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12 **UNITED STATES DISTRICT COURT**
 13 **NORTHERN DISTRICT OF CALIFORNIA**
 14 **SAN FRANCISCO DIVISION**

15 AMERICAN ASSOCIATION OF
 16 UNIVERSITY PROFESSORS, et al.,

17 Plaintiffs,

18 v.

19 DONALD J. TRUMP, in his official capacity
 20 as President of the United States, et al.,

21 Defendants.

Case No. 3:25-cv-07864-RFL

**REPLY IN SUPPORT OF PLAINTIFFS’
 MOTION FOR PRELIMINARY
 INJUNCTION**

Judge: Hon. Rita F. Lin
 Ctrm: 15, 18th Floor
 Date: November 6, 2025
 Time: 10:00 a.m.

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INTRODUCTION

1
2 The record establishes that Defendants are deploying their now-familiar Task Force Policy
3 against the University of California (“UC”), using legal and financial sanctions and threats under the
4 guise of civil rights enforcement to coerce America’s preeminent public university system into
5 suppressing disfavored speech and academic inquiry and imposing the Trump administration’s
6 ideological views. Plaintiffs have shown through more than 60 declarations that Defendants’ actions are
7 having their intended effect of chilling speech throughout the UC System and are causing Plaintiffs and
8 their members additional concrete and irreparable harms, which will only compound unless Defendants’
9 coercive campaign is enjoined. Defendants fail to rebut Plaintiffs’ evidence and offer none of their own.

10 Under longstanding precedent, Defendants’ coercive and retaliatory conduct violates the First
11 and Tenth Amendments and other constitutional provisions. Titles VI and IX establish clear requirements
12 circumscribing the termination or withholding of federal funding based on purported discrimination—
13 requirements Defendants concede were not followed. The government’s discretion to award federal
14 funding or set “agency priorities” does not give it license to disregard the Constitution, Titles VI and IX,
15 or the APA. Defendants offer no credible defense on the merits, and their jurisdictional arguments ignore
16 controlling authority. The Court should grant Plaintiffs’ requested relief to enjoin Defendants’ unlawful
17 conduct and prevent further irreparable harm to Plaintiffs, their members, and the public.

ADDITIONAL BACKGROUND

18
19 Plaintiffs briefly address two factual developments after the preliminary injunction filing. First,
20 UC was required to publicly disclose the August 8 Demand Letter. Ex. 113 at 14-20 (court reasoning
21 that public has interest in seeing “significant demands that, if accepted, would require the University to
22 make substantial changes to its core functions”).¹ The released Demand Letter confirms the public
23 reporting and Plaintiffs’ description of its demands. *Compare* ECF 31 (“Mem.”) 3-4 *with* Ex. 112.

24 Second, Plaintiffs’ supplemental evidence reveals that Defendants’ implementation of the Task
25 Force Policy has frozen further UCLA grants from Defendant National Science Foundation (“NSF”), in
26 addition to the \$584 million grant cancellations. The day after DOJ issued the July 29 Notice of Title VI
27 Violations to UCLA, NSF’s Acting Chief Science Officer stated: “[W]e have been instructed to suspend
28

¹ Exhibits 1-111 refer to exhibits attached to the Mammel Declaration filed at ECF 27, and Exhibits 112-116 refer to exhibits attached to the Supplemental Mammel Dec submitted herewith.

1 all active awards to UCLA ... and to not make further awards to [UCLA] until” DOJ’s Title VI
 2 investigation into UCLA “has been resolved.” ECF 40-3, Ex. 1 at 3 (emphasis added); *see also* ECF 40-
 3 2 ¶16 (NSF program officer stating “it is beyond my control now”). Based on that instruction, NSF is
 4 not renewing or authorizing new awards to UCLA moving forward and is refusing to fund grants that
 5 had been preliminarily or informally approved. ECF 40-3 ¶¶7-11, 14-16; ECF 40-2 ¶¶15-18, 20-21;
 6 Roper Dec. ¶¶17-18, 21 & Exs. 2, 4; Clarke Dec. ¶¶12-15 & Ex. A.

7 ARGUMENT

8 I. The Court Has Jurisdiction.

9 A. Plaintiffs Have Standing to Obtain the Preliminary Injunctive Relief They Seek.

10 1. Plaintiffs Have Associational Standing.

11 Defendants’ standing arguments misapprehend Plaintiffs’ claims and ignore record evidence.

12 ***Thakur* injunctions.** Defendants initially contend that the *Thakur* injunctions obviate Plaintiffs’
 13 members’ injuries. *See* ECF 61 (“Opp.”) at 9. But that ignores uncontroverted evidence of Defendants’
 14 broader attack on UC. *First*, Defendants ignore Plaintiffs’ evidence that NSF has frozen future grants to
 15 UCLA, which the *Thakur* injunctions² do not address. ECF 40-2 ¶¶13-21; ECF 40-3 ¶¶6-16; Clarke Dec.
 16 ¶¶10-17; Roper Dec. ¶¶11-22. That has harmed and is harming Plaintiffs’ members. *See* ECF 40-2 ¶19;
 17 Clarke Dec. ¶16; Roper Dec. ¶¶23-26; Bartlebaugh Dec. ¶¶5-6. *Second*, Defendants ignore Plaintiffs’
 18 members’ harm from Defendants’ termination of DOE grants at UCLA, also not addressed by the *Thakur*
 19 injunctions. *See* ECF 29-23 ¶6 (UAW Local 4811 members had appointments and salaries reduced);
 20 Jaime Supp. Dec. ¶¶7-9; *see Thakur IV*, 2025 WL 2696424, at *2. *Third*, even as to the enjoined NIH
 21 and NSF UCLA grant terminations, which caused serious and often ongoing harms to Plaintiffs’
 22 members, Mem. 14-15 (citing evidence), Plaintiffs’ requested relief would reduce the uncertainty
 23 members face, including by enjoining the terminations on additional grounds. *See Matsumoto v.*
 24 *Labrador*, 122 F.4th 787, 801 (9th Cir. 2024) (“[p]artial amelioration of a harm ... suffices for
 25 redressability”); Mem. 44-45 (authority for overlapping injunctions).³ *Fourth*, as discussed *infra*,

26
 27 ² *See Thakur v. Trump* (“*Thakur P*”), 787 F.Supp.3d 955, 1004-07 (N.D. Cal. 2025); *Thakur v. Trump*
 (“*Thakur IP*”), 2025 WL 2325390, at *1, 7 (N.D. Cal. Aug. 12, 2025); *Thakur v. Trump* (“*Thakur IV*”),
 2025 WL 2696424, at *2 (N.D. Cal. Sept. 22, 2025).

28 ³ Defendants allude to claim-splitting, citing *Mendoza v. Amalgamated Transit Union Int’l*, 30 F.4th
 879, 886 (9th Cir. 2022), but provide no analysis. For good reason. Plaintiffs represent many affected

1 Defendants' implementation of the Task Force Policy is causing present and imminent harms well
2 beyond the funding terminations to date.

3 **Present and imminent harms.** Defendants suggest that harms from additional funding cuts and
4 threats to impose financial and ideological conditions on receipt of funds are insufficiently imminent to
5 support standing, Opp. 10-11, but they ignore that many harms to Plaintiffs' members are occurring *now*.

6 Plaintiffs' evidence of ongoing serious First Amendment harm is uncontroverted: members are
7 suffering and will keep suffering chill to their speech and academic freedom because of Defendants'
8 coercive threats and accompanying demands. Mem. 5-7 (citing evidence); *e.g.*, ECF 29-1 ¶32; ECF 29-
9 6 ¶24; ECF 29-21 ¶20; *see Am. Encore v. Fontes*, 152 F.4th 1097, 1113 (9th Cir. 2025) (“[A] chilling of
10 the exercise of First Amendment rights is, itself, a constitutionally sufficient injury.”). And, as discussed
11 *supra* at 1-2, NSF is refusing to renew or award new grants to UCLA—including for world-renowned
12 scientists and mathematicians—because of DOJ's investigation, causing present harm. *See* ECF 40-3
13 ¶¶3-16 & Exs. 1-2; ECF 40-2 ¶¶3-21 & Exs. A-C; Clarke Dec. ¶¶10-13. Harms from the previous UCLA
14 grant terminations, including those by DOE, also persist in many respects. *See supra* at 1.

15 The Task Force Policy also subjects Plaintiffs' members to present and ongoing harm caused by
16 Defendants' dual threats of either further crippling terminations of federal grants to UC or imposition of
17 Defendants' financial and ideological demands. The threat of additional funding cuts is causing members
18 serious injuries, including by curtailing research and reducing training opportunities. *See* Mem. 16 (citing
19 evidence). And the threat that Defendants will extract UC concessions portends other harm including to
20 Plaintiffs' transgender members, parents of transgender children, those who depend on the contributions
21 of international students, and members who intend to protest or engage in speech, instruction, or research
22 Defendants disfavor. *See* Mem. 4-5, 17-20 (citing evidence). Enjoining Defendants' coercive conduct,
23 and thereby removing these harmful threats, will redress Plaintiffs' members' injuries. *See All. for*
24 *Hippocratic Med. v. FDA*, 602 U.S. 367, 381 (2024).⁴

25 The precision and predictability with which the Task Force Policy has been carried out against

26 _____
27 UC workers who are not in the *Thakur* classes. Campos Dec. ¶5; Rodger Supp. Dec. ¶5; Ranson Dec.
28 ¶¶4-5; Patel Supp. Dec. ¶4; Jaime Supp. Dec. ¶¶3-6; Rabinowitz Supp. Dec. ¶5. This case also concerns
a different “nucleus of facts” regarding the Task Force Policy and different injuries.

⁴ Defendants assert that an injunction requiring “that grants be awarded” somehow “flouts the rigorous
review and award process,” Opp. 11, ignoring that Plaintiffs' requested relief would remove the threat
of funding cutoffs without the requisite legal procedures. ECF 26-1.

1 UC and other universities demonstrates the substantial risk that Defendants will implement their threats
 2 and further harm Plaintiffs' members. Mem. 10-14; *infra* at 12-13; see *City of Los Angeles v. Lyons*, 461
 3 U.S. 95, 102 (1983) (past harms relevant to likelihood of future harm). The record demonstrates a strong
 4 likelihood that Defendants will carry out their threats. See *Susan B. Anthony List v. Driehaus*, 573 U.S.
 5 149, 158 (2014) ("allegation of future injury may suffice if the threatened injury is certainly impending,
 6 or there is a substantial risk that the harm will occur" (cleaned up)); *City & Cnty. of S.F. v. U.S.*
 7 *Citizenship & Immigr. Servs.*, 944 F.3d 773, 787 (9th Cir. 2019) ("risk or threat of injury" is sufficient).⁵

8 Courts have "recognized an imminent injury-in-fact where administrative action sets up a kind
 9 of 'forced choice.'" *Planned Parenthood of Greater N.Y. v. U.S. Dep't of Health & Human Servs.*, 2025
 10 WL 2840318, at *11 (D.D.C. Oct. 7, 2025) (quoting *Stavrianoudakis v. U.S. Fish & Wildlife Serv.*, 108
 11 F.4th 1128, 1138 (9th Cir. 2024)). Having forced UC into a Hobson's choice, Defendants cannot defeat
 12 justiciability by pretending, contrary to the record, that UC is not being coerced by Defendants. See *Nat'l*
 13 *Educ. Ass'n v. U.S. Dep't of Educ.*, 779 F.Supp.3d 149, 178 (D.N.H. 2025) (unions had standing to
 14 challenge "Dear Colleague" letter because "threatening demand that schools immediately comply with
 15 the Department's interpretation of federal law," and "school districts' rel[iance] upon federal funding,"
 16 made it "predictable that schools would cease all DEI programming"); *Am. Fed'n of Tchrs. v. Dep't of*
 17 *Educ.*, 2025 WL 2374697, at *15 (D. Md. Aug. 14, 2025) ("It is predictable that states and schools faced
 18 with funding cuts, investigations, enforcement actions, or FCA liability will take actions to limit speech
 19 by teachers that might expose them to those consequences."); cf. *Lujan v. Defs. of Wildlife*, 504 U.S.
 20 555, 562 (1992) (standing difficult when injury "depends on the *unfettered choices* made by independent
 21 actors") (emphasis added).⁶

22
 23 ⁵ Injury in *Clapper v. Amnesty International USA*, 568 U.S. 398 (2013), turned on "a highly attenuated
 24 chain of possibilities" requiring, *inter alia*, the government to target non-U.S. persons with whom the
 25 plaintiff organizations communicated and to use a particular intelligence-gathering statute to do so, after
 26 obtaining approval from the Foreign Intelligence Surveillance Court. *Id.* at 410-14; see also *Summers v.*
Earth Island Inst., 555 U.S. 488, 496 (2009) (standing depended on multiple contingencies). Here, by
 contrast, evidence shows the government has made specific demands and coercive threats to UC that are
 presently affecting Plaintiffs' members *and* substantially likely to inflict future harm. Mem. 2-5.

27 ⁶ Defendants argue that some harms depend on how UC responds to the administration's threats. Opp.
 28 10-11. But UC's role does not impede standing given present harms and infliction of this Hobson's
 choice. See Mem. 14-20. When, as here, a third party's response to government intervention "is
 predictable," "commonsense inferences may be drawn" in assessing causation and redressability.
Diamond Alternative Energy, LLC v. Env't Prot. Agency, 145 S. Ct. 2121, 2136 (2025); see also *Dep't*
of Com. v. New York, 588 U.S. 752, 768 (2019) (states had standing to challenge census citizenship

2. Plaintiffs Have Organizational Standing.

Alliance for Hippocratic Medicine reaffirmed that organizations may establish “standing ‘to sue on their own behalf for injuries they have sustained.’” 602 U.S. at 393 (quoting *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379, n. 19 (1982)); *see also id.* at 395 (acknowledging standing of organization whose counseling and referral services were perceptibly impaired). Plaintiffs are not “simply ... expending money to gather information and advocate against” Defendants’ conduct. *Id.* (quoted at Opp. 12). Plaintiffs showed that Defendants’ acts “directly affected and interfered with [Plaintiff organizations’] core business activities,” including advising and representing members vis-à-vis their employers. *Id.*; Mem. 21-22 & nn. 55-57 (citing evidence).⁷ Defendants’ threats are presently undermining academic freedom and shared governance at UC. *See* Mem. 5-7, 19-20 (citing evidence); *supra* at 1-3. The resulting interference with Plaintiffs’ ordinary business is not based on “fears of hypothetical future harm,” *Clapper*, 568 U.S. at 416, it is actual and ongoing. *See, e.g.*, ECF 29-38 ¶¶18-22 (threats and demands impacting CIR’s collective bargaining activities); ECF 29-47 ¶20 (SDFA harmed by threats’ effects on shared governance); ECF 29-17 ¶24 (threatened protest restrictions undermine SCFA’s right to bargain access and protest restrictions); ECF 29-39 ¶13 (chilling effect of threats and demands on membership has impaired ability to mount labor demonstrations and strikes).

Plaintiffs also demonstrated standing based on infringement and chilling of their own First Amendment rights. Mem. 22; *see, e.g.*, ECF 29-17 ¶23 (“Subsequent to the Trump administration’s targeting of UCLA, SCFA leadership has experienced hesitancy, even self-censorship, in statements it has issued, to protect its members and the campus.”); ECF 29-41 ¶16; ECF 29-39 ¶12.

B. Plaintiffs’ Claims Are Ripe.

There is no basis to delay consideration of the issues presented on ripeness grounds. This is no

question, notwithstanding intervening role of noncitizens who might or might not comply with duty to respond to census, where standing theory relied not on “mere speculation about the decisions of third parties” but “on the predictable effect of Government action on the decisions of third parties”).

⁷ Defendants barely engage with Plaintiffs’ evidence, but the one example they identify highlights their oversimplified view of the law and facts. Opp. 11-13 (citing ECF 29-49 ¶24). AAUP President Todd Wolfson explained that Defendants’ “pressure on the UC ... to abandon [its] commitment to academic freedom, shared governance, and due process principles” has “made it more difficult and resource-intensive for AAUP to carry out its work for chapters and individual members, in particular on issues of academic freedom.” ECF 29-49 ¶¶24-25. AAUP’s core business activities include consulting with and advising local chapters and individual members regarding academic freedom, shared governance, and other issues relating to members’ employment relationships with university employers. *Id.* ¶¶7, 17-19.

1 “abstract disagreement[,” *Twitter, Inc. v. Paxton*, 56 F.4th 1170, 1173 (9th Cir. 2022) (citation omitted);
2 preliminary injunctive relief is needed now to enjoin Defendants’ presently occurring coercive,
3 retaliatory, and statute-flouting threats against UC.

4 Defendants’ ripeness arguments again misconstrue Plaintiffs’ legal theories and the factual
5 record.⁸ “Ripeness’ constitutional component is “synonymous with the injury-in-fact prong of the
6 standing inquiry.” *Id.* Plaintiffs plainly are not advancing “generalized allegations regarding the
7 existence of a task force to combat antisemitism.” Opp. 14. The Task Force Policy is currently being
8 applied to UC; under that Policy, Defendants have already enacted devastating funding cuts against UC
9 without following statutory procedures; and the resulting harms—including the withholding of funding
10 on grants previously recommended for approval, the ongoing chilling effect, and the consequences of
11 threatened future grant terminations and capitulation to the August 8 demands—are concrete,
12 particularized, and actual or imminent, not speculative. *See* Mem. 2-19 (citing evidence); *supra* at 2-6;
13 *City & Cnty. of S.F. v. Trump*, 897 F.3d 1225, 1236-38 (9th Cir. 2018) (challenge to executive order
14 withholding funding for sanctuary cities was ripe where, *inter alia*, federal officials communicated
15 specific warnings and threats that they would enforce the policy).⁹

16 Prudential ripeness considerations also favor adjudication. *See Flaxman v. Ferguson*, 151 F.4th
17 1178, 1188 (9th Cir. 2025) (prudential ripeness turns on “fitness of the issues for judicial decision” and
18 “hardship to the parties of withholding court consideration”). Plaintiffs ask the Court to address legal
19 issues arising from undisputed facts regarding Defendants’ concrete threats and grant suspensions, which
20 are being done pursuant to final agency action. *See* Mem. 32-35; *infra* at 17-21. Plaintiffs raise urgent
21 and specific legal concerns that are fit for decision. *See Wolfson v. Brammer*, 616 F.3d 1045, 1060 (9th
22

23 ⁸ Defendants contend that Plaintiffs’ members’ claims *before* grant termination are not ripe, yet *after*
24 termination are precluded by the Tucker Act. Opp. at 9 n.3, 14. Both arguments are meritless, and
25 Defendants’ attempt to foreclose Plaintiffs altogether from obtaining judicial review of their
26 constitutional and statutory claims should be rejected. *Cf. Thakur IV*, 2025 WL 2696424 at *10.

27 ⁹ Defendants’ cases are not analogous. *See Trump v. New York*, 592 U.S. 125, 131 (2020) (how
28 Executive Branch might eventually implement general policy statement was conjecture); *Nat’l Park
Hosp. Ass’n v. Dep’t of Interior*, 538 U.S. 803, 809-11 (2003) (challenged regulation was general policy
statement and caused plaintiffs no practical harm); *Texas v. U.S.*, 523 U.S. 296, 300 (1998) (no evidence
application of the challenged provision was “currently foreseen or even likely”). In *Murthy v. Missouri*,
603 U.S. 43, 57 (2024) (cited at Opp. 15), the evidence showed that the government defendants “issued
no directives and threatened no consequences” against the social media platforms that moderated the
plaintiffs’ content in the months leading up to the lawsuit. *Id.* at 72. Here, by contrast, there is clear
evidence of an “ongoing pressure campaign” by Defendants against UC. *Id.* at 69; *see infra* at 12-13.

1 Cir. 2010) (claim is “fit for decision if the issues raised are primarily legal, do not require further factual
2 development, and the challenged action is final”) (cleaned up); *Oklevueha Native Am. Church of Haw.,*
3 *Inc. v. Holder*, 676 F.3d 829, 838 (9th Cir. 2012) (“[F]itness ... requires only the existence of a ‘concrete
4 factual situation.’”) (citation omitted). Consideration of hardship also plainly supports prudential
5 ripeness. Plaintiffs have amply shown “that withholding review would result in direct and immediate
6 hardship and would entail more than possible financial loss,” including chilled speech and reputational
7 and professional harms. *Wolfson*, 616 F.3d at 1060 (quoting *Stormans, Inc. v. Selecky*, 586 F.3d 1109,
8 1126 (9th Cir. 2009)); Mem. 41-43 (citing evidence); *infra* at 26-27.

9 **C. The Tucker Act Does Not Deprive This Court of Jurisdiction.**

10 Defendants rely entirely on *Department of Education v. California*, 604 U.S. 650 (2025) and
11 *National Institutes of Health v. American Public Health Association*, 145 S. Ct. 2658 (2025) (“*APHA*”),
12 Opp. 16-19, while ignoring all the reasons that this case is different, and why this Court therefore has
13 jurisdiction under controlling Ninth Circuit authority. Mem. 22-24 (citing *Thakur v. Trump* (“*Thakur*
14 *III*”), 148 F.4th 1096, 1104 (9th Cir. 2025), and *Cnty. Legal Servs. in E. Palo Alto v. HHS* (“*CLSEPA*”),
15 137 F.4th 932, 938 (9th Cir. 2025), *reh’g en banc denied*, __F.4th__, 2025 WL 2884805 (9th Cir. Oct.
16 10, 2025) (“*CLSEPA IP*”). As Plaintiffs explained, this Court has jurisdiction for multiple reasons: (1)
17 Title VI and IX have express jurisdiction-granting provisions; (2) *ultra vires* claims are not subject to
18 the Tucker Act; (3) Plaintiffs’ claims are rooted in constitutional and statutory provisions, not contractual
19 rights; (4) Plaintiffs seek equitable relief; and (5) Plaintiffs are non-contracting parties with no remedy
20 in the Court of Federal Claims (“CFC”). Mem. 22-24. For these same reasons, this case is unlike
21 *California*, which addressed only APA arbitrary-and-capricious claims brought by grantees seeking to
22 enforce their contractual right to payment, and unlike *APHA*, which likewise did not address
23 constitutional or Title VI and IX claims, and which “did not consider, and thus did not address,” the
24 argument that the Tucker Act cannot deprive district courts of jurisdiction over claims of non-contracting
25 parties who “could not obtain *any* relief in the [CFC].” *Thakur IV*, 2025 WL 2696424, at *1.

26 Defendants fail entirely to address Title VI and IX’s express grant of district court jurisdiction
27 under the APA. *See* Mem. 23-24; *see generally* Opp. As to Plaintiffs’ remaining claims, Defendants
28 misconstrue the rights asserted and the relief sought in trying to paint this case as a contract dispute in
disguise. *See United Aeronautical Corp. v. U.S. Air Force*, 80 F.4th 1017, 1025 (9th Cir. 2023). Plaintiffs

1 do not claim they are “entitle[d] ... to federal funds” and do not seek “specific performance” of any
2 contracts. Opp. 18. Rather, Plaintiffs assert First Amendment rights not to have their speech suppressed
3 through coercion of a third party, and not to be retaliated against for protected speech. Mem. 24-28; *infra*
4 at 12-15. These rights find their source not in any contract, but in the Constitution. *See Nat’l Rifle Ass’n*
5 *of Am. v. Vullo*, 602 U.S. 175, 187-90 (2024); *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 67 (1963);
6 *Ariz. Students’ Ass’n v. Ariz. Bd. of Regents*, 824 F.3d 858, 867 (9th Cir. 2016). Similarly, Plaintiffs’
7 Tenth Amendment, unconstitutional conditions, and separation of powers claims seek not to enforce
8 UC’s contractual rights under any terminated or suspended grants but “to vindicate [their] own
9 constitutional interests.” *See Bond v. U.S.*, 564 U.S. 211, 220 (2011); Mem. 29-32 (citing authorities).

10 Plaintiffs’ constitutional claims are not transformed into contractual ones simply because
11 Defendants’ chosen tool of coercion and retaliation involves the withholding or threatened withholding
12 of federal funds (in addition to legal sanctions). The government may not suppress or retaliate against
13 protected speech or coerce States by any means, financial or otherwise. *See Vullo*, 602 U.S. at 180 (First
14 Amendment prohibits use of legal sanctions “and *other means* of coercion”) (quoting *Bantam Books*,
15 372 U.S. at 67; emphasis added); *President & Fellows of Harvard Coll. v. U.S. Dep’t of Health & Hum.*
16 *Servs.*, 2025 WL 2528380, at *27 (D. Mass. Sept. 3, 2025); *Nat’l Fed’n of Indep. Bus. v. Sebelius*
17 (“*NFIB*”), 567 U.S. 519, 578 (2012) (Tenth Amendment challenge to Medicaid grants condition); *see*
18 *also Agency for Int’l Dev. v. All. for Open Soc’y Int’l, Inc.* (“*AID*”), 570 U.S. 205, 214-15 (2013) (First
19 Amendment challenge to federal grants condition); *APHA*, 145 S. Ct. at 2661 (Barrett, J., concurring)
20 (that agency guidance is “related to grants does not transform a challenge to that guidance into a claim
21 ‘founded ... upon’ contract”) (quoting 28 U.S.C. §1491(a)(1)). Defendants’ use of federal funding to
22 accomplish unconstitutional objectives does not place their conduct beyond judicial reach.¹⁰

23 Plaintiffs’ other claims are likewise rooted in rights secured under Title VI, Title IX, and the
24 APA, which exist independent of any contractual terms. *See Thakur III*, 148 F.4th at 1103 (source of
25 rights was APA’s arbitrary and capricious prong); *APHA*, 145 S. Ct. at 2661 (Barrett, J., concurring)
26 (district court likely “had jurisdiction to entertain an APA [arbitrary and capricious] challenge to the
27 [agency] guidance”); *Normandy Apts., Ltd. v. HUD*, 554 F.3d 1290, 1299-1300 (10th Cir. 2009) (source

28 ¹⁰ Apart from mischaracterizing Plaintiffs’ constitutional claims as contract claims, Defendants offer no response to the additional point (Mem. 23) that the Tucker Act is wholly inapplicable to this Court’s jurisdiction over Plaintiffs’ *ultra vires* claims.

1 of rights was regulations governing HUD’s termination of contracts); *Bd. of Pub. Instruction of Taylor*
 2 *Cnty. v. Finch*, 414 F.2d 1068, 1077 (5th Cir. 1969) (limits on funding termination meant “not primarily
 3 for the benefit of the [entity] whose funds are withheld, but for the potential recipients of federal aid”);
 4 Mem. 35-41. None of Plaintiffs’ claims are “dependent” on establishing their “rights under a government
 5 contract,” *Tucson Airport Auth. v. Gen. Dynamics Corp.*, 136 F.3d 641, 648 (9th Cir. 1998), such that
 6 they rise and fall with proving an underlying contract breach. Indeed, resolving their claims requires no
 7 reference to the content of any contract at all. *See CLSEPA*, 137 F.4th at 938; *CLSEPA II*, 2025 WL
 8 2884805, at *4-6 (Koh and Fletcher, JJ.).

9 Nor do Plaintiffs seek money damages or “specific performance” of any contract, Opp. 18, only
 10 equitable relief to enforce their constitutional and statutory rights. As in *CLSEPA*, Plaintiffs do not seek
 11 to compel Defendants to award funding of any particular grant or contract; they seek only an injunction
 12 “to ensure compliance with statutory and regulatory” (and here, also constitutional) “commands,” which
 13 is “beyond the scope of the Tucker Act’s exclusive jurisdiction.” 137 F.4th at 938; *see APHA*, 145 S. Ct.
 14 at 2661 (Barrett, J., concurring); *California*, 604 U.S. at 650 (“a district court’s jurisdiction ‘is not barred
 15 by the possibility’ that an order setting aside an agency’s action may result in the disbursement of funds”)
 16 (quoting *Bowen v. Massachusetts*, 487 U.S. 879, 910 (1988)); ECF 26-1 (Proposed Order) ¶¶1-5.¹¹

17 Finally, Defendants concede Plaintiffs are not parties to any government contract and the CFC
 18 lacks jurisdiction to hear their claims. *See* Mem. 23; Opp. 9 n.3. This is dispositive. “‘There cannot be
 19 exclusive jurisdiction under the Tucker Act if there is no jurisdiction under the Tucker Act.’” *CLSEPA*,
 20 137 F.4th at 939 (citation omitted). Neither *California* nor *APHA* considered Defendants’ extreme
 21 position: that the Tucker Act precludes plaintiffs with Article III standing from pursuing cognizable
 22 constitutional and statutory claims in *any* forum.¹² “Not only is this result contrary to common sense,
 23 but it also conflicts with the ‘strong presumption favoring judicial review of administration action’ that
 24 is embodied in the APA.” *CLSEPA*, 137 F.4th at 939 (quoting *Mach Mining, LLC v. EEOC*, 575 U.S.

25
 26 ¹¹ With respect to Plaintiffs’ request to enjoin Defendants from unlawfully *refusing to grant or continue*
 27 federal funding, there is no “contract” that could be enforced. *See, e.g., Wash. v. Dep’t of Ed.*, 2025 WL
 28 2966255, at *7-9 (W.D. Wash. Oct. 21, 2025); *R.I. Coal. Against Domestic Violence v. Kennedy*, 2025
 WL 2988075, at *2-5 (D.R.I. Oct. 23, 2025) (Tucker Act inapplicable where challenged conditions had
 “not become ratified terms to any grant agreement/contract”); *R.I. Coal. Against Domestic Violence v.*
Bondi, 2025 WL 2271867, at *5 (D.R.I. Aug. 8, 2025) (similar).

¹² Indeed, it was important to Justice Barrett’s controlling concurrence in *APHA* that the result there
 would *not* “leave[] the plaintiffs without any prospect of relief.” 145 S. Ct. at 2662 n.1.

1 480, 486 (2015)); *Thakur I*, 787 F.Supp.3d at 989. “There is no reason to conclude that Congress intended
 2 for plaintiffs with potentially meritorious statutory and constitutional claims to be deprived of any forum
 3 in which to vindicate those alleged wrongs.” *Thakur IV*, 2025 WL 2696424, at *10.¹³

4 **D. Rule 19 Is No Bar to Plaintiffs’ Requested Injunction.**

5 Under Federal Rule 19(a), UC is a “[r]equired [p]arty” only if one of two conditions is met: either
 6 (1) “the court cannot accord complete relief among existing parties” in UC’s absence, Fed. R. Civ. P.
 7 19(a)(1)(A), or (2) UC has “claim[ed] an interest relating to the subject of the action” and proceeding
 8 without it will (a) “impair or impede [UC’s] ability to protect” that claimed interest or (b) “leave an
 9 existing party subject to a substantial risk of incurring double, multiple, or otherwise inconsistent
 10 obligations because of the interest,” *id.* 19(a)(1)(B). UC is not a required party under either prong.¹⁴

11 First, Defendants do not argue that the Court cannot award complete relief among the existing
 12 parties, nor could they. Instead, they mischaracterize Plaintiffs’ claims as seeking to “set aside” or
 13 “decimate” contracts. Opp. 20. But Plaintiffs do not seek contract invalidation as relief from Defendants,
 14 let alone from UC. Plaintiffs seek to require Defendants (not UC) to comply with the law and to prohibit
 15 unlawful penalties and conditions. *See* ECF 26-1; ECF 24 (Prayer for Relief). All of this relief can be
 16 obtained from Defendants without UC’s involvement. *See Disabled Rts. Action Comm. v. Las Vegas*
 17 *Events, Inc.*, 375 F.3d 861, 880 (9th Cir. 2004) (meaningful relief could be granted to plaintiffs bringing
 18 ADA claims by enjoining event sponsor from “making ... operational decisions regarding conditions
 19 over which they have control” without joining entity that owned the venue).

20 Second, as to Rule 19(a)(1)(B), Defendants ignore the “initial requirement”: “that the absent
 21 party *claim* a legally protected interest relating to the subject matter of the action.” *United States v.*
 22 *Bowen*, 172 F.3d 682, 689 (9th Cir. 1999) (cleaned up); *see also Altmann v. Republic of Austria*, 317
 23 F.3d 954, 971 (9th Cir. 2002) (“[w]here a party is aware of an action and chooses not to claim an interest”
 24 failure to join is not error); *Northrop Corp. v. McDonnell Douglas Corp.*, 705 F.2d 1030, 1043-44 (9th
 25

26 ¹³ Defendants’ attempt to distinguish *CLSEPA*, Opp. 19, is unpersuasive. There, as here, the plaintiffs
 27 were not parties to the terminated contracts; the source of the plaintiffs’ rights was statutory, not
 28 contractual; and the relief plaintiffs sought was compliance with statutes, not specific performance. 137
 F.4th at 937-39. While the “specific funding structure at issue” in *CLSEPA* may have differed from that
 here, Opp. 19, the Ninth Circuit did not rest its decision on that ground.

¹⁴ Although Defendants suggest that the “Court lacks jurisdiction” in UC’s absence, Opp. at 19, Rule
 19 is *not* jurisdictional, *see Alto v. Black*, 738 F.3d 1111, 1125 (9th Cir. 2013), and thus not a factor in
 Plaintiffs’ likelihood of success on the merits.

1 Cir. 1983) (similar). UC is aware of this case, *see* Ex. 115 at 4; Leyton Decl. ¶2, and has not claimed an
 2 interest in it. This precludes invocation of Rule 19(a)(1)(B). *See Roberts v. City of Fairbanks*, 947 F.3d
 3 1191, 1204 (9th Cir. 2020). Moreover, Defendants fail to identify any UC interest that would be
 4 “impair[ed] or impede[d],” Fed R. Civ. P. 19(a)(1)(B), if UC is not joined. Defendants point to UC’s
 5 “contractual rights ... to enforce (or not) its own contract.” Opp. 21. But Plaintiffs’ claims and proposed
 6 injunction neither seek to enforce any contracts, nor impair UC’s right to do so. *See supra* at 7-10.¹⁵

7 Defendants rely on inapposite cases involving relief that would “set aside a lease or a contract.”
 8 Opp. 20-21 (quoting *Lomayaktewa v. Hathaway*, 520 F.2d 1324, 1325 (9th Cir. 1972); citing
 9 *Dawavendewa v. Salt River Project Agr. Imp. & Power Dist.*, 276 F.3d 1150 (9th Cir. 2002)). But
 10 *Disabled Rights* distinguished these cases by explaining that a suit to require event sponsors to comply
 11 with the ADA was not “litigation seeking to decimate” the sponsors’ contract with the venue owner
 12 and would in no way “invalidate[]” the contract. 375 F.3d at 881 (noting “[n]o term of the contract
 13 require[d] discrimination on the basis of disability” or preclude[d] accommodation) (citation omitted).
 14 Here, if Plaintiffs obtain their requested relief, Defendants will be prohibited from cutting off funding
 15 without complying with Title VI and IX procedures and from imposing unlawful funding conditions.
 16 That relief will not undermine, let alone “decimate,” any contract between Defendants and UC.¹⁶

17 Because UC is not a required party under Rule 19(a)(1), Defendants’ argument fails “at step
 18 one,” and the Court need not reach Rule 19(b). *Alto*, 738 F.3d at 1126; *see Disabled Rts.*, 375 F.3d at
 19 883. In any event, Defendants’ Rule 19(b) arguments, Opp. 21-22, fail for largely the same reasons UC
 20 is not a necessary party.¹⁷ Further, Defendants fail to acknowledge the public rights exception that
 21 applies in the Rule 19(b) analysis when plaintiffs seek to “vindicate a broader public interest.” *Federated*
 22 *Indians of Graton Rancheria v. U.S. Dep’t of the Interior*, 2025 WL 2096171, at *8 (N.D. Cal. July 18,
 23 2025). Litigation to enforce the government’s compliance with the law secures public rights that may be
 24

25 ¹⁵ Defendants seem to argue that UC has a legal right to refuse federal funds. But Plaintiffs’ requested
 26 relief would not prevent UC from doing so. *Cf. Cachil Dehe Band of Wintun Indians v. California*, 547
 F.3d 962, 971 (9th Cir. 2008) (“financial consequences” of case not sufficient interest).

27 ¹⁶ Defendants suggest that UC has an interest in a possible settlement and “prospective contractual
 28 relationships,” *id.* at 20-21, but UC does not have a legal interest in future contracts. *Cf. Disabled Rts.*,
 375 F.3d at 881 (no legal interest where contract had expired and there was merely option to extend it).

¹⁷ Judgment in the case would not prejudice UC, *supra* at 10-11; it could be fashioned to avoid
 impinging on UC’s rights, *see* ECF 26-1; and the balance of the equities weighs in favor of permitting
 Plaintiffs to proceed, *infra* at 27. Defendants’ out-of-circuit authorities (Opp. 21) are inapposite.

1 litigated in the absence of impacted persons. *See Conner v. Burford*, 848 F.2d 1441, 1459, 1460 (9th Cir.
 2 1988) (warning of “danger of expanding joinder requirements in the public rights area”); *Env’t Prot.*
 3 *Info. Ctr. v. Carlson*, 968 F.3d 985, 992 (9th Cir. 2020) (“public interest is served by requiring [federal
 4 government] to comply with the law”).¹⁸ Plaintiffs seek to vindicate a public interest and to secure the
 5 federal government’s legal compliance, so Rule 19(b) poses no barrier to Plaintiffs’ lawsuit or motion.

6 **II. Plaintiffs May Obtain Relief for Defendants’ Violations of Law.**

7 Defendants’ Task Force Policy and the Termination Letters are final agency action reviewable
 8 under the APA, but even if APA review were not available, the Court could enjoin Defendants’ unlawful
 9 conduct as *ultra vires* in excess of all constitutional and statutory authority. *See* Mem. 35 n.66.

10 **A. Defendants’ Task Force Policy and Termination Letters Are Final Agency Action Not Committed to Agency Discretion.**

11 Defendants apparently concede the Termination Letters are final agency action. *See* Mem. 32;
 12 Opp. 23. The funding terminations represent agency decisions to cut off federal funds based *not* on
 13 individual grant considerations, but due to pending civil rights investigations. *See* Mem. 2-3. These
 14 decisions are reviewable under the APA. *Bennett v. Spear*, 520 U.S. 154, 177-78 (1997); *Thakur I*, 787
 15 F.Supp.3d at 986 (finding final agency action when likely “categorical policy” to terminate funds).

16 As to the Task Force Policy, Defendants do not deny its existence, and Plaintiffs’ uncontroverted
 17 evidence reveals a coordinated, multi-agency¹⁹ policy with two key elements: (1) terminating federal
 18 funds to universities under the guise of civil rights investigations, without following required processes,
 19 followed by (2) demands to inflict financial harm and secure ideological conformity that go beyond the
 20 remedies civil rights laws authorize as a condition of avoiding further legal and financial sanctions.
 21 Evidence that the policy involves threats of and actual devastating financial sanctions tied to civil rights

22
 23 ¹⁸ Under the exception, even if a case could have some adverse impact on contractual rights of absent
 24 parties, those parties need not be joined unless the litigation will “destroy the legal entitlements of the
 25 absent parties.” *Conner*, 848 F.2d at 1459. That is certainly not the case here. *See Am. Greyhound Racing,*
Inc. v. Hull, 305 F.3d 1015, 1026 (9th Cir. 2002) (cited in Opp. 20; recognizing in context of public
 rights exception that “merely ... requir[ing] adherence to certain procedures in entering or extending”
 contracts with tribes was not a direct impact on the tribes’ rights).

26 ¹⁹ *See* Ex. 47 (Feb. DOJ announcement of multi-agency endeavor); Ex. 36 at 6:09, 6:39 (Terrell:
 27 “President Trump is going after [universities] in every aspect. ... This task force, ...every agency’s
 and the Treasury Department.”); Ex. 55 (Noem (DHS): “We tried to do things the easy way with Harvard.
 28 Now, through their refusal to cooperate, we have to do things the hard way.”); Ex. 68 (HHS “is partnering
 with other federal agencies to conduct a comprehensive review of grants awarded to universities”); Ex.
 85 (Task Force announcement of multi-agency effort to cut funds to Harvard); Ex. 58 (same re:
 Columbia); Exs. 56, 58, 59, 77, 78, 79 (multi-agency announcements of Task Force work).

1 investigations and lawsuits is overwhelming.²⁰ So too is the evidence that the Task Force Policy involves
 2 imposition of sanctions under the guise of civil rights enforcement without following required
 3 processes.²¹ As a former DOJ senior trial attorney explained: “The process is turned upside down....
 4 We were given a conclusion and told to find supporting evidence to justify it.” Ex. 116 at 9. The Task
 5 Force Policy’s second prong is also well-documented. Defendants will agree to resolve existing and
 6 threatened investigations only on terms that go far beyond remedies available for the alleged civil rights
 7 violations, including seeking vast monetary payments, conditions for protests, curriculum oversight,
 8 access to student discipline records, and more.²²

9 Plaintiffs also established Defendants’ implementation of the Task Force Policy against UC.
 10 Within days of the Columbia “template” settlement, DOJ, NSF, NIH, and DOE targeted UCLA,
 11 terminating funds based on civil rights investigations. Mem. 2-5, 11-12 (citing Ex. 66); *supra* at 1-2.²³
 12 That was followed by the August 8 Demand. Defendants quibble with the word “demand,” Opp. 4, but
 13 the August 8 Demand sets forth what DOJ wants in return for withdrawing its threats. Ex. 112.²⁴

14 Defendants fail to address *any* of this evidence of a clear and coordinated policy. Instead, they
 15 conclusorily apply *Bennett*’s two-part test. First, they argue there has been no “consummation” of agency

16 ²⁰ *See, e.g.*, Ex. 36 at 1:27 (Terrell: “Under Title VI, we’re taking away their money.... We’re going
 17 to bankrupt these universities.”); Ex. 35 (Terrell: “I targeted ... Columbia, Harvard, Michigan, UCLA,
 18 USC.... We’re going to take away your funding. We’re going to sue you under Title VII. We’re going
 19 to sue you under Title VI.”); Ex. 108 (Terrell: “We’re going to meet them in court. We are going to
 go after them where it hurts them financially.... There’s numerous ways to hurt them financially.”); Ex.
 60 at 3 (Terrell: “Title VI is the mechanism to defund Columbia of \$400 million dollars.”).

20 ²¹ The Task Force’s “first major action,” at Columbia, is illustrative: it announced a “comprehensive
 21 review” of all funding, Ex. 56, and four days later—having followed no required procedures—multiple
 22 agencies cancelled \$400 million in funds, Ex. 58. *See also* Mem. 13-14 (Task Force announced
 “comprehensive review” of Harvard funding, Ex. 77, and made demands three days later, Ex. 78); Ex.
 60 at 3 (Terrell: “[W]hat we did was ... gave them notice[], and we stopped providing the funding. ...
 To Harvard, to NYU, to Michigan, same thing’s happening to them.”).

23 ²² *See* Mem. 10-14 (Columbia, Brown, and Penn settlements and Harvard demand); Ex. 112 (Aug. 8
 24 demand to UC); ECF 28 (Lhamon Dec.); *see also* Ex. 36 at 3:52, 4:22 (Terrell: “[W]e’re going to stop
 25 it immediately. Not just taking away their money, but we have pushed out a strategy to remove these
 26 professional agitators.... we are going to make sure these students, hey, you’re going to take off those
 masks. We know who you are and you’re going to be expelled.”); Ex. 59 (Task Force demand within
 week of funding cancellation including mask bans, protest rules, and admissions reforms); Ex. 57
 (Trump: federal funding should end to universities with “illegal protests”; “NO MASKS!”; protesters
 should be “imprisoned,” “sent back to the country from which they came,” or “permanently expelled”).

27 ²³ The additional decision to freeze all pending NSF awards as a result of the DOJ investigation is also,
 28 on its own, final agency action. *See* ECF 40-3 at 8.

²⁴ Defendant Terrell has admitted an intent to target and “bankrupt” universities including UC and that
 this was why a civil rights investigation of “the entire UC system in California” was underway. Ex. 36
 at 1:27; *id.* at 2:25; Ex. 60; Ex. 108 (“expect massive lawsuits against UC systems”).

1 decisionmaking, saying the Task Force Policy reflects only “interim principles.” Opp. 23-24. But the
2 evidence shows a decision *has* been made as to how to treat targeted universities, making use of civil
3 rights investigations and funding cutoffs to obtain specific concessions. *See supra* at 12. This is a novel
4 and “discrete enforcement initiative” involving multiple agencies, and Defendants’ “insistence [it is] a
5 mere matter of shifting ... priorities, not a final agency action, is unavailing.” *AAUP v. Rubio*, 2025 WL
6 2777659, at *52 (D. Mass. Sept. 30, 2025) (agencies’ enforcement initiative targeting noncitizens’ pro-
7 Palestinian speech was reviewable agency action). “[A] federal agency’s ... decision qualifies as final
8 agency action even if the ultimate impact of that action rests on some other occurrence—for instance, a
9 future site-specific application, a decision by another administrative agency, or conduct by a regulated
10 party.” *Prutehi Litekyan: Save Ritidian v. U.S. Dep’t of Airforce*, 128 F.4th 1089, 1110 (9th Cir. 2025);
11 *Gill v. U.S. Dep’t of Just.*, 913 F.3d 1179, 1185 (9th Cir. 2019) (“An agency action can be final even if
12 its legal or practical effects are contingent on a future event.”). As in *San Francisco Herring Ass’n v.*
13 *DOI*, 946 F.3d 564, 581-82 (9th Cir. 2019), which Defendants fail to address, Defendants are already
14 implementing their policy at UC and elsewhere. Defendants cannot carry out a policy “only to later claim
15 there is nothing conclusive here for [Plaintiffs] to even challenge.” *Id.* at 575.²⁵

16 As to the second *Bennett* factor, Defendants suggest the Task Force Policy can only be challenged
17 if “any ongoing federal investigation of UC” actually “ripens” into a “final adjudication.” Opp. 24. But
18 a component of the Task Force Policy is to terminate funds *before* a final adjudication; targeted
19 universities understand that when Defendants launch an investigation or issue minimal findings, funding
20 cutoffs and ideological demands will follow. *Supra* at 13; Mem. 2-4, 7-14; *see S.F. Herring Ass’n*, 946
21 F.3d at 581-82 (“agency pronouncements” followed by “actual commands” to “engage or refrain from
22 engaging in a particular action” are final agency action). Unlike in *Association of American Medical*
23 *Colleges v. United States*, 217 F.3d 770 (9th Cir. 2000) (cited at Opp. 24), the Task Force Policy creates
24
25
26

27 ²⁵ The Task Force Policy is not a mere agency recommendation or opinion signaling a potential future
28 position. *See* Opp. 24, citing *Chi. & S. Air Lines, Inc. v. Waterman S.S. Corp.*, 333 U.S. 103, 112 (1948)
(agency recommendation had no effect without President’s approval); *Appalachian Energy Grp. v. EPA*,
33 F.3d 319, 321-22 (4th Cir. 1994) (one-paragraph memo “not been used to issue or deny a permit” nor
“threaten such action”); *EPA v. Brown*, 431 U.S. 99, 103-04 (1977) (agency agreed rule needed revision).

1 “an immediate Hobson’s choice” because Defendants have loudly made demands and “threatened
2 litigation to obtain settlements.” *Id.* at 783.²⁶ Plaintiffs need not wait for more consequences to accrue.

3 Finally, Defendants argue (Opp. 22) that Plaintiffs mount an impermissible “wholesale” or
4 “programmatically attack,” seeking “general judicial review of [agencies’] day-to-day operations.” *Lujan v.*
5 *Nat’l Wildlife Fed’n*, 497 U.S. 871, 890-91, 899 (1990) (plaintiffs sought court oversight of all
6 “continuing (and thus constantly changing) [agency] operations” to manage public lands). Plaintiffs do
7 *not* seek “judicial superintendence over the entire grantmaking structure.” Opp. 23; *cf.* ECF 26-1 ¶¶1-2.
8 Rather, Plaintiffs challenge the lawfulness of a “circumscribed, discrete” policy. *Norton v. S. Utah*
9 *Wilderness All.*, 542 U.S. 55, 62 (2004). Agency action that is applied “across the board to all individual
10 [agency decisions], ... can of course be challenged under the APA”—even if the challenge will have
11 widespread effects. *Lujan*, 497 U.S. at 890 n.2; *see also New York v. Trump*, 133 F.4th 51, 67 (1st Cir.
12 2025) (APA challenge to OMB directive to freeze all federal financial assistance across all agencies).

13 Defendants separately argue that 2 C.F.R. §200.340(a)(4) allows the government to make
14 unreviewable, discretionary judgments to terminate grants based on “agency priorities.” Opp. 25. The
15 Ninth Circuit already rejected this argument: “[2 C.F.R. §§200.340-45] provide[s] a meaningful standard
16 by which courts may review the agencies’ exercise of discretion. We therefore reject the government’s
17 argument that the terminations are not reviewable.” *Thakur III*, 148 F.4th at 1105-06.

18 **B. In the Alternative, Plaintiffs Will Likely Prevail on Their *Ultra Vires* Claims.**

19 Defendants acknowledge constitutional *and* statutory *ultra vires* claims may be brought but argue
20 that Plaintiffs assert run-of-the-mill statutory violations. Opp. 36-37. But Plaintiffs’ claims are firmly
21 rooted not only in the First and Tenth Amendments (which Defendants do not contest may be brought
22 as *ultra vires* claims), but in separation of powers. *See infra* at 16-24.

23 Defendants acknowledge *statutory ultra vires* claims may also be brought when a government
24 official acts “wholly outside the bounds of authority, rather than merely being subject to ‘a claim of error
25 in the exercise of assigned power.’” Opp. 37 (citation and brackets omitted). That describes this case:
26 the Trump administration has no statutory authority to cancel federal funds without even purporting to
27 follow statutorily required steps nor to compel concession to demands it has no legal right to impose.

28 ²⁶ Defendants’ policy is a far cry from the “mild suggestion” that states consider “opening a dialogue
with their regulated community” at issue in *S. California All. of Publicly Owned Treatment Works v.*
EPA, 8 F.4th 831, 838 (9th Cir. 2021), cited by Defendants. Opp. 24.

1 Such blatant disregard of statutory constraints is far from a mere assertion that “Defendants made the
2 wrong decision within otherwise lawful” bounds. Opp. 38. Defendants’ own authority makes this
3 distinction clear, holding that an *ultra vires* claim could not be asserted to challenge a “colorable”
4 statutory construction but specifying that such claims *are* cognizable “when the agency has disregarded
5 a specific and unambiguous statutory directive ... or when the agency has violated some specific
6 command of a statute.” *Griffith v. Fed. Lab. Rels. Auth.*, 842 F.2d 487, 493 (D.C. Cir. 1988). Defendants
7 have done both.²⁷ Nor does *Dalton v. Specter* support Defendants. “Because” the statute in *Dalton*
8 “authorized unfettered discretion by the President ..., the Court had no occasion to consider the
9 constitutional implications of violating statutes” that, as here, “authorize executive action contingent on
10 satisfaction of certain requirements.” *Sierra Club v. Trump*, 929 F.3d 670, 696 (9th Cir. 2019) (citing
11 *Dalton*, 511 U.S. 462, 472-76 (1994)), *stayed*, 588 U.S. 930 (Mem.); *see also Dalton*, 511 U.S. at 476.
12 Thus, just as *Dalton* was inapplicable to the statute in *Sierra Club*, which “impose[d] restrictions on
13 when and for what purposes the agency may use ... funds,” *id.* at 696 n.19, it is inapplicable to
14 Defendants’ exercise of authority not granted by statute and violation of specific statutory restrictions.

15 Finally, it is true that “ultra vires claims are subject to ‘implied statutory limitations.’” Opp. 36.
16 But the Tucker Act does not provide Plaintiffs “with a meaningful and adequate opportunity for judicial
17 review” and does not foreclose *ultra vires* review of Plaintiffs’ non-contractual claims. *Board of*
18 *Governors, FRS v. MCorp Financial, Inc.*, 502 U.S. 32, 43 (1991). *See supra* at 7-10. And Defendants
19 do not contend (nor could they) that the APA itself forecloses such review. *See Sierra Club v. Trump*,
20 963 F.3d 874, 890-91 (9th Cir. 2020), *judgment vac’d on other grounds, sub nom. Biden v. Sierra Club*,
21 142 S. Ct. 46 (2021).²⁸

22 _____
23 ²⁷ Nor does Defendants’ other authority support their argument. In *E.V. v. Robinson*, the military judge
24 made “simple mistakes of fact or law” in exercising “discretionary authority” over discovery. 906 F.3d
25 1082, 1097-98 (9th Cir. 2018) (cleaned up). *Schroer v. Billington*, 525 F.Supp.2d 58, 65 (D.D.C. 2007),
26 rejected the plaintiff’s *ultra vires* claim because Title VII could “fully remed[y]” her injury.

25 ²⁸ Defendants suggest that *ultra vires* claims require “direct and immediate” injury, Opp. 36, and acts
26 that have already occurred, *id.* 38. But Defendants’ cited authority does not support (or even address)
27 these points. The Supreme Court has said that equitable claims may be asserted “to *prevent* injurious
28 act[s] by a public officer” without imposing any additional directness requirement. *Armstrong v.*
Exceptional Child Center Inc., 575 U.S. 320, 327 (2015) (emphasis added); *see also Leedom v. Kyne*,
358 U.S. 184, 188 (1958). Defendants’ authority does not support their claim that agencies may not be
defendants to *ultra vires* claims. Opp. 36. And *Nuclear Regulatory Comm’n v. Texas* states that *ultra*
vires claims are available “when an *agency* has taken action entirely in excess of its delegated powers
and contrary to a specific prohibition in a statute.” 605 U.S. 665, 681 (2025) (emphases modified). In
any event, Plaintiffs could obtain relief from the individual Defendants. *See E.V.*, 906 F.3d at 1094-95.

1 **III. Defendants’ Conduct is Unconstitutional, Contrary to Law, and Arbitrary and Capricious.**

2 **A. Defendants’ Conduct Violates the First Amendment.**

3 **1. Defendants Fail to Rebut Plaintiffs’ Showing that Defendants Are Coercing UC into Suppressing Plaintiffs’ Speech and Academic Freedom.**

4 Defendants do not address Plaintiffs’ First Amendment coercion claim. *See* Mem. 24-28; Opp.
5 29-33. *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58 (1963), and *Nat’l Rifle Ass’n of Am. v. Vullo*, 602
6 U.S. 175 (2024), are *not even cited*. *See* Opp. iv, viii, 29-33. Defendants’ failure to respond to Plaintiffs’
7 legal authorities and evidence, which show Plaintiffs are likely to prevail, is fatal.

8 Defendants offer two general arguments, both meritless.²⁹ First, Defendants assert—without *any*
9 evidence—that “[t]he agencies’ suspensions are explained by a nonretaliatory purpose: opposing
10 antisemitism,” and that “UC’s failure to take adequate actions to respond to antisemitism ... justified the
11 agency action.” Opp. 30. This unsubstantiated assertion is belied by the record, which establishes that
12 Defendants’ actions targeting UC pursuant to their Task Force Policy are part of an overarching
13 campaign to purge “left” and “woke” viewpoints from universities and to impose the administration’s
14 preferred ideological views. *See, e.g.*, Ex. 36 at 4 (Terrell describing UCLA as a university that “has
15 been hijacked by the left, has been hijacked by the Marxists” who “have controlled the mindset of our
16 young people”); *see* Mem. 7-14 (citing evidence); *infra* at 12-13; *Harvard*, 2025 WL 2528380, at *27.

17 The August 8 Letter reinforces that Defendants’ object is to coerce UC into suppressing
18 disfavored speech and to impose ideological views: it demands as a condition of restoring federal funds
19 (and restoring UCLA’s “eligib[ility] for further grants,” Ex. 112 ¶¶43-44), among other things, “reforms
20 to ... scholarship ... and campus climate” (¶6); a “thorough review” of, e.g., the approval process for
21 “curricular changes” (¶7.a) and “academic restructuring” to “ensure ... complementarity across all
22 programs” (¶7.f); restrictions on “expressive activities,” including anonymous protest (¶11); the
23 “complete removal of diversity statement[s]” (¶17) and a related ban on considering “personal statements
24 ... or any applicant reference to racial identity” in admissions, hiring, promotion, and tenure decisions
25 (¶¶19, 21); a ban on admission of “foreign students likely to engage in anti-Western, anti-American, or
26 antisemitic disruptions or harassment” (¶24); “socializ[ation]” of international students to campus
27 “norms” (¶25); adoption of the administration’s definition of “sex” and related terms (¶¶32.e, 32.f, 34);
28

²⁹ Indeed, it is unclear if Defendants make these arguments in response to Plaintiffs’ coercion claim or only retaliation. If the latter, then Defendants concede Plaintiffs’ coercion claim is likely to prevail.

1 and appointment of an external Resolution Monitor (whom the government has final authority to select)
 2 empowered to “assess and report on UCLA’s compliance” and recommend “actions necessary to ensure
 3 ... effective compliance” (¶¶6, 51, 53-66).³⁰

4 More fundamentally, Defendants’ contention is irrelevant because even if the government’s
 5 objective is to root out illegal conduct, that is no defense to a First Amendment coercion claim. *See* Mem.
 6 28 n.63 (discussing *Bantam Books*, 372 U.S. at 65); *accord Vullo*, 602 U.S. at 196 (“Nothing in [*Bantam*
 7 *Books*] turned on ... [whether publications] contain[ed] protected speech.”); *Backpage.com LLC v. Dart*,
 8 807 F.3d 229, 230-31 (7th Cir. 2015) (sheriff violated First Amendment by “scaring off [website’s]
 9 payments-service providers” although stated concern was website’s promotion of “illegal activities”).³¹
 10 Thus, even if Defendants sought to target only illegal discriminatory conduct (the record shows they did
 11 not), bypassing statutory mandates for enforcing civil rights laws and instead using threats to coerce UC
 12 into censoring speech in service of that goal is unconstitutional. Constitutionally protected speech “is
 13 often separated from [unprotected speech] only by a dim and uncertain line.” *Bantam Books*, 372 U.S.
 14 at 66; *see, e.g., Rodriguez v. Maricopa Cnty. Cmty. Coll. Dist.*, 605 F.3d 703, 708 (9th Cir. 2010)
 15 (professors’ racially charged emails were protected speech, not unlawful harassment; “There is no
 16 categorical ‘harassment exception’ to the First Amendment’s free speech clause.”) (citation omitted).³²
 17 Coercion doctrine prohibits the government from pressuring intermediaries over where to draw that line,
 18 recognizing that those who are “less invested in the speaker’s message and thus less likely to risk the
 19

20 ³⁰ The August 8 Demand letter also confirms Defendants’ use of legal and financial threats to extort
 21 these ideological concessions, expressly stating that as “consideration” for UCLA’s agreement the
 22 government will “restore to UCLA those Terminated Grants,” “enable the withdrawal of overdue
 23 payments on [] specified Non-Terminated Grants,” “timely renew relevant non-competitive grants in the
 24 ordinary course and consistent with past practice,” “confirm that Non-Terminated Grants will not be
 withheld or terminated in the future in relation to the Released Claims,” “[t]reat UCLA as eligible for
 further grants, contracts, and awards in the ordinary course, without disfavored treatment as a
 consequence of the Released Claims,” and “[c]lose pending Investigations or compliance reviews
 regarding the Released Claims.” Ex. 112 ¶¶43-44.

25 ³¹ *Bantam Books* explained that while “obscenity is not within the area of constitutionally protected
 26 speech,” the commission’s efforts to coerce distributors into excluding certain publications violated
 27 publishers’ First Amendment rights because “the threat of invoking legal sanctions and other means of
 28 coercion, persuasion, and intimidation” against distributors would likely cause them to self-censor, thus
 denying publishers the due process necessary to determine if their material was actually unprotected.
 372 U.S. at 65, 67-70 (informal coercion “provides no safeguards ... against the suppression of
 nonobscene, and therefore constitutionally protected, matter” and “is ... regulation that creates hazards
 to protected freedoms markedly greater than those that attend reliance upon [formal legal process]”).

³² “Harassment law generally targets conduct, and it sweeps in speech as harassment only when
 consistent with the First Amendment.” *Rodriguez*, 605 F.3d at 710.

1 [government’s] ire” will over-police speech on the government’s behalf. *Vullo*, 602 U.S. at 198; *see*
 2 *Rodriguez*, 605 F.3d at 709 (“To afford academic speech the breathing room that it requires, courts must
 3 defer to colleges’ decisions to err on the side of academic freedom. Otherwise, schools will inevitably
 4 reassess whether hiring a lightning rod ... is worth the trouble.”). Indeed, UC has already begun
 5 suppressing protected speech to attempt to appease Defendants. *See, e.g.*, ECF 29-4 ¶¶41-42; ECF 29-
 6 29 ¶31 & Ex. A; ECF 29-44 ¶19. An anti-discrimination goal does not justify unconstitutional coercion.

7 Second, Defendants argue that because federal grants are a discretionary benefit, their ability to
 8 withdraw or refuse to grant funding is virtually absolute. Decades of precedent holds otherwise. “[E]ven
 9 though a person has no ‘right’ to a valuable government benefit,” the government “may not deny a
 10 benefit to a person on a basis that infringes his constitutionally protected interests—especially, his
 11 interest in freedom of speech.” *Perry v. Sindermann*, 408 U.S. 593, 597 (1972); *accord AID*, 570 U.S.
 12 at 206, 214-15. In particular, the government may not “‘manipulate[]’ [a subsidy] to have a ‘coercive
 13 effect.’” *Nat’l Endowment for the Arts v. Finley*, 524 U.S. 569, 587 (1998) (citations omitted); *see*
 14 *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 830 (1995) (“attempts to suppress a
 15 particular point of view are presumptively unconstitutional in funding”).³³ That is precisely what
 16 Defendants are doing here, in blatant violation of the First Amendment.

17 **2. Defendants Fail to Rebut Plaintiffs’ Showing that Their Members’ Protected**
 18 **Speech Was a Substantial Cause of Defendants’ Retaliatory Conduct.**

19 Plaintiffs’ retaliation claim is also likely to succeed. Defendants do not seriously dispute that
 20 Plaintiffs’ members have engaged in constitutionally protected speech, or that Defendants’ summary
 21 grant terminations and accompanying demands constitute adverse actions likely to “‘chill a person of
 22 ordinary firmness.’” Mem. 28-29 (quoting *Ariz. Students’ Ass’n*, 824 F.3d at 867); *e.g.* ECF 29-44 ¶18.
 23 Defendants contest only causation, but Plaintiffs amply demonstrate that members’ protected expression
 24 of disfavored “left” and “woke” viewpoints was a “substantial motivating factor” in Defendants’
 25 retaliatory conduct. *See* Mem. 7-14, 28; *Ariz. Students Ass’n*, 824 F.3d at 870 (circumstantial evidence
 26 can establish causation). “Viewed in conjunction with the facts and context,” Defendants’ assault on
 27 universities fits the “description of a ‘broader campaign[]’ ... to target” universities and their faculty,

28 ³³ Defendants’ own authority recognizes that the government’s ability “to terminate [a contractor]” is
 subject to “statutory[and] constitutional restriction[s].” Opp. 32 (quoting *Bd. of Cnty. Cms’rs, Wabunsee*
Cnty v. Umbehr, 518 U.S. 668, 674 (1996)).

1 students, and staff “based on personal dislike of their” speech—“in other words, for retribution.” *Perkins*
 2 *Coie LLP v. U.S. Dep’t of Just.*, 783 F.Supp.3d 105, 164 (D.D.C. 2025) (citation omitted).³⁴

3 Defendants have not overcome that strong showing. The unsupported assertion that their actions
 4 were motivated by a legitimate desire to address antisemitism is belied by their wholesale disregard of
 5 the procedural and substantive requirements Congress prescribed for addressing discrimination. *See id.*
 6 at 160-61 (“By not following its own procedures, the EEOC has undermined the legitimacy of its own
 7 investigation, revealing this investigation of plaintiff to be a product of the retaliation ordered by EO
 8 14230 rather than any legitimate investigative activity.”); *Jenner & Block LLP v. U.S. Dep’t of Just.*, 784
 9 F.Supp.3d 76, 108 (D.D.C. 2025) (finding anti-discrimination rationale pretextual where “government
 10 has simply decreed that Jenner discriminates without affording any due process”); *Susman Godfrey*, 789
 11 F.Supp.3d 15 at 46 (“government’s departure from the well-trodden path of [past practice] ... raises red
 12 flags and leads the court to believe that the only plausible motivation for Section 2 is retaliation.”).³⁵ It
 13 is further belied by the substance of Defendants’ August 8 Demands, very few of which have any
 14 plausible connection to addressing the alleged antisemitism described in DOJ’s Notice of Findings. *See*,
 15 *e.g.*, Ex. 112 (¶7 (“curricular changes” and “academic restructuring” review); ¶¶14-15, 17-22 (diversity);
 16 ¶¶23, 32-38 (gender); ¶¶24-26 (international students); ¶¶27-29 (international connections); ¶¶39-42
 17 (gender-affirming medical care)).³⁶ *See Harvard*, 2025 WL 2528380, at *24 (finding demands targeted

18
 19 ³⁴ While overwhelming evidence showed that the Trump administration terminated funds as retaliation
 20 for Harvard’s rejection of demands and litigation activity, *Opp.* 32, those are not the only forms of speech
 21 that can give rise to a retaliation claim. Given undisputed evidence that Defendants are targeting UC to
 22 extinguish, on an institution-wide basis, “left” and “woke” viewpoints, Plaintiffs need not identify
 specific statements by individuals to establish the obvious causal nexus. *See, e.g., Susman Godfrey LLP*
v. Exec. Off. of President, 789 F.Supp.3d 15, at 42-43 (D.D.C. 2025) (finding Executive Order targeting
 law firm for purportedly “weaponiz[ing] the American legal system” retaliatory despite order’s failure
 to identify specific statements made by the law firm or its employees).

23 ³⁵ Defendants contend that UC is a government contractor with limited First Amendment rights. *Opp.*
 24 31-32 (citing *Umbehr*, 518 U.S. at 675). But UC’s “First Amendment rights” are not at issue here. *See*
 25 *also Harvard*, 2025 WL 2528380, at *22 (rejecting argument that university “becomes a government
 26 ‘contractor’ for First Amendment purposes” by applying for accepting federal research grants); *Kennedy*
 27 *v. Bremerton Sch. Dist.*, 597 U.S. 507, 528 (2022) (noting “questions of academic freedom ... may or
 28 may not involve ‘additional’ First Amendment ‘interests’ beyond those captured by [*Pickering*]
 framework”). Even if *Umbehr* applied, Defendants did not establish that they “would have taken the
 same action even in the absence of the protected conduct,” nor that legitimate government interests
 outweigh Plaintiffs’ members’ free speech and academic freedom interests and justify abandoning Title
 VI and IX’s limits on terminating funding. *See* 518 U.S. at 675; *Harvard*, 2025 WL 2528380, at *22
 n.19; *Susman Godfrey*, 789 F.Supp.3d at 45 n.9.

³⁶ Many do not even plausibly relate to addressing the race- and sex-discrimination assertions cited in
 the Termination Letters as additional grounds for the funding suspensions. *See, e.g., Ex. 112* (¶¶7, 24-
 29, 39-42).

1 protected conduct when they “conditioned funding” on “ten terms, only one of which related to
2 antisemitism”); *Susman Godfrey*, 789 F.Supp.3d at 46 (finding retaliatory intent when government
3 abandoned similar provisions after other law firm agreed to unrelated terms).

4 **3. Defendants’ Demands Unconstitutionally Condition Funding on UC’s
5 Agreement to Violate the Constitutional Rights of Plaintiffs’ Members.**

6 In *Rust v. Sullivan*, 500 U.S. 173, 196 (1991) (cited Opp. 30-31), the Supreme Court explained
7 the difference between conditions on a grant *project* (which are permitted) and conditions on a *grantee*
8 (which are not). The Court upheld regulations that did “not force the Title X grantee to give up abortion-
9 related speech” but “merely require[d] that the grantee keep such activities separate and distinct from
10 Title X activities,” and clarified that an unconstitutional condition is when “the Government has placed
11 a condition on the *recipient* of the subsidy rather than on a particular program or service, thus effectively
12 prohibiting the recipient from engaging in the protected conduct outside the scope of the federally funded
13 program.” 500 U.S. at 196-97; *see AID*, 570 U.S. at 214-15. Here, Defendants have placed restrictions
14 on the *recipient*. Defendants’ August 8 Demand does not impose conditions only on *projects* that receive
15 federal funding, but demands that UC—the *grantee*—adopt Defendants’ ideological positions and
16 policies *university-wide* that would infringe the speech and academic freedom rights of faculty, students,
17 and staff. *See* Ex. 112. Defendants’ conditions therefore violate the First Amendment. *See United States*
18 *v. Am. Libr. Ass’n, Inc.*, 539 U.S. 194, 203 (2003) (“Congress may not ‘induce’ the recipient ‘to engage
19 in activities that would themselves be unconstitutional.’” (citation omitted)); *see* Mem. 30-31.

20 Defendants contend that the “unconstitutional conditions doctrine [cannot] be properly applied
21 to settlement negotiations.” Opp. 34. But “[w]hile governmental entities may negotiate agreements
22 aggressively, ... they must stop short of imposing unconstitutional conditions.” *Parks v. Watson*, 716
23 F.2d 646, 652 (9th Cir. 1983) (citing *Perry*, 408 U.S. at 598). “[T]he ‘mere fact that one agrees to the
24 challenged condition, even in a settlement, cannot by itself render the bargain constitutional because the
25 unconstitutional conditions doctrine focuses on the propriety of the condition, not the fact that the
26 claimant agreed to it.’” *Harvard*, 2025 WL 2528380, at *27 (citation omitted). As in *Harvard*, it is
27 unconstitutional to “condition UC’s] federal funding, even as part of settlement negotiations, on [UC’s]
28 realigning its campus to better reflect a viewpoint favored by the government.” *Id.* at *27.³⁷

³⁷ *See also Koontz v. St. Johns River Water Mgmt. Dist.*, 570 U.S. 595 (2013) (constitutional claim

1 **B. Defendants’ Coercion of UC Violates the Tenth Amendment.**

2 Defendants do not contest that freezing \$584 million, demanding \$1 billion, and threatening to
 3 withhold potentially billions more in federal funding is a “gun to the head” of UCLA and the UC System.
 4 See Mem. 29 (quoting *NFIB*, 567 U.S. at 581). Defendants assert that the August 8 Demand Letter was
 5 not a “demand” but “merely an opening settlement offer” (Opp. 33), but submit no evidence that they
 6 are *not* insisting on these demands as a condition of restoring and continuing federal grant funding.³⁸ To
 7 the contrary, Defendants’ insistence that they “may withhold further payments” at their discretion and
 8 that the UC “could face a loss of *all* funding if settlement negotiations fail” (Opp. 34; emphasis added)
 9 confirms the coercive threat behind their August 8 Demands. See also Ex. 112 ¶¶43-44.³⁹

10 Defendants argue that unlike in *NFIB* the Demand Letter’s conditions merely “ensure that ... UC
 11 comply with federal law” and so are not “an entirely ‘new program’ that [UC] could not have foreseen”
 12 when grants were awarded. Opp. 33-34. But courts may not deem fundamental alterations to be “all one
 13 program simply because [the Executive] styled’ them as such.” *NFIB*, 567 U.S. at 582. UC could not
 14 have foreseen that the federal government would condition research funding for stem cells and space
 15 exploration on compliance with brand-new—and likely incorrect—interpretations of civil rights laws.
 16 See *Cummings v. Premier Rehab Keller, PLLC*, 596 U.S. 212, 219 (2022) (“legitimacy of Congress’
 17 power to enact Spending Clause legislation rests” on funding recipient’s “voluntar[y] and know[ing]”
 18

19 may rest on “unconstitutionally extortionate demand”); *La. Pac. Corp. v. Beazer Materials & Servs.*,
 20 842 F.Supp.1243, 1251 (E.D. Cal. 1994) (court “must ... reject[.]” the “Government’s contention that
 21 offers of settlement are not subject to attack on [unconstitutional conditions] grounds”). Defendants point
 to *Koontz*’s distinction between “consummated” and never-imposed conditions, but that is exclusive to
 the Fifth Amendment takings context. 570 U.S. at 608-09. And the threats have been implemented here

22 ³⁸ Even if this is just one in a series of “settlement” communications, it is still subject to the Tenth
 Amendment and still coercive. See, e.g., *City of Fresno v. Turner*, 2025 WL 2469330, at *1-2, 6 (N.D.
 23 Cal. Aug. 27, 2025) (enjoining HUD from conditioning grant funding on HUD’s emailed demands that
 city “agree not to ‘promote “gender ideology””).

24 ³⁹ Numerous courts have enjoined Trump administration suspension of or threats to suspend federal
 funding on Tenth Amendment grounds. See, e.g., *New York v. Dep’t of Just.*, 2025 WL 2618023, at *20-
 25 21, 25 (D.R.I. Sept. 10, 2025); *Illinois v. Fed. Emergency Mgmt. Agency*, 2025 WL 2716277, at *14
 (D.R.I. Sept. 24, 2025) (finding coercion where “states rely on these grants for billions of dollars
 26 annually” and had “no meaningful choice” but to comply); *City of Fresno*, 2025 WL 2469330, at *1-2,
 6 (enjoining use of “seemingly unauthorized and vague funding conditions to enforce compliance” with
 27 executive orders on race discrimination and gender identity); *City & Cnty. of S.F. v. Trump*, 779
 F.Supp.3d 1077, 1082 (N.D. Cal. 2025) (“The 2025 Executive Orders’ directives to withhold or freeze
 28 federal funding to sanctuary jurisdictions also violate the Tenth Amendment[.]”). Defendants rely on an
 out-of-circuit, pre-*NFIB* decision. See *West Virginia v. U.S. Dep’t of Health & Hum. Servs.*, 289 F.3d
 281, 291 (4th Cir. 2002) (noting that withholding all Medicaid funds would raise “serious Tenth
 Amendment questions”).

1 acceptance of terms) (cleaned up); *NFIB*, 567 U.S. at 584 (spending power “does not include” power to
 2 “surpris[e]” funding recipients “with post-acceptance or ‘retroactive’ conditions”); *New York*, 2025 WL
 3 2618023, at *20-21 (finding Spending Clause violation where agencies “upset decades of reliance” by
 4 “abruptly” changing their interpretations of governing law and “scale of threatened loss leaves States
 5 with no real option but to comply”).⁴⁰ Further, Titles VI and IX establish clear procedures for terminating
 6 funds. *See* Mem. 35-38. UC could not have foreseen that Defendants would unlawfully disregard these
 7 procedures. In particular, many conditions—such as excluding “foreign students likely to engage in anti-
 8 Western, anti-American” conduct (Ex. 112 ¶25) and requiring “cooperation” with “federal law
 9 enforcement” (*id.* ¶12)—have no conceivable relation to compliance with federal civil rights law so
 10 could not possibly have been foreseen.⁴¹

11 C. Defendants’ Actions Violate the Separation of Powers.

12 Defendants fail to address (or even acknowledge, Opp. 35) Plaintiffs’ on-point Spending Clause
 13 authority, *San Francisco v. Trump*, 897 F.3d 1225 (9th Cir. 2018); *see also* Mem. 31. In *San Francisco*,
 14 as here, no “appropriations statutes ... specifically require[d] funding to any specific grants ...” Opp.
 15 35. And there, as here, the executive branch attempted to condition grant funding on requirements that
 16 Congress did not authorize. *San Francisco*, 897 F.3d at 1233. The Ninth Circuit held that “under the
 17 principle of Separation of Powers and in consideration of the Spending Clause, which vests *exclusive*
 18

19 ⁴⁰ Defendants provide no authority that Title VI or IX has ever required many of the August 8 demands,
 20 such as a ban on considering an applicant’s discussion of their racial identity in a personal statement (Ex.
 21 112 ¶19), or on gender-inclusive bathrooms and locker rooms (*id.* ¶32). *See Students for Fair*
 22 *Admissions, Inc. v. Presidents & Fellows of Harvard Coll.* (“*SFFA*”), 600 U.S. 181, 230 (2023)
 23 (“[N]othing in this opinion should be construed as prohibiting universities from considering an
 24 applicant’s discussion of how race affected his or her life, be it through discrimination, inspiration, or
 25 otherwise.”); *Jenner*, 784 F.Supp.3d at 107 (“The defendants point to no case holding such diversity
 26 initiatives illegal. Instead they expand [*SFFA*] beyond its own bounds.”); *Doe ex rel. Doe v. Boyertown*
 27 *Area Sch. Dist.*, 897 F.3d 518, 535 (3d Cir. 2018) (“we have found no authority that supports the
 28 appellants’ claims” that “the mere presence of a transgender student in a locker room or bathroom”
 violates Title IX); *Parents for Priv. v. Barr*, 949 F.3d 1210, 1227 (9th Cir. 2020) (“[J]ust because Title
 IX authorizes sex-segregated [locker and bathroom] facilities does not mean that they are required, let
 alone that they must be segregated based only on biological sex and cannot accommodate gender
 identity.”). Indeed, Defendants’ demand that UCLA stop providing gender-affirming care to minors (Ex.
 112 ¶¶39-41) is directly contrary to authority that refusal to provide such care *violates* anti-
 discrimination law. *See, e.g., C.P. by and through Pritchard v. Blue Cross Blue Shield of Ill.*, 536
 F.Supp.3d 791 (W.D. Wash. 2021) (holding that ACA Section 1557 prohibits categorical exclusions of
 gender dysphoria treatment).

⁴¹ *See Illinois*, 2025 WL 2716277, at *14 (rejecting argument that DHS was “merely ‘modifying’ its
 existing grant programs” to serve “its broad homeland security mission” when “grants at issue fund
 programs such as disaster relief, fire safety, dam safety, and emergency preparedness”).

1 *power to Congress to impose conditions on federal grants*, the Executive Branch may not refuse to
 2 disperse the federal grants in question without congressional authorization.” *Id.* at 1231 (emphasis
 3 added); *see also Washington v. Trump*, 766 F.Supp.3d 1138, 1153-54 (W.D. Wash. 2025) (executive
 4 action prohibiting grants to medical institutions providing minors gender-affirming care likely violated
 5 separation of powers).⁴²

6 The constitutional violation is even more egregious here. Defendants did not simply cancel grants
 7 on grounds Congress had not authorized; they did so in direct contravention of Title VI and Title IX.
 8 *Infra* at 24-25. Defendants make no argument that Title VI or IX authorizes suspending funds without
 9 following statutory procedures, a \$1 billion penalty, or most of the August 8 demands. *See* Mem. 31-32.

10 **D. Defendants Failed to Comply with Title VI and Title IX, Which Govern.**

11 Defendants do not dispute that they did not comply with Title VI and IX procedural requirements
 12 governing termination of or refusal to grant federal funding. Instead, they contend they can bypass these
 13 procedural constraints by invoking regulations that allow termination when a grant “fails to comply with
 14 [federal law],” 2 C.F.R. §200.339; 45 C.F.R. §75.371,⁴³ or “no longer effectuates the program goals or
 15 agency priorities,” 2 C.F.R. §200.340(a)(4). *Opp.* 26. But Defendants identified no “other federal laws”
 16 or agency priorities that apply. *Opp.* 26-27. And they have *repeatedly* identified Title VI as the basis for
 17 their Task Force Policy. President Trump’s Antisemitism Executive Order specifically calls for the
 18 Secretary of Education to conduct “an analysis of all Title VI complaints and administrative actions.”
 19 Ex. 46.⁴⁴ Pursuant to that directive, on May 9, the Government opened an investigation into UC for
 20 “antisemitic discrimination, harassment, abuse, and retaliation against students,” which led to a July 29
 21 Notice of Findings concluding that UCLA “violated its obligations under ... Title VI.” Ex. 1. The next
 22 day, NIH, NSF, and DOE mass-terminated UCLA grants, citing “antisemitism,” Exs. 6, 7, 8,⁴⁵ and NSF’s
 23 Acting Chief Science Officer expressly cited these July 29 findings as the reason NSF was “instructed
 24 to suspend all active awards to UCLA ... and to not make further awards to the institution until the issue

25 ⁴² *See also San Francisco*, 897 F.3d at 1235 (“Absent congressional authorization, the Administration
 26 may not ... withhold properly appropriated funds in order to effectuate its own policy goals.”; doing so
 “violates the constitutional principle of the Separation of Powers”).

27 ⁴³ 45 C.F.R. §75.371 was repealed effective October 2025. 89 Fed. Reg. 80055, 80070 (Oct. 2, 2024).

28 ⁴⁴ *See also* Ex. 60 at 2 (Terrell: “Title VI is the mechanism to defund Columbia of \$400 million” and
 the basis for Task Force’s “directive” to “[e]radicate anti-Semitism ... at UCLA” and other universities).

⁴⁵ The Termination Letters also cite “racism” and “discriminat[ion] and endanger[ment of] women” as
 additional grounds, which are also governed by Titles VI and IX, respectively. Exs. 6, 7, 8.

1 has been resolved.” ECF 40-3 at 8.⁴⁶ The August 8 Demand Letter—which promises restoration of
 2 terminated grants, renewal of non-terminated grants, and cessation of disfavored treatment for new
 3 grants—refers to released claims under Titles VI, VII, and IX. Ex. 112 at 2, 17-18. Defendants cannot
 4 evade the requirements of Title VI (and IX) by now claiming that unspecified “agency priorities” and
 5 unidentified federal laws have been the authority for the terminations all along. *Harvard*, 2025 WL
 6 2528380 at *28-29 (“To conclude that 2 C.F.R. §200.340(a)(4) served as the basis for these terminations,
 7 rather than Title VI, is simply ‘incongruent with what the record reveals about the agenc[ies]’ priorities
 8 and decisionmaking process.”) (citing *Dep’t of Com.*, 588 U.S. at 785); *Am. Textile Mfrs. Inst., Inc. v.*
 9 *Donovan*, 452 U.S. 490, 539 (1981) (no reliance on “post hoc rationalizations”).

10 In any event, the cited regulations do not and could not allow the Government to bypass the
 11 procedural requirements of Title VI and IX. Agencies cannot “regulate away” statutory commands. *Nat’l*
 12 *Treasury Emps. Union v. Cornelius*, 617 F.Supp.365, 371 (D.D.C. 1985).⁴⁷ “Congress has ... passed a
 13 law that explicitly provides for when and how an agency can terminate federal funding to address [the
 14 identified] type[s] of discrimination—and that law is Title VI, which dictates that ‘no such action shall
 15 be taken until the department or agency’ has gone through the appropriate procedures.” *Harvard*, 2025
 16 WL 2528380, at *29 (quoting 42 U.S.C. §2000d-1); *see* Opp. 26 (conceding Title VI and Title IX
 17 enforcement provisions are materially identical). Adopting Defendants’ interpretation of the regulations
 18 they now cite “would result in wholly nullifying an explicit statutory scheme.” *Harvard*, 2025 WL
 19 2528380 at *29; *see Finch*, 414 F.2d at 1075; ECF 28 ¶6 (Lhamon Dec.).

20 **E. Defendants’ Actions Are Arbitrary and Capricious.**

21 Defendants’ only response to Plaintiffs’ arbitrary and capricious challenge to the Task Force
 22 Policy is that the policy is not final agency action. *See* Opp. 29. They therefore concede that, if final
 23 agency action, the Task Force Policy is arbitrary and capricious.

24 As to the Termination Letters, *first*, Defendants portray the letters as reflecting a “new policy,”
 25 saying the Court must defer to Defendants’ policy judgments if they “‘believe[] [the new policy] to be
 26

27
 28 ⁴⁶ The NIH and NSF letters cite 45 C.F.R. §75.371 and 2 C.F.R. §§200.339 and 200.340, respectively, but nothing in the letters suggests any law or priority besides Title VI or IX was at issue. *See* Exs. 6, 8.

⁴⁷ The regulations allow termination only “to the extent authorized by law,” 2 C.F.R. §200.340(a)(4), or when a grantee “fails to comply with [federal law],” *id.* §200.339; 45 C.F.R. §75.371.

1 better.” Opp. 27-28 (quoting *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009)).⁴⁸ But *Fox*
 2 *Television* makes clear that “[a]n agency may not ... depart from a prior policy *sub silentio* or simply
 3 disregard rules that are still on the books,” 556 U.S. at 515; and, further, that it is “arbitrary and
 4 capricious” to fail to provide a “more detailed justification” when an agency’s “prior policy has
 5 engendered serious reliance interests that must be taken into account,” *id.*; see also *FCC v. Prometheus*
 6 *Radio Project*, 592 U.S. 414, 423 (2021) (cited in Opp. 27; recognizing agency obligation to consider
 7 “relevant issues and reasonably explain[] the decision”). In short, Defendants’ cases do not support their
 8 argument that labeling decisions “policy choices” warrants an exception to the standard APA inquiry.

9 Second, Defendants mischaracterize Plaintiffs’ APA claims as contract enforcement claims and
 10 argue there is a “particularly lenient standard of review” for “agency action in the contracting context.”
 11 Opp. 28. Even if Plaintiffs had brought contract claims (which they do not, see *supra* at 7-10, 12)
 12 Defendants’ authorities confirm there is no separate standard for agency action involving contracts. See
 13 *Palantir USG, Inc. v. U.S.*, 129 Fed. Cl. 218, 257-60 (2016) (cited in Opp. 28: pre-award bid challenge
 14 subject to traditional arbitrary and capricious standard); *Savantage Fin. Servs., Inc. v. U.S.*, 595 F.3d
 15 1282, 1286 (Fed. Cir. 2010) (cited in Opp. 28: similar).⁴⁹ Third, Defendants assert that their actions are
 16 “a fortiori reasonable” because they are consistent with 2 C.F.R. §200.340. For the reasons set forth
 17 *supra* at 24-25, that is mistaken. Fourth, Defendants’ assertion that “it is exceedingly unlikely that
 18 anyone has a reliance interest in continued discretionary funding,” Opp. 29, is purely the argument of
 19 counsel and, in any event, is contrary to the Termination Letters’ (boilerplate) acknowledgment of
 20 reliance interests. See Exs. 6, 7, 8. Finally, Defendants offer no response to Plaintiffs’ arguments that
 21 the claimed justification for terminating funding—i.e., a finding of discrimination—is not justified by
 22 the evidence before the agencies and, in any event, bears no rational connection to the agency action
 23 taken. See Mem. 38-41.

24
 25
 26 ⁴⁸ Defendants also erroneously suggest that *Department of Commerce v. New York* finds deference is
 27 owed to “agency policy priorities” because of concerns about intruding on the executive branch, Opp.
 28 29; but the Court cited such concerns as a reason judicial review should be limited to evaluating the
 agency’s “contemporaneous explanation.” 588 U.S. at 780-81.

⁴⁹ *Lujan v. G & G Fire Sprinklers, Inc.*, 532 U.S. 189, 196 (2001), involving a due process challenge
 to a state statute, has no bearing on the APA analysis. *Am. Med. Ass’n v. Reno*, 57 F.3d 1129, 1134 (D.C.
 Cir. 1995), and *Mobil Oil Expl. & Producing Se. Inc. v. United Distrib. Cos.*, 498 U.S. 211 (1991),
 involve agency rulemaking and are also inapposite. See Opp. 28.

1 **IV. Preliminary Injunctive Relief Is Needed to Prevent Irreparable Harm.**

2 Plaintiffs show that irreparable harm is both ongoing and substantially likely. Mem. 41-43; *supra*
 3 at 2-6; *contra* Opp. 39-40. These harms include interference with free speech and academic freedom;
 4 professional, reputational, and public interest harms caused by grant terminations; and interference with
 5 the exercise of medical judgment and exclusion of transgender people from campus spaces. Mem. 41-
 6 43 (citing evidence). Defendants’ counterarguments that the harms are redressed by the *Thakur*
 7 injunctions and that Plaintiffs’ harms are speculative are addressed *supra* at 2-5.

8 Defendants erroneously suggest that grant terminations cannot cause irreparable harm unless they
 9 drive Plaintiffs’ members out of business. Opp. 40-41. But Defendants do not dispute that constitutional
 10 injuries are irreparable or that damages are *unavailable* under the APA, making financial harm
 11 irreparable. Mem. 41-42, 43 n.80. Grant terminations also cause lost professional opportunities,
 12 reputational harms, and uncertainty and interrupted research that injure Plaintiffs’ members, future
 13 researchers, and society. Mem. 14-17, 42 (citing evidence); *see, e.g., Thakur I*, 787 F.Supp.3d at 996.⁵⁰

14 Finally, Defendants reiterate their position that, no matter the irreparable harm suffered by
 15 Plaintiffs’ members, only UC may challenge Defendants’ actions, and only in the Court of Federal
 16 Claims. Opp. 41. For reasons discussed *supra* at 7-10, that is wrong, and such a suit would not address
 17 the irreparable harms Plaintiffs identify. *Cf. California*, 604 U.S. at 652 (stay would not cause states
 18 irreparable harm—unlike Plaintiffs’ members here—because the states “have the financial wherewithal
 19 to keep their programs running,” and any “irreparable harm would [have] be[en] of their own making”);
 20 *see Thakur III*, 148 F.4th at 1110 (distinguishing *California* on this basis).

21 **V. The Balance of Equities and the Public Interest Weigh in Favor of an Injunction.**

22 Defendants’ argument based on *California* is wrong for reasons explained *supra* at 7-10.
 23 Suspension of research funds caused immediate irreparable harm at UCLA and would cause similar
 24 harm at other UC campuses. *See* Mem. 14-17 (citing evidence); *supra* at 2-6; *Thakur III*, 148 F.4th at

25
 26 ⁵⁰ Defendants’ authorities, Opp. 40, have no bearing on these non-financial harms. *See Stanley v. Univ.*
 27 *of S. Cal.*, 13 F.3d 1313, 1320 (9th Cir. 1994) (legal remedy is adequate if “seek[] money damages and
 28 back pay for the loss of her job”); *Sampson v. Murray*, 415 U.S. 61, 91 (1974) (temporary income loss
 by terminated probationary employee not irreparable injury); *Fac. Senate of Fla. Int’l Univ. v. Winn*, 477
 F.Supp.2d 1198, 1208 (S.D. Fla. 2007) (addressing travel funds). Further, Plaintiffs *have* shown that the
 threatened monetary harms are comparable to a “threat of being driven out of business” for many
 members who work in the labs that are supported by federal grants. *Am. Passage Media Corp. v. Cass*
Comme’ns, Inc., 750 F.2d 1470, 1474 (9th Cir. 1985); Mem. 16 n.26 (citing evidence).

1 1110. Plaintiffs document harm to the public interest from the coercive impact of Defendants’ threats
 2 and harm that would result were UC to capitulate to Defendants’ demands. *See* Mem. 17-20 (citing
 3 evidence); *supra* at 2-5; ECF 65-1 at 5-13 (describing injuries Defendants’ actions are causing to UCLA
 4 students’ rights to receive information, engage in free inquiry, speech, and association, as well as to their
 5 educational opportunities and student services). Meanwhile, “agencies are not harmed where an order
 6 requires them to disburse funds that Congress has appropriated and that agencies have already awarded,”
 7 and the public interest is served by restraining unlawful agency action. *Thakur I*, 787 F.Supp.3d at 997
 8 (cleaned up).

9 **VI. The Scope of Requested Relief Is Appropriate and No Stay or Bond Should Issue.**

10 Defendants barely dispute the proposed injunction’s scope. ECF 26-1.⁵¹ They may believe only
 11 Plaintiffs’ members should be “covered by any injunction,” Opp. 40, but the broad harms caused by
 12 Defendants’ actions and demands make Plaintiffs’ requested relief “necessary to redress the [harm to
 13 the] complaining parties.” *Califano v. Yamasaki*, 442 U.S. 682, 702 (1979). And requiring Plaintiffs to
 14 identify covered members would “raise additional constitutional problems regarding the freedom of
 15 association and privacy.” *Vasquez Perdomo v. Noem*, 148 F.4th 656, 687 (9th Cir. 2025), *stayed*, 2025
 16 WL 2585637 (Mem.) (citing *NAACP v. Alabama*, 357 U.S. 44 (1958)).⁵²

17 Defendants do not support their stay request, Opp. 42, with the factors under *Nken v. Holder*, 556
 18 U.S. 418, 434 (2009); *see also Thakur III*, 148 F.4th at 1109-10. And Defendants fail to refute Plaintiffs’
 19 authority that a bond need not be imposed. *See* Mem. 44 n.82.

20 **CONCLUSION**

21 For the reasons discussed, Plaintiffs’ motion should be granted.

23 ⁵¹ Defendants do dispute the disclosure requests. Opp. 38-39. Because Plaintiffs have the August 8
 24 Demand Letter, the request in ¶6(b) of the Proposed Order is moot. The only investigatory findings
 25 appear to be the July 29, 2025 UCLA anti-Semitism investigation, Ex. 1, so Plaintiffs also withdraw
 26 ¶6(a). As far as ¶6(c), Defendants fault Plaintiffs for “speculat[ing]” about documents they have not
 27 seen, Opp. 1, 4, 15, even while acknowledging further secret settlement communications, *id.* 1. And
 Defendants are wrong to argue that discovery is unavailable “in what is, at its heart, an APA lawsuit,”
 Opp. 38, including because Plaintiffs assert *ultra vires* claims. *See Am. Fed’n of Gov’t Emps. v. Trump*,
 ___ F.4th ___, 2025 WL 2716266, *5 (9th Cir. Sept. 19, 2025). But Plaintiffs do not need these documents
 as support for this preliminary injunction given the current record.

28 ⁵² Also, Plaintiff labor unions have representational duties and interests as to all bargaining unit
 employees, not only those who have become members. Defendants also ask that Plaintiffs provide
 “Unique Entity Identifiers,” Opp. 40, but they are the ones who maintain this information. If Defendants
 cannot identify which grants “fall within the UC umbrella,” *id.*, the parties can work that out.

Respectfully submitted,

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* *Pro hac vice application forthcoming*

** *Pro hac vice application pending*

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