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NIH v. APHA: Supreme Court 'Shadow Docket' Ruling Casts a Long Shadow Over Health Care Research

In response to the Trump Administration's early Executive Orders aimed at curtailing federally funded efforts to advance diversity, equity, and inclusion (DEI) and promote transgender health, the National Institutes of Health (NIH) froze or revoked hundreds of federal research grants. Many of the impacted grants included research topics that addressed racial and ethnic health disparities and LGBTQ+ health care.

A group of researchers and the American Public Health Association (APHA) sued, arguing that the grant revocations were illegal under the Administrative Procedures Act (APA) and the Fifth Amendment's due process protections. The U.S. District Court for the District of Massachusetts ruled for the plaintiffs, reinstating the grants and denying the government's request to delay enforcement of the ruling. The case made its way to the U.S. Supreme Court's "shadow docket," a fast-track process that allows the Court to decide urgent matters on a quick timeline without the usual briefing and oral arguments. The Supreme Court issued a mixed decision in *NIH v. APHA* on August 21 with five separate concurring and dissenting opinions. Significantly, the decision held that the district court did not have jurisdiction to reinstate the grant funding, allowing nearly $800 million in federal grants to be terminated. Read on to learn more about this case and its tremendous legal and practical impact on health disparities research and the U.S. health system at large.

How the Supreme Court Split Its Decision

The Supreme Court divided the legal claims in *NIH v. APHA* into two parts: (1) claims seeking reversal of the individual grant terminations, and (2) claims about whether federal guidance documents identifying new NIH policy priorities and directing the termination of grants in accordance with those priorities violated the Administrative Procedures Act (APA) and the Fifth Amendment. On the first part, four conservative justices (Clarence Thomas, Samuel Alito, Neil Gorsuch, and Brett Kavanaugh) plus Amy Coney Barrett held that any claim seeking federal

funding disbursement had to be filed in the Court of Federal Claims (CFC), a unique court that has jurisdiction over claims seeking money judgments against the United States. For example, the CFC hears cases against the federal government alleging contract violations or seeking tax refunds. This ruling in *NIH v. APHA* effectively allows the federal government to immediately terminate the grant funding at issue, despite the district court's ruling for the plaintiffs, because the district court did not have jurisdiction to order the grants reinstated.

The Shadow Docket

The Supreme Court's "shadow" or emergency docket is designed to enable the Court to address time sensitive matters quickly. However, recently the number of cases decided on the shadow docket has grown significantly, and the Court has increasingly used the emergency docket to decide important legal and political issues. Many court watchers view this trend as problematic, for reasons such as the fact that emergency docket cases are decided without full briefing and oral argument, and without the Court having to explain its reasoning in full detail.

However, on the second part, Justice Barrett joined the Court's three liberal members (Elena Kagan, Sonia Sotomayor, and Ketanji Brown Jackson) plus Chief Justice John Roberts in ruling that the district court did have jurisdiction over the legal challenges to the federal guidance that led to cancellation of the grants. In practice, this means that the plaintiffs can pursue their APA and due process claims in the district court and First Circuit Court of Appeals, but can only pursue reinstatement of their canceled grants in a different court—the CFC.

The "splitting of the baby" aspect of the Court's decision introduces a time-consuming and burdensome set of legal hoops. In practice, it makes nearly impossible to preserve research funding or infrastructure that relies on that funding while litigation plays out. For example, a brief filed by Democratic state attorneys general pointed out that the grant terminations "forced the University of Massachusetts medical school to lay off or furlough 209 employees and to cut the incoming fall 2025 graduate class by 86%, from 70 students to 10." Even if the CFC were to eventually reinstate the terminations, potentially years down the road, the current loss of funding creates huge strains on research institutions, undermining ongoing and new research and threatening the pipeline of future healthcare providers.

In her concurrence in part and dissent in part, Justice Jackson puzzles over the no-win position this creates for the plaintiffs, asking "After today's order, how are plaintiffs like these—federal grantees who believe their grants were terminated pursuant to an unlawful policy—to get complete relief? The Court does not say. The answer, it seems, is they cannot."

The Impact of NIH Grant Terminations

It's difficult to overstate the impact of the NIH grant terminations, especially for HIV/AIDS research. According to an analysis by the academic journal *Nature*, of the 770 grants that the Trump Administration had frozen or cancelled as of April 2025:

- 28.7% were HIV/AIDS related
- 24.3% were transgender health care related
- 17.1% were COVID-19 related
- 3.5% were climate related

Some of the terminated HIV grants include studies of digital health interventions for HIV prevention, integrated health services that address social determinants of health for HIV treatment and prevention, and HIV disparities among transgender women. HIV also comprised more than half of the terminated grants that were active clinical trials.

Many of the terminated grants were reinstated after the district court decision, but following the Supreme Court ruling, the NIH may cancel these grants again as plaintiffs pursue the two tracks of litigation described above. Government attorneys have advised that the district court's decision striking down the guidance underlying these decisions is still good law—since the district court had jurisdiction to issue that ruling—but political appointees may or may not heed this guidance.

Crowd-sourced data regarding the status of thousands of NIH and National Science Foundation terminated grants is being compiled and made available at Grants Witness, a site run by Harvard T.H. Chan School of Public Health environmental health researcher Scott Delaney.

What's Next

The *NIH v. APHA* ruling and the shadow docket more broadly have wrought confusion across lower courts due to their brevity, scant reasoning, and quick release without the usual briefing and oral arguments process. Indeed, cases decided on the shadow docket arguably are not meant to be binding on other cases. Meanwhile, litigation regarding funding cuts is continuing—in addition to challenges to NIH funding cuts, lawsuits filed regarding funding freezes from the Department of Education, Centers for Disease Control and Prevention, and other federal agencies and are hitting the same procedural roadblocks as the *NIH vs. APHA* case. Instead of clarifying how and where plaintiffs should file challenges to federal funding cuts, the Supreme Court decision introduces more questions than answers. Meanwhile, district courts continue to grapple with how to respond to the deluge of challenges before them.

The legal challenges to mid-stream grant cancellations are happening against a backdrop of a federal appropriations fight as the government approaches the end of the fiscal year on September 30. President Trump's proposed budget asks Congress to drastically reduce federal support for biomedical research in addition to slashing public health funding and infrastructure across HIV, hepatitis, and STIs. The threats to research are causing panic across academic institutions, with researchers halting planned trials and scrambling for non-federal funding opportunities. The loss of infrastructure, scientific momentum, and expertise from potential congressional appropriations cuts and continued Administration rollbacks is staggering.

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Health Care in Motion is written by Carmel Shachar, Health Law and Policy Clinic Faculty Director; Kevin Costello, Litigation Director; Elizabeth Kaplan, Director of Health Care Access; Maryanne Tomazic, Clinical Instructor; and John Card, Staff Attorney. This issue was written with the assistance of Amy Killelea of Killelea Consulting.

*For further questions or inquiries please contact us at **chlpi@law.harvard.edu**.*