

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ASSOCIATION OF AMERICAN UNIVERSITIES,
ET AL.,

Plaintiffs,

v.

DEPARTMENT OF HEALTH AND HUMAN
SERVICES, ET AL.,

Defendants.

Case No. 1:25-cv-10346

MOTION FOR A TEMPORARY RESTRAINING ORDER

This suit challenges a flagrantly unlawful action by the National Institutes of Health (“NIH”) and the Department of Health and Human Services (“HHS”) that, if permitted to stand, will devastate medical research at America’s universities. On December 7, 2025, NIH—with no prior notice—announced Guidance implementing 15% cap on “indirect costs” for all existing and future grants by the NIH, set to go into effect today, February 10.¹ That Guidance is clearly unlawful, including because it violates an appropriations rider Congress enacted to prevent NIH from doing exactly what the Guidance attempts. And that unlawful guidance will, starting *today*, result in immediate and irreversible harm to Plaintiffs—the Association of American Universities (“AAU”), the American Council on Education (“ACE”), the Association of Public and Land-Grant Universities (“APLU”), and several individual universities.

¹ See Notice NOT-OD-25-068 (“Guidance”), available at <https://grants.nih.gov/grants/guide/notice-files/NOT-OD-25-068.html>.

Plaintiffs respectfully move the Court, pursuant to Fed. R. Civ. P. 65(b), to enter a temporary restraining order against HHS, NIH, Acting Secretary of HHS Dorothy A. Fink, and Acting Director of NIH Matthew J. Memoli (collectively, “Defendants”), prohibiting Defendants, their agents, and anyone acting in concert or participation with Defendants from implementing, instituting, maintaining, or giving effect to the Guidance in any form; from otherwise modifying negotiated indirect cost rates except as permitted by statute and by the regulations of the Office of Management and Budget and HHS; and from expending appropriated funds in any manner contrary to Section 224 of the Further Consolidated Appropriations Act, 2024, Pub. L. No. 118-47.

Plaintiffs further request that within 24 hours of the temporary restraining order, Defendants provide written notice of the Order to all funding recipients affected by the Guidance and that, further, they notify the Court that they have done so within 48 hours of the temporary restraining order.

As set forth in the accompanying memorandum and as supported by the exhibits filed with this Motion, Plaintiffs have established a strong likelihood of success on the merits of their claims; that they will suffer irreparable harm absent relief; and that the balance of equities and the public interest weigh strongly in favor of a temporary restraining order.

Dated: February 10, 2025

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By: /s/ Shoba Pillay

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Respectfully submitted,

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*Attorneys for Association of American
Universities, Association of Public and Land-
grant Universities, and American Council on
Education*

CERTIFICATE OF SERVICE

Counsel for Plaintiffs certify that they have submitted the foregoing document with the clerk of court for the District of Massachusetts, using the electronic case filing system of the Court. Counsel for Plaintiffs hereby certify that they have served all parties electronically or by another manner authorized by Fed. R. Civ. P. 5(b)(2).

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CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1(a) and Federal Rule of Civil Procedure 65(a)(1), counsel for Plaintiffs certify that they have contacted the following individuals at the U.S. Department of Justice by electronic mail to provide notice of this motion:

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As of the time of filing, Defendants have not responded.

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**[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR A TEMPORARY
RESTRAINING ORDER**

The Court hereby grants Plaintiffs' Motion and enters a temporary restraining order pursuant to Fed. R. Civ. P. 65(b) against Defendants the Department of Health and Human Services (HHS), the National Institutes of Health (NIH), Acting HHS Secretary Dorothy A. Fink, and Acting Director of NIH Matthew J. Memoli (collectively, "Defendants") prohibiting Defendants, their agents, and anyone acting in concert or participation with Defendants from implementing, instituting, maintaining, or giving effect to the Guidance in any form; from otherwise modifying negotiated indirect cost rates except as permitted by statute and by the regulations of the Office of Management and Budget and HHS; and from expending appropriated funds in any manner contrary to Section 224 of the Further Consolidated Appropriations Act, 2024, Pub. L. No. 118-47.

The Court further orders that within 24 hours of this Order, Defendants provide written notice of the Order to all funding recipients affected by the Guidance and that, further, Defendants

notify the Court that they have done so within 48 hours of this Order.

It is so ordered.

/s/
District Judge