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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

AMERICAN FEDERATION OF STATE,
COUNTY, AND MUNICIPAL
EMPLOYEES, AFL-CIO, et al.,

Plaintiffs,

v.

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES, et al.,

Defendants.

Case No. 3:26-cv-00759-TLT

**PLAINTIFFS’ ADMINSTRATIVE
MOTION TO EXPEDITE A HEARING ON
PLAINTIFFS’ MOTION FOR STAY
UNDER 5 U.S.C. § 705 AND
PRELIMINARY INJUNCTION**

Pursuant to Civil Local Rule 6-3 and 7-11, Plaintiffs American Federation of State, County, and Municipal Employees, AFL-CIO (“AFSCME”); Service Employees International Union, AFL-CIO (“SEIU”); Main Street Alliance (“MSA”); United Domestic Workers of America, AFSCME Local 3930 (“UDW”); AFSCME Council 31; and AFSCME Council 57 (collectively, “Plaintiffs”) respectfully request that the Court set a briefing schedule for Plaintiffs’ Motion for Stay under 5 U.S.C. § 705 and Preliminary Injunction (“Motion for Stay”) and that the Court set a hearing date as soon as briefing is completed and the Court’s schedule permits. Plaintiffs submit that good cause

1 exists to grant this request in light of the facts and circumstances set forth in this motion, the Motion
2 for Stay and accompanying documents, and the complete record of this case.

3 **BACKGROUND**

4 On January 6, 2026, the U.S. Department of Health and Human Services (“HHS”) announced
5 that it was freezing three child care and family assistance funding programs (administered by the
6 Administration for Children and Families) to California, Colorado, Illinois, Minnesota and New York.
7 Those funds include (1) nearly \$2.4 billion in Child Care and Development Fund (“CCDF”) to help
8 states support child care for low-income working families; (2) \$7.35 billion in Temporary Assistance
9 for Needy Families (“TANF”) to help states fund programs for low-income families, including job
10 assistance and child care; and (3) \$869 million in Social Services Block Grant (“SSBG”), including
11 child welfare programs and education and job training for adults. HHS will not release these funds
12 until those states submit to onerous demands for documentation to justify their spending.

13 On January 23, 2026, Plaintiffs filed their Complaint in this action, alleging that the freeze is
14 contrary to law, in excess of statutory authority, and arbitrary and capricious in violation of the
15 Administrative Procedure Act (“APA”), and further alleging that the freeze violates the First
16 Amendment and Fifth Amendment.

17 On January 28, 2026, Plaintiffs filed the Motion for Stay, which asks the Court to postpone
18 the effective date of the freeze, or to preliminarily enjoin the freeze, because that action is contrary to
19 law and arbitrary and capricious, and because preliminary relief is necessary to protect Plaintiffs and
20 their members from irreparable harm.

21 **ARGUMENT**

22 Plaintiffs respectfully submit that an expedited hearing date is necessary given the exigencies
23 of this case.

24 Plaintiffs are labor organizations and a small business membership organization that
25 collectively represent tens of thousands of child care providers whose essential services for low-
26 income families are funded by federal grant subsidies throughout California, Colorado, Illinois,
27 Minnesota, and New York; state and local government employees who perform the essential public

1 service of administering those subsidy programs; and parents and caregivers who receive critical child
2 care subsidies for their own families as well.

3 HHS’s freeze jeopardizes program funding for hundreds of thousands of low-income
4 households in California, Colorado, Illinois, Minnesota, and New York. Plaintiffs and their members
5 have already been harmed by the freeze. Many of Plaintiffs’ members are child care providers who
6 have already begun to modify their operations—decreasing class sizes, foregoing essential hires, and
7 holding off on purchasing necessary supplies. *See, e.g.*, Declaration of Juana Cortez (AFSCME), Ex.
8 B at ¶ 8; Declaration of Erika Prado (AFSCME), Ex. C at ¶ 6; Declaration of Janna Rodriguez
9 (AFSCME), Ex. D at ¶¶ 12–14. Even a brief delay of the funds at issue for day care centers, which
10 already operate on shoestring budgets, will leave funding gaps that will force programs to shutter or
11 scale back significantly; stripping child care and other critical support from the people who rely on
12 it. *See* Cortez Decl. (AFSCME) ¶¶ 3–7; Prado Decl. (AFSCME) ¶¶ 4-5, 7–8; Rodriguez Decl.
13 (AFSCME) ¶¶ 7–11, 15. If the freeze were to go into effect, Plaintiffs’ members who are parents
14 would lose the child care programs they depend on to provide their young children with the benefit
15 of high-quality early care experiences while they work or attend school. *See, e.g.*, Declaration of
16 Courtney Benton (AFSCME), Ex. A at ¶¶ 5–9. Finally, the uncertainty of future funding has already
17 undermined the bargaining positions of many essential public servants (also Plaintiffs’ members) in
18 their employment negotiations and could ultimately cost them their jobs. *See, e.g.*, Declaration of
19 Michelle Sforza (AFSCME), Ex. E at ¶ 8, 10, 13, 23–28, 30–31, 33, 38, 49.

20 This Court’s civil motion calendar is full through April 21, 2026. Although the funding freeze
21 challenged here is subject to a temporary restraining order,¹ the continued threat that the freeze will
22 take effect is already harming Plaintiffs and their members. The temporary restraining order expires
23

24
25 ¹ On January 8, 2026, Colorado, California, Illinois, New York, and Minnesota filed a complaint in
26 *State of New York v. Administration for Children and Families*, 1:26-cv-00172 (S.D.N.Y), also
27 challenging the Targeted States Funding Freeze. The plaintiff states filed a Motion for a Temporary
28 Restraining Order (“TRO”) along with their complaint to stay the Targeted States Funding Freeze,
which the court granted the next day for a period of 14 days. The court extended the TRO to remain
in effect until February 6, 2026. The states’ motion for a preliminary injunction, filed on January 15,
2026, is fully briefed and remains pending in front of that court.

1 on February 6, 2026, following which Plaintiffs and their members may be exposed to continued
2 harm.

3 Accordingly, Plaintiffs respectfully request that the Court adopt the following briefing
4 schedule for the Motion for Stay, in accordance with the deadlines established under Civil Local Rule
5 7-3:

- 6 • Defendants' opposition shall be due on or before February 11, 2026.
- 7 • Plaintiffs' reply shall be due on or before February 18, 2026.

8 Plaintiffs further request that the Court set a hearing date as soon as the Court's schedule permits
9 following the conclusion of briefing on the Motion for Stay.

10 Defendants will not be prejudiced by an expedited hearing or the schedule that Plaintiffs
11 propose above because the schedule allows them the same amount of time as the rules provide. *See*
12 L.R. 7-3(a), (c) (providing 14 days for opposition and 7 days for reply). Further, Defendants' counsel
13 has the benefit of the briefing that Defendants have already submitted in *State of New York v.*
14 *Administration for Children and Families*, 1:26-cv-00172 (S.D.N.Y.), in which the plaintiffs press
15 APA claims that are similar to those raised by Plaintiffs in this case.

16 On January 27 and January 28, Plaintiffs conferred with counsel for Defendants, Assistant
17 United States Attorney Jevetchius D. Bernardoni, who stated that Defendants are unable to take a
18 position on this motion, as Plaintiffs have not advised Defendants of the date on which they seek to
19 hold the hearing on the Motion to Stay. Mr. Bernardoni reports that he will be unavailable on February
20 19 because he will be out of the office, and on the afternoons of February 24, February 26, March 3,
21 and March 5 because he is scheduled to appear at hearings at those times. As noted above, Plaintiffs
22 seek a hearing as soon as may be practicable for the Court, but Plaintiffs of course are amenable to
23 the Court's selection of a date for a prompt hearing that would not create a conflict for Defendants'
24 counsel.

CONCLUSION

Based on the foregoing showing of good cause, Plaintiffs respectfully request that the Court grant the request for an order setting a briefing schedule and expediting consideration of their motion for stay and preliminary injunction.

Date: January 28, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to Civil Local Rule 5-5, I hereby certify that on January 28, 2026, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, and served by certified mail to the following:

/s/ Cortney Robinson Henderson

Cortney Robinson Henderson

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