

ALERT

UPDATE: Trump Administration Asks Supreme Court to Stay Order Blocking NIH Grant Cancellations

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UPDATE:

On July 24, 2025, the Trump Administration turned to the U.S. Supreme Court to block U.S. District Judge Young's preliminary injunction prohibiting the National Institutes of Health (NIH) from cutting hundreds of grant programs relating to vaccines, transgender issues, DEI initiatives, COVID-19, and climate change. On behalf of the Administration, the U.S. Department of Justice (DOJ) urged the Supreme Court to find that the district court lacked jurisdiction to block the Government from terminating \$783 million in grants.

Judge Young had previously rejected DOJ's argument that the district court lacked jurisdiction to review claims under the APA. At the Supreme Court, DOJ invoked the Supreme Court's decision from April 4, 2025 in *Department of Education v. California*, 145 S. Ct. 966, 968-969 (2025), finding the U.S. District Court for the District of Massachusetts lacked jurisdiction to require the Government to pay past-due grant obligations and to continue paying them as they accrued. There, the Supreme Court interpreted the district court's decision as one that was based on the APA and indicated that jurisdiction to resolve these challenges instead belonged in the U.S. Court of Federal Claims (COFC). The Supreme Court reasoned that the APA's waiver of sovereign immunity does not apply if any other statute that grants consent to suit expressly or impliedly forbids the relief sought. It found that the Tucker Act's express grant of jurisdiction

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at the COFC over suits based on express or implied contracts with the United States precluded the APA's waiver of sovereign immunity from applying at the district court.

DOJ seeks to apply the Supreme Court's ruling in *Department of Education v. California* here. DOJ also argued that even if jurisdiction were proper, the Government's decision to terminate grants was unreviewable under the APA as an agency action that is committed to agency discretion by law.

It remains to be seen whether the Supreme Court's *Department of Education v. California* decision will apply here. Judge Young's bench ruling blocking NIH from terminating grants relating to DEI followed arguments from the states that the cuts not only violated the APA, but also the Constitution's separation of powers and the Public Health Service Act. And although Judge Young found that the grant terminations were arbitrary and capricious under the APA, he also indicated that the termination decisions were discriminatory in violation of federal law.

Original Alert

Federal Judge Blocks NIH Grant Cuts, Rejecting DOJ's Claims of Unlawful Discrimination

WHAT: A Massachusetts federal judge blocked the National Institutes of Health (NIH) from cutting hundreds of programs that provide grants to universities, hospitals, and other organizations. The judge found that NIH offered only conclusory statements to support its cancellation of research grants related to vaccines; transgender issues; diversity, equity, and inclusion (DEI) initiatives; COVID-19; and climate change.

The judge specifically rejected the U.S. Department of Justice's (DOJ) claim that NIH canceled the DEI research grants because they were based on "non-scientific" categories and were used to support unlawful discrimination. The judge found that the government produced no evidence that those grants have been used to support unlawful discrimination, and said that in fact, the cancellations themselves represented discrimination.

The judge also rejected the Government's claim that the court lacked jurisdiction over contractual disputes because the suit related to an alleged violation of federal law, which was not contractual in nature.

WHEN: On June 16, 2025, the judge issued a bench ruling in a lawsuit filed in April by 16 states that was joined with another lawsuit filed by organizations including the American Public Health Association. The states argued that the cuts violated the Administrative Procedure Act (APA), the Constitution's separation of powers, and the Public Health Service Act, which requires NIH to consider and promote minority health.

WHAT IT MEANS FOR INDUSTRY: Contractors and grantees should take note of their obligations under federal law in conjunction with agency directives, especially when those directives leave undefined the scope of "unlawful" DEI and related programs. In this case, NIH acted pursuant to a directive by the Secretary of Health and Human Services that sought to cancel grants and to terminate for convenience contracts relating to DEI and other initiatives opposed by the Trump Administration on grounds that they were allegedly discriminatory and inconsistent with the Department's current directives. The judge, however, found that NIH

lacked evidentiary support for canceling the grants.

But all hope may not be lost for contractors and grantees whose funding has been canceled. This is not the first time that a judge blocked NIH's funding cuts because they violated federal law. In March 2025, another judge blocked NIH from capping funding for indirect research costs after NIH was sued by 22 states and research universities. That case is on appeal currently.

More recently, courts considering challenges to new DEI-related directives and Executive Orders have issued preliminary injunctions that, among other things, bar federal agencies from terminating funding for certain DEI programs pending a merits hearing. Wiley has tracked and provided updates for some of those cases; see this Client Alert. Contractors and grantees considering a challenge to an adverse DEI-related funding decision should likewise continue to monitor these and other pending cases.

Wiley's Government Contracts and Employment practices have extensive experience helping clients navigate evolving law and policy in this area with the Executive branch and Congress. We are continuing to monitor developments from the Administration and are ready to help our clients navigate these changes.

To stay informed on announcements from the Trump Administration, please visit our dedicated resource center below.

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