

**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)
Administrative Record Index

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
June 9, 2025 Decision Memo re: Removal of Current and Prospective ACIP Members*	
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*	
June 9, 2025 Notification Letters of ACIP Termination*	
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*	
June 24, 2025 Decision Memos re: Appointment of New Members to the ACIP, CDC*	
June 24, 2025 Decision Memo re: Nominations to the ACIP*	
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*	

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.)**
Reconstitution of the Advisory Committee on Immunization Practices (ACIP)
Administrative Record Index

Attachment E – Curricula Vitae of the Nominees*	
Attachment F- HS-532 Requests for Approval of June Nominees for Public Advisory Committees*	
June 25, 2025 Michael Ross ACIP Withdrawal*	
September 10, 2025 Decision Memo re: Nominations to the ACIP*	
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*	
Attachment E - Curricula Vitae of Nominees*	
Attachment F - HS-532 Requests for Approval of Nominees for Public Advisory Committees*	
September 15, 2025 Press Release	HHS_AAP 003933 - HHS_AAP 003936
November 26, 2025 Decision Memo re: Nomination to the ACIP*	
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*	
Attachment E - Curriculum Vitae of Nominee*	
Attachment F - HS-532 Request for Approval of Nominees for Public Advisory Committees*	
December 3, 2025 Decision Memo Re: Request to Amend the Charter of the CDC's ACIP	HHS_AAP 003954 - HHS_AAP 003956
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*	
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*	
Attachment E - Curricula Vitae of Nominees*	
Attachment F - HS-532 Requests for Approval of Nominees for Public Advisory Committees*	

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

December 23, 2025 Decision Memo re: Nominations to the ACIP*	
Attachment A - ACIP Charter	HHS_AAP 003982 - HHS_AAP 003986
Attachment B - Membership Balance Plan	HHS_AAP 003987 - HHS_AAP 003990
Attachment C - ACIP Membership Roster	HHS_AAP 003991 - HHS_AAP 003998
Attachment D - Financial Operating Plan*	
Attachment E - Curricula Vitae of Nominees*	
Attachment F - HS-532 Requests for Approval of Nominees for Public Advisory Committees*	
January 13, 2026 Press Release	HHS_AAP 003999 - HHS_AAP 004002
Biographies of ACIP Candidates*	
HHS Communications re: ACIP Charter	HHS_AAP 004003 - HHS_AAP 004003
HHS Communications re: FACA and PHSA	HHS_AAP 004004 - HHS_AAP 004004
Communications between HHS and Potential ACIP Nominees*	
HHS Correspondence re: Potential ACIP Nominees*	
ACIP Nominations Submitted to the CDC Website and Resource Mailbox*	
HHS Correspondence with External Stakeholders re: ACIP Reform and Committee Nominations*	
HHS Meeting re: Potential ACIP Nominees*	
Public and Congressional Comments on ACIP Reconstitution*	HHS_AAP 004005 - HHS_AAP 004011
	HHS_AAP 004012 - HHS_AAP 004017
	HHS_AAP 004018 - HHS_AAP 004021
	HHS_AAP 004022 - HHS_AAP 004033
	HHS_AAP 004034 - HHS_AAP 004038
	HHS_AAP 004039 - HHS_AAP 004044
	HHS_AAP 004045 - HHS_AAP 004053
	HHS_AAP 004054 - HHS_AAP 004054
	HHS_AAP 004055 - HHS_AAP 004060
	HHS_AAP 004061 - HHS_AAP 004064
	HHS_AAP 004065 - HHS_AAP 004065

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