at 2.

We disagree with your suggestion that redacting the confidential documents is a quick and simple process. Although we appreciate that you spent an evening preparing proposed redactions of those documents, the redactions you proposed contain errors. For example, your proposed redacted version of HHS_AAP015073–77 does not redact individuals’ place of birth, which is PII. Additionally, preparing redactions of resumes/CVs/bios would require more than simply redacting email addresses and phone numbers (e.g., your proposed redactions to HHS_AAP015276–84). Some resumes/CVs contain additional confidential information, including date of birth, date of marriage, place of birth, children’s names and birthdays, and professional license numbers. *E.g.*, [REDACTED], HHS_AAP015037–72; [REDACTED], HHS_AAP014954–5012. Even for individuals’ professional and educational history, it could be very time-consuming to confirm that all such information in a resume/CV/bio is publicly available. For example, even if a person has a publicly available resume/CV/bio, it might not include all the information in the version of the resume/CV/bio in the ARs.

Given our legal obligations to protect confidential information, *see, e.g.*, 5 U.S.C. § 552a; 18 U.S.C. § 1905; 21 U.S.C. § 331(j), we need to be very careful to ensure that all confidential information is redacted in any document to be disclosed publicly. That process takes time and may not be reasonably feasible for certain documents with extensive confidential information (e.g., CVs with voluminous information protected by the Privacy Act, where it is not clear that the version of the CV in the AR has been publicly disclosed). Defendants will comply with the Stipulated Protective Order: after any documents containing

Confidential Information are filed under seal, Defendants will confer with Plaintiffs about whether it is reasonably feasible and not unduly burdensome to redact the Confidential Information in such documents. ECF No. 320 at 4. Before that time, it is premature to discuss redactions. Moreover, there is no prejudice to Plaintiffs because Plaintiffs' outside counsel and the other individuals identified in paragraph 5 of the Stipulated Protective Order already have access to the documents designated as confidential.

Finally, as stated in my prior email, we redacted information protected by the deliberative process privilege in HHS_AAP015578–80 and HHS_AAP015588. The redacted information consists of predecisional and deliberative communications between HHS employees regarding potential ACIP nominees. *See Town of Norfolk v. U.S. Army Corps of Eng'rs*, 968 F.2d 1438, 1458 (1st Cir. 1992). Because the basis for the deliberative process privilege is apparent from the unredacted portions of the documents (e.g., the sender, recipients, dates, and subjects of the redacted emails and the text of other emails in the chains), there is no need for *in camera* review.

If you have any questions or concerns, we remain available on Monday, July 6, at 11:00 a.m. ET/10:00 a.m. CT.

Thanks,
Isaac

Isaac C. Belfer
U.S. Department of Justice
Civil Division | Federal Programs Branch
(202) 305-7134 | Isaac.C.Belfer@usdoj.gov

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

AMERICAN ACADEMY OF PEDIATRICS,

et al.,

Plaintiffs,

v.

ROBERT F. KENNEDY, JR., *et al.*,

Defendants.

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

CERTIFICATION OF SUPPLEMENTAL ADMINISTRATIVE RECORD

I, Matthew Zorn, Deputy General Counsel, of the United States Department of Health and Human Services (HHS), certified a partial administrative record in the above-captioned lawsuit on April 17, 2026. I hereby certify that the documents listed on the attached Revised Administrative Record Index, which include the partial administrative record certified on April 17, 2026, are to the best of my knowledge a true, correct, and complete copy of the non-privileged information that was directly or indirectly considered in connection with HHS's reconstitution of the Advisory Committee on Immunization Practices (ACIP) through January 13, 2026.

Executed this 1st day of July, 2026 in Washington, D.C.

MATTHEW C.
ZORN -S

Digitally signed by
MATTHEW C. ZORN -S
Date: 2026.07.01 12:28:29
-04'00'

Matthew Zorn
Deputy General Counsel
Immediate Office of the General Counsel
U.S. Department of Health and Human Services

***AAP v. Kennedy*, No. 1:25-cv-11916 (D. Mass.)**
Reconstitution of the Advisory Committee on Immunization Practices (ACIP)
Revised Administrative Record Index

Document(s)	Bates Range
May 23, 2025 Executive Order on Restoring Gold Standard Science	HHS_AAP 003601 - HHS_AAP 003612
June 9, 2025 Press Release	HHS_AAP 003613 - HHS_AAP 003615
June 9, 2025 Decision Memo re: Termination of Current Advisory Committee on Immunization Practices (ACIP)	HHS_AAP 003616 - HHS_AAP 003616 HHS_AAP 003617 - HHS_AAP 003617
June 9, 2025 Decision Memo re: Removal of Current and Prospective ACIP Members	HHS_AAP 014712 - HHS_AAP 014715
June 9, 2025 Wall Street Journal Op-Ed by HHS Secretary Robert F. Kennedy, Jr.	HHS_AAP 003618 - HHS_AAP 003620
July 21, 2003 United Press International Article, "The Vaccine Conflict"	HHS_AAP 003621 - HHS_AAP 003638
August 21, 2000 House Committee on Government Reform Report on Conflicts of Interest in Vaccine Policy Making	HHS_AAP 003639 - HHS_AAP 003684
December 2009 HHS Office of the Inspector General Report re: CDC's Ethics Program for Special Government Employees on Federal Advisory Committees	HHS_AAP 003685 - HHS_AAP 003737
June 9, 2025 Notification of ACIP terminations and DFO Appointment	HHS_AAP 014716 - HHS_AAP 014717
June 9, 2025 Notification Letters of ACIP Termination	HHS_AAP 014718 - HHS_AAP 014721 HHS_AAP 014722 - HHS_AAP 014738
June 11, 2025 X Post by Secretary Kennedy	HHS_AAP 003738 - HHS_AAP 003740
ACIP Member Information	HHS_AAP 003741 - HHS_AAP 003751
ACIP Reference Manual	HHS_AAP 003752 - HHS_AAP 003882
Congressional Research Service ACIP Fact Sheet	HHS_AAP 003883 - HHS_AAP 003885
ACIP Overview Presentation	HHS_AAP 003886 - HHS_AAP 003899
Requests for Designation of Agency Representatives to the ACIP	HHS_AAP 014739 - HHS_AAP 014740 HHS_AAP 014741 - HHS_AAP 014742
June 24, 2025 Decision Memos re: Appointment of New Members to the ACIP, CDC	HHS_AAP 014743 - HHS_AAP 014758
June 24, 2025 Decision Memo re: Nominations to the ACIP	HHS_AAP 014759 - HHS_AAP 014763
Attachment A - ACIP Charter	HHS_AAP 003900 - HHS_AAP 003904
Attachment B - Membership Balance Plan	HHS_AAP 003905 - HHS_AAP 003908
Attachment C - ACIP Membership Roster	HHS_AAP 003909 - HHS_AAP 003915
Attachment D - Financial Operating Plan	HHS_AAP 014764 - HHS_AAP 014788
Attachment E – Curricula Vitae of the Nominees	HHS_AAP 014789 - HHS_AAP 014916

***AAP v. Kennedy*, No. 1:25-cv-11916 (D. Mass.)**
Reconstitution of the Advisory Committee on Immunization Practices (ACIP)
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Attachment F- HS-532 Requests for Approval of June Nominees for Public Advisory Committees	HHS_AAP 014917 - HHS_AAP 014923
June 25, 2025 Michael Ross ACIP Withdrawal	HHS_AAP 014924 - HHS_AAP 014924
September 10, 2025 Decision Memo re: Nominations to the ACIP	HHS_AAP 014925 - HHS_AAP 014928
Attachment A - ACIP Charter	HHS_AAP 003916 - HHS_AAP 003920
Attachment B - Membership Balance Plan	HHS_AAP 003921 - HHS_AAP 003924
Attachment C - ACIP Membership Roster	HHS_AAP 003925 - HHS_AAP 003932
Attachment D - Financial Operating Plan	HHS_AAP 014929 - HHS_AAP 014953
Attachment E - Curricula Vitae of Nominees	HHS_AAP 014954 - HHS_AAP 015072
Attachment F - HS-532 Requests for Approval of Nominees for Public Advisory Committees	HHS_AAP 015073 - HHS_AAP 015077
September 15, 2025 Press Release	HHS_AAP 003933 - HHS_AAP 003936
November 26, 2025 Decision Memo re: Nomination to the ACIP	HHS_AAP 015078 - HHS_AAP 015080
Attachment A - ACIP Charter	HHS_AAP 003937 - HHS_AAP 003941
Attachment B - Membership Balance Plan	HHS_AAP 003942 - HHS_AAP 003945
Attachment C - ACIP Membership Roster	HHS_AAP 003946 - HHS_AAP 003953
Attachment D - Financial Operating Plan	HHS_AAP 015081 - HHS_AAP 015105
Attachment E - Curriculum Vitae of Nominee	HHS_AAP 015106 - HHS_AAP 015108
Attachment F - HS-532 Request for Approval of Nominees for Public Advisory Committees	HHS_AAP 015109 - HHS_AAP 015109
December 3, 2025 Decision Memo Re: Request to Amend the Charter of the CDC's ACIP	HHS_AAP 003954 - HHS_AAP 003956
Attachment A – Current Charter	HHS_AAP 015110 - HHS_AAP 015114
Attachment B – Proposed Renewed Charter	HHS_AAP 015115 - HHS_AAP 015119
Attachment C – Legislative Authority	HHS_AAP 015120 - HHS_AAP 015121
Attachment D – Membership Balance Plan	HHS_AAP 015122 - HHS_AAP 015125
Attachment E – Membership Roster	HHS_AAP 015126 - HHS_AAP 015133
Attachment F – Financial Operating Plan	HHS_AAP 015134 - HHS_AAP 015158
Attachment G – Filing Letters	HHS_AAP 015159 - HHS_AAP 015161
Amendment to the Charter of the ACIP	HHS_AAP 003957 - HHS_AAP 003961
CDC OSBI Email	HHS_AAP 003962 - HHS_AAP 003964
December 3, 2025 Decision Memo re: Chair and Vice Chair Nominations to the ACIP	HHS_AAP 015162 - HHS_AAP 015164
Attachment A - ACIP Charter	HHS_AAP 003965 - HHS_AAP 003969
Attachment B - Membership Balance Plan	HHS_AAP 003970 - HHS_AAP 003973
Attachment C - ACIP Membership Roster	HHS_AAP 003974 - HHS_AAP 003981
Attachment D - Financial Operating Plan	HHS_AAP 015165 - HHS_AAP 015189

***AAP v. Kennedy*, No. 1:25-cv-11916 (D. Mass.)**
Reconstitution of the Advisory Committee on Immunization Practices (ACIP)
Revised Administrative Record Index

Attachment E - Curricula Vitae of Nominees	HHS_AAP 015190 - HHS_AAP 015209 HHS_AAP 015210 - HHS_AAP 015217
Attachment F - HS-532 Requests for Approval of Nominees for Public Advisory Committees	HHS_AAP 015218 - HHS_AAP 015219 HHS_AAP 015220 - HHS_AAP 015221
December 23, 2025 Decision Memo re: Nominations to the ACIP	HHS_AAP 015222 - HHS_AAP 015225
Attachment A - ACIP Charter	HHS_AAP 003982 - HHS_AAP 003986
Attachment B - Membership Balance Plan	HHS_AAP 003987 - HHS_AAP 003990
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Attachment D - Financial Operating Plan	HHS_AAP 015226 - HHS_AAP 015250
Attachment E - Curricula Vitae of Nominees	HHS_AAP 015251 - HHS_AAP 015253 HHS_AAP 015254 - HHS_AAP 015254 HHS_AAP 015255 - HHS_AAP 015259 HHS_AAP 015260 - HHS_AAP 015266
Attachment F - HS-532 Requests for Approval of Nominees for Public Advisory Committees	HHS_AAP 015267 - HHS_AAP 015267 HHS_AAP 015268 - HHS_AAP 015268 HHS_AAP 015269 - HHS_AAP 015269 HHS_AAP 015270 - HHS_AAP 015270
January 13, 2026 Press Release	HHS_AAP 003999 - HHS_AAP 004002
Biographies of ACIP Candidates	HHS_AAP 015271 - HHS_AAP 015272 HHS_AAP 015273 - HHS_AAP 015273
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

AMERICAN ACADEMY OF PEDIATRICS,

et al.,

Plaintiffs,

v.

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

ROBERT F. KENNEDY, JR., *et al.*,

Defendants.

CERTIFICATION OF SUPPLEMENTAL ADMINISTRATIVE RECORD

I, Matthew Zorn, Deputy General Counsel, of the United States Department of Health and Human Services (HHS), certified a partial administrative record in the above-captioned lawsuit on April 30, 2026, which was produced on May 1, 2026. I hereby certify that the documents listed on the attached Revised Administrative Record Index, which include the partial administrative record certified on April 30, 2026, are to the best of my knowledge a true, correct, and complete copy of the non-privileged information that was directly or indirectly considered in connection with the CDC's January 5, 2026 decision to adopt a revised Childhood and Adolescent Immunization Schedule.

Executed this 1st day of July, 2026 in Washington, D.C.

MATTHEW C.
ZORN -S

Digitally signed by MATTHEW
C. ZORN -S
Date: 2026.07.01 12:27:30
-04'00'

Matthew Zorn
Deputy General Counsel
Immediate Office of the General Counsel
U.S. Department of Health and Human Services

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Sundhedsstyrelsens indstilling til spørgsmålet om hvorvidt vaccination mod hepatitis B bør indføres som en del af børnevaccinationsprogrammet (2005 Hepatitis B-Vaccination Recommendation)	HHS_AAP 009082 - HHS_AAP 009086
Reduktion af risikoen for livmoderhalskræft ved vaccination mod humant papillomvirus (HPV) - en medicinsk teknologivurdering (2007 HPV Vaccination Assessment for Girls)	HHS_AAP 009087 - HHS_AAP 009245
Indstilling vedr. indførelse af humant papillomavirus (HPV) vaccination i Det danske Børnevaccinationsprogram (2007 HPV Vaccination Recommendation for Girls)	HHS_AAP 009246 - HHS_AAP 009255
Medicinsk teknologivurdering (MTV) af HPV-vaccination til drenge (2019 HPV Vaccination Assessment for Boys)	HHS_AAP 009256 - HHS_AAP 009437
Vedr. vaccination af drenge mod HPV (2019 HPV Vaccination Recommendation for Boys)	HHS_AAP 009438 - HHS_AAP 009448
Medicinsk teknologivurdering (MTV) af influenzavaccination (2021 Influenza Vaccination Assessment)	HHS_AAP 009449 - HHS_AAP 009632
Vurdering af grundlaget for at indføre et gratis tilbud om influenzavaccination af børn i alderen 0-6 år (2021 Influenza Vaccination Memorandum)	HHS_AAP 009633 - HHS_AAP 009648
Sundhedsstyrelsens indstilling vedr. vaccinationsprogrammet mod influenza for sæson 2021/22 (2021 Influenza Vaccination Recommendation)	HHS_AAP 009649 - HHS_AAP 009662
Sundhedsstyrelsens foreløbige indstilling til målgrupper og vaccintyper til brug for	HHS_AAP 009663 - HHS_AAP 009669

indkøb til influenzavaccinationsprogrammet 2024/25 (2024 Influenza Vaccination Recommendation)	
Sundhedsstyrelsen økonomisk vurdering af vaccination mod mæslinger fåresyge og røde hunde i Danmark (1985 MMR Vaccination Assessment)	HHS_AAP 009670 - HHS_AAP 009676
Anbefaling om indførelse af pneumokokvaccination i det danske børne vaccinationsprogram (2007 Pneumococcal Vaccination Assessment and Recommendation)	HHS_AAP 009677 - HHS_AAP 009698
Sundhedsstyrelsen Mini-MTV vedr. meningokok C-vaccination (2013 MenC Vaccination Assessment)	HHS_AAP 009699 - HHS_AAP 009766
Vedr. vaccination for meningokok type C (2013 MenC Vaccination Recommendation)	HHS_AAP 009767 - HHS_AAP 009769
Sundhedsstyrelsen Vaccination mod rotavirus – en medicinsk teknologivurdering – uden bilag (2012 Rotavirus Vaccination Assessment)	HHS_AAP 009770 - HHS_AAP 009920
Notat vedr. overvejelser om vaccination mod rotavirus (2012 Rotavirus Vaccination Memorandum)	HHS_AAP 009921 - HHS_AAP 009923
Referat fra møde i Vaccinationsudvalget (2012 Vaccination Council Meeting Minutes)	HHS_AAP 009924 - HHS_AAP 009929
December 15, 2025 Meeting with German Health Officials, Meeting Notes	HHS_AAP 009930 - HHS_AAP 009933
German Standing Committee on Vaccination at the Robert Koch Institute Materials	
Standard Operating Procedure of the German Standing Committee on Vaccinations (STIKO) for the systematic development of vaccination recommendations, Version 3.1 (Nov. 14, 2018)	HHS_AAP 009934 - HHS_AAP 009963
Modelling methods for predicting epidemiological and health economic effects of vaccinations: Guidance for analyses to be presented to the German Standing Committee on Vaccination (STIKO) (Jan. 31, 2024)	HHS_AAP 009964 - HHS_AAP 009996

Epidemiologisches Bulletin: Recommendations by the Standing Committee on Vaccination (STIKO) at the Robert Koch Institute (Jan. 23, 2025)	HHS_AAP 009997 - HHS_AAP 010068
December 15, 2025 Meeting with Japanese Health Officials, Meeting Notes	HHS_AAP 010069 - HHS_AAP 010071 HHS_AAP 010072 - HHS_AAP 010072
Ministry of Health, Labour and Welfare of Japan Materials	
Pneumococcal Vaccines for Children (May 23, 2024)	HHS_AAP 010073 - HHS_AAP 010085
Regarding Pneumococcal Vaccines for Children (Jul. 31, 2024)	HHS_AAP 010086 - HHS_AAP 010105
October 1, 2020 Vaccination Schedule Recommended by the Japan Pediatric Society	HHS_AAP 010106 - HHS_AAP 010114
HHS Correspondence with External Stakeholders re: Childhood Vaccine Schedule	HHS_AAP 014623 - HHS_AAP 014711

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

AMERICAN ACADEMY OF PEDIATRICS,

et al.,

Plaintiffs,

v.

ROBERT F. KENNEDY, JR., *et al.*,

Defendants.

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

CERTIFICATION OF SUPPLEMENTAL ADMINISTRATIVE RECORD

I, Matthew Zorn, Deputy General Counsel, of the United States Department of Health and Human Services (HHS), certified a partial administrative record in the above-captioned lawsuit on May 5, 2026. I hereby certify that the documents listed on the attached Revised Administrative Record Index, which include the partial administrative record certified on May 5, 2026, are to the best of my knowledge a true, correct, and complete copy of the non-privileged information that was directly or indirectly considered in connection with the CDC's decision to adopt the Advisory Committee on Immunization Practice (ACIP) December 5, 2025, recommendation for Hepatitis B immunization.

Executed this 1st day of July, 2026 in Washington, D.C.

MATTHEW C.
ZORN -S

Digitally signed by MATTHEW C.
ZORN -S
Date: 2026.07.01 12:32:15 -04'00'

Matthew Zorn
Deputy General Counsel
Immediate Office of the General Counsel
U.S. Department of Health and Human Services

***AAP v. Kennedy*, No. 1:25-cv-11916 (D. Mass.)**
CDC's Adoption of the ACIP's December 2025
Recommendations on Hepatitis B (Hep B) Vaccination
Revised Administrative Record Index

Document(s)	Bates Range
HHS Press Release and Fact Sheet: CDC Adopts Individual-Based Decision-Making for Hepatitis B Immunization for Infants Born to Women Who Test Negative for the Hepatitis B Virus, December 16, 2025	HHS_AAP 010115- HHS_AAP 010118; HHS_AAP 010119- HHS_AAP 010121
CDC Press Release and Fact Sheet: CDC Adopts Individual-Based Decision-Making for Hepatitis B Immunization for Infants Born to Women Who Test Negative for Hepatitis B Virus, December 16, 2025	HHS_AAP 010122; HHS_AAP 010123- HHS_AAP 010124
CDC Decision Memorandum – Regarding Adopting ACIP's Recommendations for Hepatitis B Vaccination, December 16, 2025	HHS_AAP 010125- HHS_AAP 010126
Childhood Immunization Schedule Notes, December 8, 2025	HHS_AAP 010127- HHS_AAP 010142
Letter from Rep. Brian Fitzpatrick regarding the ACIP Hep B vaccine vote, December 10, 2025	HHS_AAP 010144- HHS_AAP 010145
HHS Press Release, ACIP Recommends Individual-Based Decision-Making for Hepatitis B Vaccine for Infants Born to Women Who Test Negative for the Virus, December 5, 2025	HHS_AAP 010146- HHS_AAP 010151
ACIP Meeting Minutes Summary, December 4-5, 2025	HHS_AAP 010152- HHS_AAP 010242
Final Hepatitis B Vaccine Vote Language, December 5, 2025	HHS_AAP 010243
Final ACIP Meeting Agenda, December 4, 2025	HHS_AAP 010244- HHS_AAP 010246
ACIP Presentations on Hepatitis B Vaccines, December 4, 2025	HHS_AAP 010247- HHS_AAP 010248
Introduction and Policy Context, Hepatitis B Virus Vaccine Birth Dose, Dr. V Pebsworth	HHS_AAP 010249- HHS_AAP 010263
Burden of Disease, Dr. C. Nevison	HHS_AAP 010264- HHS_AAP 010289
Safety Review of Hepatitis B Birth Dose Vaccination, Mr. M. Blaxill	HHS_AAP 010290- HHS_AAP 010314
Summary of the Information and Presentation of the Vote Language, Dr. V. Pebsworth	HHS_AAP 010315- HHS_AAP 010334
VFC Resolution Update: Hepatitis B Vaccine, Dr. J. Santoli (CDC/NCIRD)	HHS_AAP 010335- HHS_AAP 010348
Centers for Medicare & Medicaid Services, Overview of Vaccine Coverage, Mr. A. Johnson (CMS)	HHS_AAP 010349- HHS_AAP 010353
Summary of anticipated votes, December 5, 2025	HHS_AAP 010354

***AAP v. Kennedy*, No. 1:25-cv-11916 (D. Mass.)**
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Recommendations on Hepatitis B (Hep B) Vaccination
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Document(s)	Bates Range
Nehama Linder et al., <i>Unexplained Fever in Neonates May Be Associated with Hepatitis B Vaccine</i> , 81 Arch. Dis. Child. Fetal Neonatal Ed. F206 (1999)	HHS_AAP 010355- HHS_AAP 010356
Eric W. Hall et al., <i>Economic Evaluation of Delaying the Infant Hepatitis B Vaccination Schedule</i> , https://doi.org/10.1101/2025.11.24.25340907 (preprint, November 25, 2025)	HHS_AAP 010357- HHS_AAP 010374
Amy B. Middleman et al., <i>Duration of Protection After Infant Hepatitis B Vaccination Series</i> , 133 Pediatrics e1500 (2014)	HHS_AAP 010375- HHS_AAP 010382
Vaccine Manufacturers' Statements for December ACIP Meeting	HHS_AAP 010383- HHS_AAP 010384; HHS_AAP 010385; HHS_AAP 010386- HHS_AAP 010387; HHS_AAP 014615
Draft ACIP Meeting Agendas, posted November 14, and December 1, 2025	HHS_AAP 010388- HHS_AAP 010389; HHS_AAP 010390- HHS_AAP 010391
November 2025 Federal Register Notice of the ACIP meeting and written public comments	HHS_AAP 010392- HHS_AAP 010393; HHS_AAP 010394- HHS_AAP 011774
AI Summary of written public comments	HHS_AAP 011775- HHS_AAP 011778
ACIP Background Materials and Presentations on Hep B Vaccine, September 18-19, 2025	HHS_AAP 011779- HHS_AAP 011781
ACIP Meeting Minutes Summary, September 18-19, 2025	HHS_AAP 011782 - HHS_AAP 011885
Final Agenda for ACIP Meeting, September 18-19, 2025	HHS_AAP 011886 - HHS_AAP 011888
CDC, Background Briefing Document, Hepatitis B Birth Dose	HHS_AAP 011889- HHS_AAP 011905
CDC, Background Briefing Document, The Safety of Hepatitis B Vaccines Administered Within 24 Hours of Birth and Within 30 Days of Birth: A Rapid Systematic Review	HHS_AAP 011906- HHS_AAP 011989
CDC, Background Briefing Document, The Non-specific Effects of Hepatitis B Vaccines: A Rapid Systematic Review	HHS_AAP 011990- HHS_AAP 012013
Hepatitis B Birth Dose Vaccination, Dr. A. Langer (CDC/NCHHSTP)	HHS_AAP 012014- HHS_AAP 012058
A Review of the Safety of Hepatitis B Birth Dose Vaccination, Dr. J. Su (CDC/ISO)	HHS_AAP 012059- HHS_AAP 012084

***AAP v. Kennedy*, No. 1:25-cv-11916 (D. Mass.)
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Document(s)	Bates Range
Non-specific Effects Following Hepatitis B Vaccination, Dr. J. Su (CDC/ISO)	HHS_AAP 012085- HHS_AAP 012109
Letter on behalf of Congressional Hepatitis Caucus, June 25, 2025	HHS_AAP 012110- HHS_AAP 012111

EXHIBIT H

From: James J. Oh
Sent: Tuesday, July 7, 2026 4:56 PM
To: Belfer, Isaac C.; Harlow, James W. (CIV)
Cc: Richard H. Hughes IV; Kathleen Barrett; Daniella R. Lee; Elizabeth McEvoy; Robert Wanerman
Subject: RE: Meet and Confer on Supplemental Administrative Records

Isaac, James, and Katrina,

I appreciate that you spent an hour and a half on a call with me, Kathleen, and Richard yesterday to meet and confer about the Administrative Records (“ARs”) that the government has produced in this case. I will send an invite to James tomorrow for 10 am CT/11 am ET, since Isaac and Katrina are both out of the office tomorrow, to discuss the items that Isaac promised to follow-up on in our call. If, James, you have nothing to report other than “we’re still working on it,” please let me know, and we can cancel the call. I would, however, ask for an ETA on when answers will be provided to the following on which Isaac agreed to follow-up:

1. Confidential designations and names of individuals who appear in the ARs who were suggested for the ACIP. In our call, I proposed that Plaintiffs would do redactions of any PII or PHI on any of the documents designated Confidential and then run the redactions by you so that we could spare the parties the work of having to file documents under seal that contain minimal PII or PHI. This would also spare the Court the hassle of having to deal with documents filed under seal and potentially have to make rulings on those documents. You rejected my proposal because it would be too much work for the government at this point in time. Instead, you insisted on following the protocol set forth in the Protective Order that documents that Defendants have designated as Confidential must first be filed with the Court under seal, and thereafter, the parties will “confer about whether it is reasonably feasible and not unduly burdensome to redact the Confidential Information contained in the documents filed under seal.” My proposal for Plaintiffs to do the redactions now of the small number of Confidential documents in the ARs relieves most of the burden on the government and on the Court, and, therefore, I do not understand why you won’t agree to my proposal. Alternatively, I proposed being able to use just the names that appear on the CVs in the ARs of suggested candidates for the ACIP with everything else on the CVs redacted.
2. Documents showing how ACIP members appointed in 2025 entered the pipeline of candidates for the ACIP. In our call, I shared my screen and showed an email produced in the AR from [REDACTED] to [REDACTED] dated January 2, 2025, with the subject “ACIP Nominee – [REDACTED]” [REDACTED] was announced as one of eight new members of the ACIP on June 11, 2025. The January 2, 2025, email shows when he entered the ACIP candidate pipeline. The rest of the AR on the ACIP Reconstitution, however, contains no other emails that indicate how any others who were selected for the ACIP in 2025 [REDACTED] entered the pipeline for consideration, who recommended them, when they were first identified, the vetting done, conflict reviews, and communications concerning these appointments (including whether additional emails involving Aaron Siri and his law firm about the ACIP reconstitution exist). You indicated that you would check on this and get back to me. With regard to conflicts, you reiterated your position that OGE Form 450s are not part of the AR because they traditionally are completed after an individual is appointed but before they begin work on

the ACIP. But what about documents regarding conflicts vetting that was done before their appointments were announced, if any?

3. Completeness of all of the Records. In our call, I questioned the completeness of all of the records. By way of example, I brought up AR #1 re the May 27, 2025, Secretarial Directive on the Covid vaccine and why nothing was produced in the record about the video that was posted on X on May 27, 2025, announcing the changes to the CDC's immunization schedules for children and pregnant women. I also questioned why nothing was produced between December 5, 2025 – when [REDACTED] did a presentation on Denmark's childhood schedule and Aaron Siri did a presentation on the U.S. childhood schedule at the ACIP meeting, and the Presidential Memo on aligning the US childhood schedule with peer countries was released – through the January 6, 2026, Decision Memo, such as documents on the aborted announcement that was scheduled for December 18 on children's health. Your response to my questions about whether these ARs were complete was to point to the certifications that represented that these ARs were all complete. You also again refused my request to file the certifications on the record or have them signed under penalty of perjury.
4. Briefing schedule on motion to supplement/complete the record. I indicated that I intended to file a motion to complete the record by this Friday. You objected to that, stating that a Joint Status Report was due this Friday in which we were to apprise the Court of issues that remained on the AR and to propose a briefing schedule on a discovery motion in the JSR. In light of your objection, I intend to state in the JSR that Plaintiffs intend to file a Motion to Complete/Supplement the Administrative Records by no later than July 24 and reserve the right to file that motion before that date. That should give you ample time to produce any additional documents in response to # 2, above.

Best,

Jimmy

James J. Oh

Epstein Becker Green

227 W. Monroe

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Chicago, IL 60606

(312) 499-1470

joh@ebglaw.com