

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

COMMONWEALTH OF MASSACHUSETTS,)
et al.)

Plaintiffs,)

v.)

NATIONAL INSTITUTES OF HEALTH, *et al.*,)

Defendants.)

Case No. 1:25-cv-10338

ASSOCIATION OF AMERICAN MEDICAL)
COLLEGES, *et al.*)

Plaintiffs,)

v.)

NATIONAL INSTITUTES OF HEALTH, *et al.*,)

Defendants.)

Case No. 1:25-cv-10340

ASSOCIATION OF AMERICAN)
UNIVERSITIES, *et al.*)

Plaintiffs,)

v.)

DEPARTMENT OF HEALTH AND HUMAN)
SERVICES, *et al.*,)

Defendants.)

Case No. 1:25-cv-10346

FINAL JUDGMENT AND PERMANENT INJUNCTION

Pending before the Court is the Defendant's Assented-to Motion to Convert Order on Preliminary Injunction into Order on Permanent Injunction and Enter Final Judgment. After

reviewing the motion, the record, and the applicable law, the Court is of the opinion that the motion should be **GRANTED**.

For reasons stated in this Court’s Memorandum and Order on Plaintiffs’ Motion for Preliminary Injunction, *see Massachusetts v. NIH*, Case No. 1:25-cv-10338, Doc. No. 105, the Court finds that this Court has jurisdiction over Plaintiffs’ claims, and that the Court of Federal Claims does not have exclusive jurisdiction over Plaintiffs’ claims under the Tucker Act, 28 U.S.C. § 1491(a)(1). The Court concludes that Plaintiffs in the above-captioned cases have demonstrated success on the merits of their Administrative Procedure Act claims that the issuance of the 2024 National Institutes of Health (NIH) Notice Number NOT-OD-25-068 (hereinafter, “Notice Number NOT-OD-25-068”): (1) violated 45 C.F.R. § 75.414 and Section 224 of the Further Consolidated Appropriations Act, 2024, Public Law 118-47;¹ (2) was arbitrary and capricious;² (3) failed to follow notice-and-comment procedures;³ and (4) was impermissibly retroactive.⁴

Accordingly, the Court concludes that entry of a permanent injunction is appropriate. *See Caroline T. v. Hudson Sch. Dist.*, 915 F.2d 752, 755 (1st Cir. 1990) (“Where a plaintiff seeks

¹ *See* Doc. No. 1 in *Mass. v. NIH*, Case No. 1:25-cv-10338 (Counts II and III); Doc. 1 in *AAMC v. NIH*, Case No. 1:25-cv-10340 (Count 1 and II); Doc. 1 in *AAU v. HHS*, Case No. 1:25-cv-10346 (Counts I, III, and V).

² *See* Doc. No. 1 in *Mass. v. NIH*, Case No. 1:25-cv-10338 (Count I); Doc. 1 in *AAMC v. NIH*, Case No. 1:25-cv-10340 (Count III); Doc. 1 in *AAU v. HHS*, Case No. 1:25-cv-10346 (Count IV).

³ *See* Doc. No. 1 in *Mass. v. NIH*, Case No. 1:25-cv-10338 (Count V); Doc. 1 in *AAMC v. NIH*, Case No. 1:25-cv-10340 (Count IV); Doc. 1 in *AAU v. HHS*, Case No. 1:25-cv-10346 (Count VI).

⁴ *See* Doc. No. 1 in *Mass. v. NIH*, Case No. 1:25-cv-10338 (Count III); Doc. 1 in *AAMC v. NIH*, Case No. 1:25-cv-10340 (Count V); Doc. 1 in *AAU v. HHS*, Case No. 1:25-cv-10346 (Count VIII).

permanent injunctive relief, the test is the same, except that ‘the movant must show actual success on the merits of the claim, rather than a mere likelihood of such success.’”) (quoting *K-Mart Corp. v. Oriental Plaza, Inc.*, 875 F.2d 907, 915 (1st Cir. 1989)).

Therefore, it is hereby **ORDERED**:

1. The Court has subject matter and personal jurisdiction over this action and the Parties.
2. Venue is proper before this District.
3. For the reasons stated in this Court’s Memorandum and Order on Plaintiffs’ Motion for Preliminary Injunction, *see Massachusetts v. NIH*, Case No. 1:25-cv-10338, Doc. No. 105, in *Massachusetts, et al. v. NIH, et al.*, Case No. 1:25-cv-10338, judgment is entered in favor of the Plaintiffs in that action on the following claims brought against the National Institutes of Health; Jay Bhattacharya, M.D., Ph.D., in his official capacity as Director of the National Institutes of Health; the United States Department of Health and Human Services; and Robert F. Kennedy, Jr., in his official capacity as Secretary of Health and Human Services: Count I; Count II; Count III; Count IV; and Count V.
4. For the reasons stated in this Court’s Memorandum and Order on Plaintiffs’ Motion for Preliminary Injunction, *see Massachusetts v. NIH*, Case No. 1:25-cv-10338, Doc. No. 105, in *Association of American Medical Colleges, et al. v. NIH, et al.*, Case No. 1:25-cv-10340, judgment is entered in favor of the Plaintiffs in that action on the following claims brought against the National Institutes of Health; Jay Bhattacharya, M.D., Ph.D., in his official capacity as Director of the National Institutes of Health; the United States Department of Health and Human Services; and Robert F. Kennedy, Jr., in his official capacity as Secretary of Health and

Human Services: Count I; Count II; Count III; Count IV; and Count V, as to the claim of a violation of the statutory prohibition on retroactivity.

5. For the reasons stated in this Court's Memorandum and Order on Plaintiffs' Motion for Preliminary Injunction, *see Massachusetts v. NIH*, Case No. 1:25-cv-10338, Doc. No. 105, in *Association of American Universities, et al. v. NIH*, Case No. 1:25-cv-10346, judgment is entered in favor of the Plaintiffs in that action on the following claims brought against the United States Department of Health and Human Services; the National Institutes of Health; Robert F. Kennedy, Jr., in his official capacity as Secretary of Health and Human Services; and Jay Bhattacharya, M.D., Ph.D., in his official capacity as Director of the National Institutes of Health: Count I; Count III; Count IV; Count V; Count VI; and Count VIII.

6. Defendants and their officers, employees, servants, agents, appointees, and successors are hereby **ENJOINED** from taking any steps to implement, apply, or enforce Notice Number NOT-OD-25-068, issued by the Office of the Director of the National Institutes of Health on February 7, 2025, in any form with respect to institutions nationwide.

7. Pursuant to 5 U.S.C. § 706(2), the Court **VACATES**, in its entirety, Notice Number NOT-OD-25-068, issued by the Office of the Director of the National Institutes of Health on February 7, 2025.

8. The following claim in *Association of American Medical Colleges, et al. v. NIH, et al.*, Case No. 1:25-cv-10340, is dismissed without prejudice: Count V, as to the claim of a violation of the constitutional prohibition on retroactivity.

9. The following claims in *Association of American Universities, et al. v. NIH*, Case No. 1:25-cv-10346, are dismissed without prejudice: Count II and Count VII.

This is a Final Judgment. It is **SO ORDERED**.

Dated: April 4, 2025

/s/ Angel Kelley
Hon. Angel Kelley
United States District Judge

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Case No. 1:25-cv-10346

NOTICE OF APPEAL

Pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Defendants National Institutes of Health, Jay Bhattacharya, in his official capacity as Director of the National Institutes of Health,¹ the U.S. Department of Health and Human Services, and Robert F. Kennedy, Jr., in his official capacity as Secretary of the U.S. Department of Health and Human Services,² hereby appeal to the United States Court of Appeals for the First Circuit from the Final Judgment and Permanent Injunction entered in these cases on April 4, 2025,³ as well as from all interlocutory orders merged into that judgment, including the court’s preliminary injunction of March 5, 2025.⁴

Dated: April 8, 2025

Respectfully submitted,

LEAH B. FOLEY
United States Attorney

BRIAN C. LEA
Deputy Associate Attorney General

/s/ Thomas W. Ports, Jr.
MARC S. SACKS (Ga. Bar No. 621931)
Deputy Director
KEVIN P. VANLANDINGHAM (NY Reg No.
4741799)
Assistant Director
THOMAS PORTS (Va. Bar No. 84321)
Trial Attorney
U.S. Department of Justice

¹ Pursuant to Federal Rule of Civil Procedure 25(d), Acting Director Matthew Memoli’s successor, Director Bhattacharya, is automatically substituted as a party.

² Pursuant to Federal Rule of Civil Procedure 25(d), Acting Secretary Dorothy Fink’s successor, Secretary Kennedy, is automatically substituted as a party.

³ No. 1:25-cv-10338 (Doc. No. 112); No. 1:25-cv-10340 (Doc. No. 56); and No. 1:25-cv-10346 (Doc. No. 100).

⁴ No. 1:25-cv-10338 (Doc. No. 105); No. 1:25-cv-10340 (Doc. No. 51); and No. 1:25-cv-10346 (Doc. No. 95).

Civil Division, Commercial Litigation Branch
P.O. Box 875
Ben Franklin Station
Washington D.C. 20044-0875
Tel: (202) 307-1134
Email: thomas.ports@usdoj.gov
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

Dated: April 8, 2025

/s/ Thomas W. Ports, Jr.
Thomas W. Ports, Jr.