

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

AMERICAN ACADEMY OF PEDIATRICS,
AMERICAN COLLEGE OF PHYSICIANS,
INC., AMERICAN PUBLIC HEALTH
ASSOCIATION, INFECTIOUS DISEASES
SOCIETY OF AMERICA, MASSACHUSETTS
PUBLIC HEALTH ASSOCIATION D/B/A
MASSACHUSETTS PUBLIC HEALTH
ALLIANCE, SOCIETY FOR MATERNAL-
FETAL MEDICINE, THE MASSACHUSETTS
CHAPTER OF THE AMERICAN ACADEMY
OF PEDIATRICS, JANE DOE 1, JANE DOE 2,
and JANE DOE 3,

Plaintiffs,

vs.

ROBERT F. KENNEDY, JR., in his official
capacity as Secretary of the Department of Health
and Human Services; UNITED STATES
DEPARTMENT OF HEALTH AND HUMAN
SERVICES; JIM O'NEILL, in his official capacity
as Acting Director of Centers for Disease Control
and Prevention; CENTERS FOR DISEASE
CONTROL AND PREVENTION; and DOES 1–
50, inclusive,

Defendants.

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

JOINT STATUS REPORT

In a January 6, 2026, Order (ECF # 169), the Court ordered the parties to “file a Joint Status Report with a case management plan, including: 1) a proposed deadline for filing the administrative record; 2) a proposed briefing schedule for any contemplated motions; and 3) any other matters which should be addressed at the conference.” Among other things, Plaintiffs have provided Defendants notice of their intention to seek leave to amend the Third Amended

Complaint to challenge a new final agency action—Defendants’ recent actions to revise the childhood and adolescent immunization schedule, including the release of a January 5, 2026 Decision Memo endorsed by the Centers for Disease Control and Prevention. The parties, through counsel, met and conferred by videoconference on January 8, 2026, and report the following.

Proposed Briefing Schedule

Both before and during the meet and confer, Plaintiffs told Defendants of their intent to file two motions: (1) a motion for leave to file a Fourth Amended Complaint challenging the final agency action that was announced on January 5, 2026 that made significant changes to the CDC’s childhood immunization schedule (the “Children’s Schedule”); and (2) a preliminary injunction motion that will seek to enjoin the ACIP from holding its next public meeting scheduled for February 25–26, 2026. Plaintiffs stated at the meeting between counsel that the preliminary injunction motion would be based primarily on statements and representations that Plaintiffs contend are misinformation disseminated at the December 4–5, 2025 ACIP meeting and prior public meetings of this ACIP, and, therefore, Plaintiffs plan to move to enjoin the next meeting to prevent this ACIP from spreading more misinformation to the public. Given the posture of this case and the number of prior amendments, Defendants oppose the filing of a Fourth Amended Complaint.

The parties discussed a briefing schedule on these two motions, and the parties agreed to the following briefing schedule, subject to the Court’s approval:

- Plaintiffs’ motion for leave to file Fourth Amended Complaint due Friday, January 16, 2026;
- Plaintiffs’ motion for preliminary injunction due Friday, January 23, 2026;
- Defendants’ response to both motions due Friday, February 6, 2026;

- Hearing on Plaintiffs' motions February 12 or 13, 2026, the Court's schedule permitting.

Production of the Administrative Record ("AR")

At the January 8, 2026 meeting between counsel, Plaintiffs detailed their expectations for what the AR should include on the claims that Plaintiffs have brought and intend to bring. Defendants explained that they are compiling the AR for the actions challenged in the Third Amended Complaint. However, because the January 5 action is not challenged in the Third Amended Complaint, Defendants maintain that they are not required to produce an AR for that action, and they are unable to agree to a production date. Accordingly, the parties have agreed to provide separate statements on the AR.

Plaintiffs' Statement on the AR

Plaintiffs state the following position on the AR with regard to the two types of injunctive relief that Plaintiffs seek to obtain before the next ACIP meeting. Plaintiffs contend that injunctive relief is necessary at this point in time because Defendants have demonstrated a pattern and practice of actions intended to fundamentally change United States vaccine policy that, up until this Secretary took office, was to encourage vaccine access and uptake. The Defendants ongoing actions to discourage vaccine access and uptake have been justified by pretextual, conclusory, non-scientific reasons. The January 5, 2026 change to the childhood immunization schedule is the most egregious of the Defendants' actions to date, is a continuation of their bad faith conduct, has not been reasonably explained, and, therefore, must be enjoined. Similarly, this ACIP has demonstrated a pattern and practice of disseminating misinformation at the three public meetings they have held. After three strikes, this ACIP should be put on the bench until a new ACIP can be constituted. Accordingly, the next ACIP meeting scheduled for February 25-26, 2026, should be

enjoined to prevent more misinformation about vaccines being disseminated to the public. These claims for injunctive are clearly related to the claims asserted in the Third Amended Complaint.

1. AR on the Childhood Schedule.

With regard to the January 5 final agency action that changed the Childhood Schedule, the timeframe that would encompass the AR on this final agency action *could be* relatively short—perhaps as short as 31 days—based on the following chronology:

Date	Event
Evening, Friday, December 5, 2025	<p>President Trump posts on X that he has signed a Presidential Memorandum “directing the Department of Health and Human Services to ‘FAST TRACK’ a comprehensive evaluation of Vaccine Schedules from other Countries around the World, and better align the U.S. Vaccine Schedule, so it is finally rooted in the Gold Standard of Science and COMMON SENSE! I am fully confident Secretary Robert F. Kennedy, Jr., and the CDC, will get this done, quickly and correctly, for our Nation’s Children.”</p> <p>Shortly thereafter, the Secretary reposted President Trump’s post with the following reply: “Thank you, Mr. President. We’re on it.”</p> <p>Shortly after the Secretary’s repost, the Vice Chair of the ACIP who had run the December 4–5, 2025, ACIP meeting in Atlanta, replied to the Secretary’s post with two words: “Mission accomplished”.</p>
12:59 p.m. ET, Thursday, December 18, 2025	HHS media advisory released:

	<p>MEDIA ADVISORY—FOR PLANNING PURPOSES ONLY</p> <p>HHS, CDC to Make Announcement on Children’s Health</p> <p>WASHINGTON—DECEMBER 18, 2025—The U.S. Department of Health and Human Services (HHS) and Centers for Disease Control and Prevention (CDC) will make an announcement regarding children’s health.</p> <p>WHEN: Friday, December 19 at 4 PM ET</p> <p>WHERE: U.S. Department of Health and Human Services Hubert H. Humphrey Building 200 Independence Avenue, S.W. Washington, D.C. 20201</p> <p>LIVESTREAM: The event will be livestreamed on HHS.gov, X, and YouTube.</p> <p>WHO:</p> <ul style="list-style-type: none"> • U.S. Department of Health and Human Services Secretary Robert F. Kennedy Jr. • U.S. Department of Health and Human Services Deputy Secretary Jim O’Neill • Centers for Medicare & Medicaid Services Administrator Mehmet Oz, M.D. • Food and Drug Administration Commissioner Marty Makary, M.D., M.P.H. • National Institutes of Health Director Jay Bhattacharya, M.D., Ph.D. • Acting Food and Drug Administration Acting CDER Director Tracy Beth Hoeg, M.D., Ph.D. <p>RSVP:</p> <ul style="list-style-type: none"> • Media must request credentials by Friday at 10 a.m. ET. • Email request to mediarsvp@hhs.gov with full name, phone number, and ID information. • Note: All attendees must present a valid REAL ID or passport to enter. • Foreign nationals are strongly encouraged to RSVP as early as possible to allow time for security screening. If you are a foreign national, be sure to note that in your request. Failure to do so may result in significant delays or denial of entry. <p style="text-align: center;"># # #</p>
Evening, December 18, 2025	HHS announces that the “HHS, CDC Announcement on Children’s Health” was postponed “[d]ue to a Presidential announcement tomorrow afternoon” and that the announcement on children’s health was postponed until “after the first of the new year.”
Afternoon, January 5, 2026	<p>HHS issues a press release titled “CDC Acts on Presidential Memorandum to Update Childhood Immunization Schedule.” The press release stated, <i>inter alia</i>:</p> <p>“After consulting with health ministries of peer nations, considering the assessment’s findings, and reviewing the decision memo presented by National Institutes of Health Director Jay Bhattacharya, Food and Drug Commissioner Dr. Marty Makary, and CMS Administrator Mehmet Oz, Acting Director O’Neill formally accepted the recommendations and directed the CDC to move forward with implementation.</p>

	<p>‘President Trump directed us to examine how other developed nations protect their children and to take action if they are doing better,’ Secretary Robert F. Kennedy Jr. said. ‘After an exhaustive review of the evidence, we are aligning the U.S. childhood vaccine schedule with international consensus while strengthening transparency and informed consent. This decision protects children, respects families, and rebuilds trust in public health.’”</p>
--	---

There are 31 days from the Presidential Memorandum dated December 5, 2025 to the final agency action announced on January 5, 2026. Ostensibly, the AR on this final agency action *could be* confined to this short window of time. Plaintiffs stated their belief to Defendants that, if the AR on this final agency action is really confined to this 31-day time period, then the AR on this final agency action could be easily collected and produced in short order, well before the preliminary injunction hearing.

2. AR Related to the Next ACIP Meeting.

In the meet and confer, Plaintiffs advised Defendants that the main reason that Plaintiffs would be pursuing a preliminary injunction to stop the next ACIP meeting was that Plaintiffs had identified so many instances of misinformation disseminated at the December 4-5, 2025 ACIP meeting and prior meetings of this ACIP that it would be harmful to the public if the next ACIP meeting went ahead as scheduled at which more misinformation could be disseminated. Accordingly, Plaintiffs stated their position that the AR on this claim should include, at a minimum, documents regarding the selection of agenda items and speakers for the June, September, and December 2025 ACIP meetings. Defendants took the position that the AR on Plaintiffs’ claim regarding the reconstitution of the ACIP should be confined to what the decision-maker considered in reconstituting the ACIP. Plaintiffs responded that, regardless of whether such evidence is characterized as AR or as extra-record, Plaintiffs were entitled to such documents to be able to prove its “inappropriate influence” claim under the Federal Advisory Committee Act.

Plaintiffs, however, do not want disputes over this AR to delay adjudication of a motion to enjoin the next ACIP meeting. Plaintiffs believe they have strong evidence to support their preliminary injunction motion to enjoin the next ACIP meeting regardless of whether Defendants produce an AR on this claim before a preliminary injunction hearing.

Defendants' Statement on the AR

1. AR on the January 5 Action

On January 7, 2026, Defendants learned for the first time that Plaintiffs intend to challenge CDC's January 5 action. Because the January 5 action is not challenged in the Third Amended Complaint, it is beyond the scope of this case and Defendants are under no obligation to produce its AR, unless and until the Court grants leave for Plaintiffs to file a Fourth Amended Complaint. Nonetheless, Defendants are inquiring into the scope of the AR for the January 5 action.

However, Plaintiffs' intended preliminary injunction motion may be resolved without a full administrative record for the January 5 action. The decision memorandum and an underlying scientific assessment are publicly available on HHS's website. *See* HHS, *CDC Acts on Presidential Memorandum to Update Childhood Immunization Schedule*, <https://perma.cc/SR5X-L66Z> (Jan. 5, 2026). These documents provide a factual record on which the Court could evaluate, for purposes of a preliminary injunction motion, the January 5 action.

2. The February 25-26, 2026, ACIP Meeting

Because the February 2026 ACIP meeting is not challenged in the Third Amended Complaint, it is currently beyond the scope of this case and Defendants are under no obligation to produce records related to this meeting. And as a practical matter, no AR exists for a meeting that will not occur for weeks.

Respectfully submitted,

By: /s/ Isaac C. Belfer

Isaac C. Belfer (D.C. Bar No. 1014909)
Trial Attorney
Federal Programs Branch
Civil Division
U.S. Department of Justice
1100 L Street, NW
Washington, DC 20005
(202) 305-7134
(202) 514-8742 (fax)
Isaac.C.Belfer@usdoj.gov

Attorney for Defendants

Dated: January 9, 2026

Respectfully submitted,

By: /s/ James J. Oh (IL Bar No. 6196413)

James J. Oh (admitted *pro hac vice*)
Kathleen Barrett (admitted *pro hac vice*)
EPSTEIN BECKER & GREEN, P.C.
227 W. Monroe Street, Suite 4500
Chicago, IL 60606
Tel: 312.499.1400
Fax: 312.845.1998
Email: joh@ebglaw.com
kbarrett@ebglaw.com

Elizabeth J. McEvoy (BBO No. 683191)
Gianna M. Costello (BBO No. 715031)
EPSTEIN BECKER & GREEN, P.C.
One Financial Center, Suite 1520
Boston, MA 02111
Tel: 617.603.1100
Fax: 617.249.1573
Email: emcevoy@ebglaw.com
gcostello@ebglaw.com

Richard H. Hughes IV (admitted *pro hac vice*)
Stuart M. Gerson (admitted *pro hac vice*)
Robert Wanerman (admitted *pro hac vice*)
William Walters (admitted *pro hac vice*)
EPSTEIN BECKER & GREEN, P.C.
1227 25th Street, N.W., Suite 700
Washington, DC 20037
Tel: 202.861.0900
Fax: 202.296.2882
Email: rhughes@ebglaw.com
sgerson@ebglaw.com
rwanerman@ebglaw.com
wwalters@ebglaw.com

Jeremy A. Avila (admitted *pro hac vice*)
EPSTEIN BECKER & GREEN, P.C.
57 Post Street, Suite 703
San Francisco, CA 94104
Tel: 415.398.3500
Fax: 415.398.0955
Email: javila@ebglaw.com

Daniella R. Lee (*pro hac vice* pending)
EPSTEIN BECKER & GREEN, P.C.
201 East Kennedy Blvd., Suite 1260
Tampa, FL 33602
Tel: 813.367.9454
Fax: 813.367.9441
Email: dlee@ebglaw.com

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that this document was filed and served through the ECF system upon the following parties on this 9th day of January 2026:

Robert F. Kennedy, Jr., in his official capacity
as Secretary of Health and Human Services

Jim O'Neill, in his official capacity as Acting
Director Centers for Disease Control and
Prevention

c/o Leah Belaire Foley, US Attorney
Michael L. Fitzgerald
Office of the US Attorney for the District of
Massachusetts
1 Courthouse Way, Suite 9200
Boston, Massachusetts 02210
michael.fitzgerald2@usdoj.gov

c/o Isaac Belfer
Trial Attorney
Consumer Protection Branch
U.S. Department of Justice
P.O. Box 386
Washington, D.C. 20044-0386
Isaac.C.Belfer@usdoj.gov

James W. Harlow
DOJ-Civ
Consumer Protection Branch
P.O Box 386
Washington, D.C. 20044
James.w.harlow@usdoj.gov

/s/ James J. Oh
James J. Oh