

# Health Care in Motion

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## Freezing the Freeze: An Update on Litigation Challenging Trump's Funding Freeze

The second Trump administration began with an unprecedented flex of executive authority: [an attempt to impound up to \\$3 trillion in funds](#) previously appropriated by Congress. Many of these funds are dedicated to services critical to public health. Community health clinics, family planning programs, and food banks all depend on funding from the federal government, and many have closed their doors or temporarily [laid off staff due to funding delays](#). The weakening of these organizations leaves significant gaps in the United States' health care system. Over [32 million individuals visit community health clinics annually](#), with [20% of the country's rural population relying on such clinics](#) for preventive services, prescription drugs, and help with substance use disorders. Delays in access to such services [pose serious risks](#) to individual and population health.

In response to the funding freeze, [multiple groups sued in federal court](#) to challenge the Trump administration's orders. The backgrounds and interests of these groups vary – state attorneys general, non-profit coalitions, universities, and international aid groups – but their legal arguments share common threads. First, they allege that the funding freeze violates multiple provisions of the US Constitution, namely Congress's "power of the purse" and the President's responsibility to "take care that the laws be faithfully executed." Second, they argue that the actions violate several statutory provisions including the Administrative Procedures Act (APA) and the Impoundment Control Act (ICA).

Upon an initial review of the plaintiffs' claims, [multiple federal judges have already issued Temporary Restraining Orders \(TROs\)](#) that indefinitely stop the Trump administration's funding freeze. [The Supreme Court also issued an emergency order](#) holding that the government must resume foreign aid payments previously appropriated by Congress. But these legal battles continue.

### The Funding Freeze and the Constitution's Separation of Powers

The Trump administration's attempts to freeze funding pose conflicts with the Constitution's separation of powers. Given their experiences with monarchical rule, [the Founders divided the responsibilities and powers of government](#) between three different institutions: the executive branch (the President), the legislative branch (Congress), and the judiciary branch (courts). The division of powers between these groups not only ensures that no single branch dominates our government (commonly known as "checks and balances"), but that the three branches cooperate on major governing projects.

The funding freeze implicates the following powers and responsibilities of each branch:

- **The Legislature's Powers:**

- **Appropriating Funding for Government Spending:** The legislature’s “power of the purse” offers it the exclusive ability to raise money for the government and to decide to spend that money on government programs. This power arises from [Article I’s Spending Clause](#).
- **Lawmaking:** The legislature possesses exclusive power to enact new or change existing laws. This power arises in part from [Article I’s Commerce Clause – affording Congress the power to regulate “interstate and foreign commerce” – and Article I’s Necessary and Proper Clause](#) – affording Congress the power to “make all laws which shall be necessary and proper” for carrying out the explicit responsibilities of the legislative branch. The Necessary and Proper Clause affords Congress the ability to create many of the government agencies threatened by the funding freeze.
- **The Executive’s Powers:**
  - **Executive Authority over Agencies:** Although executive agencies are created by Congress through lawmaking, control over these agencies predominantly rests with the President [under Article II of the Constitution](#). The President’s power over individual agencies varies, however, with the design of the agency and the responsibilities Congress provided for it.
  - **Responsibility to Implement the Laws and Programs Passed by Congress:** While the President runs federal agencies as part of “the executive power”, the Constitution requires the President to “take care that the Laws be faithfully executed.” Courts have previously held that [this obligation forbids the President from refusing to spend money appropriated by Congress](#) that funds government programs.

Groups challenging the Trump administration’s funds freeze [allege that the action both usurps the powers reserved exclusively for Congress and neglects the legal responsibilities of the executive branch](#). As the funds frozen were appropriated by the legislature to pay for programs created by Congress, the President’s refusal to spend those funds is an attempt to seize the lawmaking and spending powers of Congress – violating the separation of powers. These groups further argue that the funds freeze isn’t just an unlawful extension of the President’s authority, but a dereliction of the President’s duty to “take care that the laws be faithfully executed.” Refusing to spend funding dedicated to certain tasks is not a “faithful” implementation of the laws and programs enacted by Congress. While the Trump administration claims that its efforts to freeze federal funds are legally grounded in the President’s executive control of agencies, [judges have – so far – expressed considerable skepticism regarding this argument](#).

## The Funding Freeze and the Statutory Obligations of Executive Agencies

Alongside their claims regarding the Constitution’s separation of powers, litigants challenging Trump’s funding freezes also allege that the Trump administration’s orders violate statutory obligations – obligations created by Congress through legislation – concerning the Administrative Procedures Act (APA) and the Impoundment Control Act (ICA). The [APA establishes specific procedures that executive agencies must follow](#) when implementing new policies and rules. The [ICA reinforces Congress’s “power of the purse”](#) and stipulates procedures and rules that the executive branch must follow when withholding funds appropriated by Congress. The ICA forbids the President from refusing to spend appropriated funds outside of a few narrow exceptions and without Congressional approval.

### Claims Involving the Administrative Procedures Act (APA):

- **Trump’s EOs are Arbitrary and Capricious:** Under the APA, [courts are instructed to set aside agency actions that are found to be “arbitrary and capricious.”](#) Plaintiffs allege that the funding freezes are arbitrary and capricious as they failed to consider the negative impacts of the orders on a wide swathe of American life, including public health.

- **Trump’s EOs are in Excess of Statutory Authority:** Under the APA, courts are instructed to set aside agency actions that exceed the authority granted by Congress. Plaintiffs allege that, by attempting to unilaterally terminate legislatively authorized programs, the funding freezes far exceed the Office of Management and Budget’s authority.

#### Claims Involving the Impoundment Control Act (ICA):

- **Trump’s Funding Freezes Failed to Receive Congressional Approval:** [Under the ICA, the President can only withhold funds if they first notify and receive approval from Congress](#) with a specific request for impoundment. Plaintiffs argue that the Trump administration failed to follow these necessary procedures.

**What is “impoundment”?**

Impoundment refers to the executive’s refusal to spend funds that have been appropriated by Congress. [Impoundment is typically illegal](#) under the Constitution and the Impoundment Control Act unless specific procedures are followed.

### What’s Next?

Although most executive actions aimed at freezing funds are currently stalled due to court orders, litigation will continue on multiple fronts. First, [while the Supreme Court upheld a lower judge’s temporary order](#) mandating that the Trump administration release funds in a narrow 5-4 vote, the Supreme Court has yet to hear and issue a final decision on the funding freeze. Second, [the Trump administration continues to freeze some funds](#) under alternative statutory authorities of individual agencies. New litigation is likely to result. Third, the Trump administration has [threatened to withhold funds from research universities and institutions](#), most notably Columbia University, unless they comply with the administration’s directives. [Although many legal experts suggest that these threats are challengeable in court](#), Columbia declined to litigate the issue and [adhered to the Trump administration’s demands](#). Similar threats continue to [hang over other universities](#) and may be challenged in court. Fourth, [many federal fund recipients continue to report delays in receiving their funds](#), suggesting noncompliance by the Trump administration. Noncompliance will likely give rise to further political and legal battles as [courts aim](#) to ensure the Trump administration respects their decisions.

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