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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NEETA THAKUR, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, *et al.*,

Defendants.

Case No. 3:25-cv-4737

**MOTION FOR PRELIMINARY
INJUNCTION AND PROVISIONAL
CLASS CERTIFICATION AS TO
ADDITIONAL AGENCY
DEFENDANTS**

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INTRODUCTION

Plaintiffs filed suit on behalf of themselves, and all similarly situated University of California researchers, whose federally funded grants have been or will be imminently terminated by Defendants. In a prior order (Dkt. 54), the Court granted Plaintiffs preliminary injunctive relief and provisional class certification against the three agencies—EPA, NEH, and NSF—that terminated grants held by the Plaintiffs named in the initial complaint. Specifically, the Court held that Plaintiffs were “likely to succeed on their claims that the termination of grants for research involving blacklisted topics like ‘diversity’ and ‘equity’ violates the First Amendment and runs contrary to Congress’s specific directives to support research concerning—and foster greater involvement in the sciences of—underrepresented groups.” Order at 2. It also held that Plaintiffs were “likely to succeed on their claims that the *en masse* terminations via form letter were arbitrary and capricious.” *Id.* The Court therefore certified two classes of UC researchers whose grants were terminated by the initial three agencies (the Equity Termination and Form Termination Classes) and preliminarily enjoined the termination of the class members’ grants. *Id.* at 51-52, 60.

Pursuant to the Court’s subsequent scheduling order (Dkt. 60), Plaintiffs now bring this motion for an additional preliminary injunction and provisional class certification order encompassing two additional Agency Defendants—U.S. Department of Defense (“DOD”) and U.S. Department of Transportation (“DOT”)—that unlawfully terminated grants held by Plaintiffs and proposed class representatives added in the Amended Complaint, Dr. Eli Berman and Dr. Susan Handy. Plaintiffs Berman and Handy allege the same claims as those of the other class representatives. DOD’s and DOT’s grant terminations are likewise similar to the grant terminations by EPA, NEH, and NSF. Plaintiffs therefore respectfully request that the Court (1) certify two new Equity and Form Termination Classes that include grant recipients affected by DOD and DOT grant terminations, and (2) issue a new preliminary injunction as to DOD and DOT mirroring the one already issued.¹

¹ Plaintiffs do not at this time seek amendment of the earlier order, now on appeal, and recognize that the Court may ultimately consolidate the classes before final adjudication.

BACKGROUND

I. Background on Federal Agency Grantmaking

For purposes of this Motion, Plaintiffs discuss the mission and grantmaking functions of only those Agency Defendants that terminated grants held by the new Plaintiffs to this action: DOD and DOT.²

A. Department of Defense

DOD is a federal agency that was established to promote national security. Shortly after the end of World War II, President Truman urged Congress to combine the War and Navy Departments under one single Department of National Defense.³ In his address to Congress, President Truman stated that creating the Department of National Defense was an “essential step . . . in the development of a comprehensive and continuous program for our future safety and for the peace and security of the world.”⁴ After months of deliberations regarding the role of the military in society and the possible threat of granting too much military power to the executive, Congress created the National Military Establishment through the National Security Act of 1947.⁵ In 1949, the National Military Establishment was renamed DOD.

The National Security Act also established a Research and Development Board to advise the Secretary of Defense on scientific research relevant to national security and to assist the Secretary of Defense in assuring adequate funding for research on scientific problems relating to national security.⁶ The Department of Defense Reorganization Act of 1958 amended the National Security Act and created a Director of Defense Research and Engineering, who would supervise all research activities in DOD. The law further contemplated that DOD would contract with “educational or research institutions” to carry out its research mission.⁷ Since 1961, Congress has

² For an exhaustive description of the grantmaking authority and activities of all Agency Defendants, *see* Memo. in Support of Mot. for Temporary Restraining Order (Dkt. 7-1) at 4–9.

³ Harry S. Truman Library Museum, *Special Message to the Congress Recommending the Establishment of a Department of National Defense*, (Dec. 19, 1945) <https://www.trumanlibrary.gov/library/public-papers/218/special-message-congress-recommending-establishment-department-national>.

⁴ *Id.*

⁵ National Security Act of 1947, Pub. L. No. 80-253, 61 Stat. 495.

⁶ *Id.*

⁷ Department of Defense Reorganization Act of 1958, Pub. L. No. 85-599, 72 Stat. 514.

1 updated the specific duties of DOD through the National Defense Authorization Act, which,
 2 among other things, annually authorizes DOD to make grant awards and fund research activities.⁸
 3 Congress has also passed legislation specifically instructing DOD to award grants to institutions
 4 of higher education, including the National Security Education Act of 1991, which instructed the
 5 Secretary of Defense to award research grants to universities.⁹

6 One way DOD has implemented these Congressional mandates and directives is through
 7 the Minerva Research Institute (“MRI”). Created in 2008, MRI was designed to address
 8 challenges such as ethnic strife; failing or failed states; the rise of new powers; the rise of violent
 9 extremism, disease, poverty, and climate change; and other unprecedented social changes.¹⁰ In
 10 DOD’s own words, MRI “brings together universities and other research institutions around the
 11 world” and “emphasizes questions of strategic importance to U.S. national security policy.”¹¹ UC
 12 researchers with MRI grants are among those whose funding has been unlawfully terminated by
 13 Defendants’ actions.

14 **B. Department of Transportation**

15 DOT is a federal agency established to protect and enhance the safety, adequacy, and
 16 efficiency of the nation’s transportation system and services. Congress established DOT in 1966
 17 with The Department of Transportation Act after President Johnson called for a more efficient,
 18 centralized transportation system.^{12,13} This Act provided that “the national objectives of general
 19 welfare, economic growth and stability, and security of the United States require the development
 20 of transportation policies and programs that contribute to providing fast, safe, efficient, and

21 _____
 22 ⁸ See, e.g., National Defense Authorization Act for Fiscal Year 2024, Pub. L. No. 118-31, 137
 23 Stat. 136; National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283, 134
 24 Stat. 3388.

25 ⁹ David L. Boren National Security Education Act of 1991, Pub. Law. No. 102-183, 105 Stat.
 26 1271 (codified at 50 U.S.C. §1901 et seq.).

27 ¹⁰ *The Minerva Initiative*, <https://web.archive.org/web/20090211034051/http://minerva.dtic.mil/>.

28 ¹¹ Grants.Gov, *View Grant Opportunity* (Mar. 15, 2024), <https://grants.gov/search-results-detail/351388>.

¹² President Lyndon B. Johnson, *Special Message to Congress on Transportation* (March 2, 1966), <https://www.presidency.ucsb.edu/documents/special-message-the-congress-transportation-0>.

¹³ *A Brief History of the DOT*, U.S. Dep’t of Trans., <https://transportation.libguides.com/c.php?g=1154894&p=8441208>.

1 convenient transportation at the lowest cost consistent with those and other national objectives,
 2 including the efficient use and conservation of the resources of the United States.” Pub. L. No.
 3 97-449 (codified at 49 U.S.C. § 101(a)).

4 One way DOT effectuates this mission is through grantmaking. Using funds appropriated
 5 by Congress, DOT finances projects that invest in “transportation infrastructure, safety, and
 6 innovation across the country,” including through competitive grant funding programs.¹⁴ DOT
 7 administers competitive grant programs through its operating administrations (“OAs”) and the
 8 Office of the Secretary of Transportation.¹⁵ Each OA solicits applications through a Notice of
 9 Funding Opportunity and selects projects based on program eligibility, evaluation criteria, and
 10 Departmental or program priorities. In 2021 alone, Congress provided billions of dollars for DOT
 11 to distribute through competitive grant programs.¹⁶

12 Since DOT’s creation in 1966, Congress has continually provided funding for DOT to
 13 carry out its mission and directed DOT to improve the nation’s transportation system for all
 14 Americans. For example, in 2021, Congress passed the Infrastructure Investment and Jobs Act
 15 (“IIJA”). Pub L. No. 117-85, 135 Stat. 429 (codified at 23 U.S.C § 101). Much of the IIJA
 16 requires DOT to consider and prioritize projects that target disadvantaged communities and
 17 prioritize equitable outcomes, goals the Trump Administration have labeled illegal “DEI.” For
 18 example, the IIJA amended the University Transportation Centers (“UTC”) Program by requiring
 19 the Secretary of Transportation to award grants to proposals that address six research priorities:
 20 improving mobility of people and goods; reducing congestion; promoting safety; improving the
 21 durability and extending the life of transportation infrastructure; preserving the environment;
 22 preserving the existing transportation system; and reducing transportation cybersecurity risks. 49
 23 U.S.C. § 6503(c)(1). The Secretary is required to select grants based in part on the recipient’s
 24 “demonstrated commitment” to developing the transportation workforce through “outreach
 25 activities to attract new entrants into the transportation field, including women and

26 ¹⁴ *Overview of Funding and Financing at USDOT*, U.S. Dep’t of Trans.,
 27 <https://www.transportation.gov/grants/dot-navigator/overview-funding-and-financing-usdot>.

¹⁵ *Id.*

28 ¹⁶ *The Bipartisan Infrastructure Law and Innovation*, U.S. Dep’t of Trans.,
<https://www.transportation.gov/priorities/innovation/bipartisan-infrastructure-law-and-innovation>.

1 underrepresented populations.” *Id.*, 49 U.S.C. § 5505(b)(4)(B)(v)(II). UC researchers with UTC
 2 grants are among those whose funding has been unlawfully terminated by Defendants’ actions.

3 **II. The Trump Administration Directed Federal Agencies to Terminate Grants.**

4 Beginning on Inauguration Day, the Trump Administration explicitly and implicitly
 5 directed federal agencies to “terminate” previously awarded grant funds through a series of EOs
 6 to that effect. DOD and DOT quickly caved to President Trump’s and DOGE’s directives to
 7 eliminate grants relating to disfavored topics.

8 **A. DOD Grant Terminations**

9 On March 4, 2025, Chief Pentagon Spokesman Sean Parnell stated that DOD had been
 10 working “hand in hand with the DOGE team.”¹⁷ By March 7, DOD had terminated more than \$30
 11 million in grants that funded 91 studies. In a press release, DOD recognized “the value of
 12 academic research” but stated it was taking action “in response to President Trump’s Executive
 13 Orders.”¹⁸ The press release noted that the terminated studies included research focused on
 14 “global migration patterns, climate change impacts, and social trends.”¹⁹ By March 20, Secretary
 15 of Defense Pete Hegseth had issued a memorandum directing the immediate termination of over
 16 \$360 million in additional grants in order to “implement the President’s orders.”²⁰ This
 17 termination essentially gutted MRI. Many, if not all, grants previously awarded through MRI
 18 have been terminated. These terminations have caused and will continue to cause Plaintiffs and
 19 proposed Class members serious harm.

23 ¹⁷ C. Todd Lopez, *Initial DOGE Findings Reveal \$80 Million in Wasteful Spending at DOD*, U.S.
 24 Dep’t of Def. (Mar. 4, 2025), <https://www.defense.gov/News/News-Stories/Article/Article/4096431/initial-doge-findings-reveal-80-million-in-wasteful-spending-atdod/>.

25 ¹⁸ *Pentagon Culls Social Science Research, Prioritizes Fiscal Responsibility and Technologies for*
 26 *Future Battlefield*, U.S. Dep’t of Def. (Mar. 7, 2025),
<https://www.defense.gov/News/Releases/Release/Article/4113076/pentagon-culls-social-science-research-prioritizes-fiscal-responsibility-and-te/>.

27 ¹⁹ *Id.*

28 ²⁰ *Continuing Elimination of Wasteful Spending at the Department of Defense*, U.S. Dep’t of Def.
 (Mar. 20, 2025), <https://media.defense.gov/2025/Mar/20/2003673531/-1/-1/0/continuing-elimination-of-wasteful-spending-at-the-department-of-defense.pdf>.

1 **1. Dr. Eli Berman’s Grant Termination**

2 Dr. Eli Berman is a Professor of Economics at the University of California, San Diego,
3 who studies economic development in fragile environments, with a focus on conflict. Berman
4 Decl. ¶ 2. He also serves as the Research Director for International Securities Studies at the UC
5 Institute on Global Conflict and Cooperation, a research network comprised of scholars from
6 across the University of California and the Los Alamos and Lawrence Livermore National
7 Laboratories, who produce and use research to help build a more peaceful, prosperous world. *Id.*
8 ¶ 3. On February 16, 2023, Dr. Berman, together with his colleagues, submitted an application for
9 funding to MRI titled “Integrated Deterrence: Episodic Analysis.” *Id.* ¶ 19. The purpose of the
10 research project was to expand on Dr. Berman’s earlier MRI project research and develop a game
11 theoretic model for analyzing patterns of combat in the Israel/Gaza conflict. *Id.* ¶¶ 21, 22. On
12 August 28, 2023, Dr. Berman and his team received notice of Grant Award No. FA 9550-23-1-
13 0437 that would provide \$1,032,529 in funding over three years. *Id.* ¶ 23.

14 On February 28, 2025, DOD sent a 4-sentence group email to Minerva grant recipients,
15 including Dr. Berman, informing them that their “grant award no longer effectuates Minerva
16 program goals or DOD priorities.” Berman Decl., Ex. D. A similar termination notice was sent to
17 UC San Diego. Berman Decl., Ex. E. No explanation was provided for the termination decision.
18 Due to the termination, Dr. Berman lost the third year of his grant funding, a total of \$248,991.
19 Berman Decl. ¶¶ 28–31. Dr. Berman and his team have suffered immediate harm as a result of
20 this termination. *Id.* ¶ 33.

21 **B. DOT Grant Terminations**

22 In January 2025, Sean Duffy was appointed as the Secretary of Transportation. Secretary
23 Duffy’s first actions were to “advance[] President Donald Trump’s agenda to rescind woke
24 policies” and ensure that all DOT “policies align with the Administration’s priorities.”²¹ He made
25 no mention of the priorities set by Congress and immediately directed DOT officials to “identify
26

27 ²¹ *U.S. Transportation Secretary Duffy Takes Action to Rescind “Woke” DEI Policies and*
28 *Advance President Trump’s Economic Agenda*, U.S. Dep’t of Trans., (January 29, 2025),
[https://www.transportation.gov/briefing-room/us-transportation-secretary-sean-duffy-takes-](https://www.transportation.gov/briefing-room/us-transportation-secretary-sean-duffy-takes-action-rescind-woke-dei-policies-and)
[action-rescind-woke-dei-policies-and](https://www.transportation.gov/briefing-room/us-transportation-secretary-sean-duffy-takes-action-rescind-woke-dei-policies-and).

1 and eliminate all Biden-era programs, policies, activities, rules, and orders that promote climate
 2 change activism, Diversity, Equity, and Inclusion (DEI) initiatives, racial equity, gender identity
 3 policies, environmental justice, and other partisan objectives.”²² On April 24, 2025, Secretary
 4 Duffy sent a letter to all DOT grant recipients instructing them to “Follow the Law,” explicitly
 5 forbidding grant recipients from engaging in “any policy, program, or activity that is premised on
 6 a prohibited classification, including discriminatory policies or practices designed to achieve so-
 7 called ‘diversity, equity, and inclusion,’ or ‘DEI,’ goals.”²³ DOT terminations have caused and
 8 will continue to cause serious harm to Plaintiffs and proposed Class members.

9 **1. Dr. Susan Handy’s Grant Terminations**

10 Dr. Susan Handy is a Distinguished Professor in the Department of Environmental
 11 Science and Policy at the University of California, Davis, who studies the relationship between
 12 transportation and land use, particularly the impact of land use on travel behavior and on
 13 strategies for reducing automobile dependence. Handy Decl. ¶¶ 2, 5. Dr. Handy is also the
 14 director of the National Center for Sustainable Transportation (“NCST”), which provides national
 15 leadership in advancing environmentally sustainable transportation through cutting-edge research,
 16 direct policy engagement, and education. *Id.* ¶ 3. The NCST was established in 2013 after being
 17 selected in a national competition to serve as one of five national transportation centers as part of
 18 the UTC program administered by DOT. *Id.* ¶ 11. In 2022, Dr. Handy and her colleagues at the
 19 NCST submitted a grant proposal to DOT to fund the NCST’s research activities in the DOT
 20 Priority Area “Preserving the Environment,” as set out by the IIJA. *Id.* ¶ 19. The application
 21 explained that the NCST’s research activities would relate to electrification, alternative fuels, air
 22 quality, and environmental justice. *Id.* On June 1, 2023, Dr. Handy and her team received from
 23 DOT notice of Grant Award Nos. 69A3552344814 and 69A3552348319 awarding a total of
 24 \$4,000,000 per funding year, for five annual allocations of funding. *Id.* ¶ 21. DOT also awarded
 25 Dr. Handy Sub-award No. SCON-00005220 for a total of \$485,734.55. *Id.* ¶ 29.

26 _____
 27 ²² *Id.*

28 ²³ *Trump’s Transportation Secretary Sean P. Duffy: Follow The Law*, U.S. Dep’t of Trans., (April 24, 2025), <https://www.transportation.gov/briefing-room/trumps-transportation-secretary-sean-p-duffy-follow-law>.

On May 2, 2025, Secretary Duffy announced that DOT terminated “seven woke university grants” that were used to “advance a radical DEI and green agenda that were both wasteful and ran counter to the transportation priorities of the American people.”²⁴ Dr. Handy’s grants were among them. She received the following form explanation for the termination of Award Nos. 69A3552344814 and 69A3552348319:

At the time your grant was issued, the grant agreement and applicable regulations authorized termination by “the Federal awarding agency or pass-through entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities.” 2 CFR § 200.340(a)(2). DOT’s priorities presently include:

- promoting traditional forms of energy and natural resources to the greatest extent possible,
- ensuring that taxpayer dollars are used efficiently in ways that maximally benefit the American people and improve their quality of life, and
- ceasing to promote divisive diversity, equity, and inclusion initiatives that discriminate on the basis of race, national origin, or another protected characteristic.

Having individually reviewed your grant in light of DOT’s priorities, the Office of the Secretary has determined that your grant is inconsistent with the priorities listed above.

Handy Decl. ¶ 24. The letter also stated that the grants were being terminated because the NCST’s environmental and DEI missions were “inconsistent with DOT priorities.” Handy Decl. Ex. F. Dr. Handy then received notice that Sub-award No. SCON-00005220 was terminated. Handy Decl. ¶ 31. The subaward termination letter repeated much of the same language and was similarly vague, alluding to how the project was supposedly “inconsistent with the priorities” of DOT. *Id.* ¶ 32. Dr. Handy and her team have suffered immediate harm as a result of these terminations. *Id.* ¶ 34.

²⁴ *U.S. Transportation Secretary Sean P. Duffy Defunds Woke University Grants*, U.S. Dep’t of Trans. (May 2, 2025), <https://www.transportation.gov/briefing-room/us-transportation-secretary-sean-p-duffy-defunds-woke-university-grants>.

ARGUMENT

I. Drs. Berman and Handy Have Standing.

To establish standing, a “plaintiff must have (1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision.” *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016). This Court has already held that the original Plaintiffs have Article III standing. *See* Order at 47 (citing *Diamond Alternative Energy, LLC v. Env’t Prot. Agency*, 145 S. Ct. 2121 (2025)). The same should be true for Drs. Berman and Handy, who are the principal investigators for their respective grants, Berman Decl. ¶ 19; Handy Decl. ¶¶ 20, 29. The wrongful termination of their grants has caused great harm to their careers and livelihood and can be redressed through the same injunctive and declaratory relief as the other Plaintiffs. Berman Decl. ¶ 33; Handy Decl. ¶ 34. In short, Drs. Berman and Handy “assert[] invasions of traditionally cognizable interests sufficient to confer standing” which “can be redressed by a reversal of the allegedly illegal grant terminations.” Order at 42.

II. The Court Should Provisionally Certify Form Termination and Equity Termination Classes for UC Researchers Whose Grants were Terminated by DOD and DOT.

A. The Class Definitions for DOD and DOT.

The Court has provisionally certified two Classes: the Equity Termination Class and the Form Termination Class. Order at 51–52. In this Motion, Plaintiffs request that the Court certify two new provisional classes identical to those previously certified but for the substitution of the already enjoined Agency Defendants (EPA, NEH, NSF) with the newly added Agency Defendants (DOD and DOT):

DOD/DOT Equity Termination Class. All University of California researchers, including faculty, staff, academic appointees, and employees across the University of California system who are named as principal researchers, investigators, or project leaders on the grant applications for previously awarded research grants by the DOD or DOT (or their sub-agencies) that are terminated pursuant to Executive Orders 14151 or 14173, from and after January 20, 2025.

Excluded from the class are Defendants, the judicial officer(s) assigned to this case, and their respective employees, staffs, and family members.

DOD/DOT Form Termination Class. All University of California researchers, including faculty, staff, academic appointees, and employees across the University of California system who are named as principal researchers, investigators, or project leaders on the grant applications for previously awarded research grants by the DOD or DOT (or their sub-agencies) that are terminated by means of a form termination notice that does not provide a grant-specific explanation for the termination that states the reason for the change to the original award decision and considers the reliance interests at stake, from and after January 20, 2025.

Excluded from the class are Defendants, the judicial officer(s) assigned to this case, and their respective employees, staffs, and family members.

B. The DOD/DOT Classes Satisfy The Requirements of Class Certification.

In granting provisional certification, the Court must determine that the requirements of Rule 23 have been met, although “its analysis is tempered, [] by the understanding that ‘such certifications may be altered or amended before the decision on the merits.’” *R.I.L-R v. Johnson*, 80 F. Supp. 3d 164, 179–80 (D.D.C. 2015) (quoting *Bame v. Dillard*, No. 05-1833, 2008 WL 2168393, at *5 (D.D.C. May 22, 2008)). Plaintiffs’ proposed classes satisfy all Rule 23(a) factors as well as the requirements of Rule 23(b)(2). *See Lyon v. U.S. Immigr. & Customs Enf’t*, 308 F.R.D. 203, 210-11 (N.D. Cal. 2015). As recently noted in *Barbara v. Trump*, “[c]ourts routinely grant provisional class certification for purposes of entering injunctive relief.” No. 2025 DNH 079P, 2025 WL 1904338, at *3 (D.N.H. July 10, 2025) (collecting grants of provisional class certification, including *Meyer v. Portfolio Recovery Assocs., LLC*, 707 F.3d 1035, 1041-43 (9th Cir. 2012)).²⁵

1. The Proposed Classes are Sufficiently Numerous.

Plaintiffs typically must demonstrate that “the class is so numerous that joinder of all members is impracticable.” Fed. R. Civ. P. 23(a)(1). However, when Plaintiff seek only to certify a Rule 23(b)(2) class, “the numerosity requirement is relaxed.” *Chinitz v. Intero Real Est. Servs.*,

²⁵ Quoting *Trump v. CASA, Inc.*, 145 S. Ct. 2540, 2567 (2025) (Kavanaugh, J. concurring), the *Barbara* court noted that “plaintiffs who challenge the legality of a new federal statute or executive action and request preliminary injunctive relief may sometimes seek to proceed by class action under [R]ule 23(b)(2) and ask a court to award preliminary classwide relief that may, for example, be statewide, regionwide, or even nationwide.” *Barbara*, 2025 WL 1904338, at *3. The court did just that, holding that it could “later modify or amend the order granting class certification.” *Id.*

No. 18-CV-05623-BLF, 2020 WL 7391299, at *8 (N.D. Cal. July 22, 2020) (citing *Civil Rights Educ. & Enf't Ctr. v. Hosp. Properties Tr.*, 317 F.R.D. 91, 100 (N.D. Cal. 2016), *aff'd*, 867 F.3d 1093 (9th Cir. 2017); *Jackson v. Danbury*, 240 F.R.D. 145, 148 (D. Del. 2007) (numerosity met by class of 16 members in injunctive relief action by death row inmates challenging lethal injection under 28 U.S.C. Section 1983). The relaxed numerosity requirement for injunctive relief classes recognizes that such classes contain unidentified future members, and the classwide injunction protects them from the harm that would otherwise occur from defendant's continued conduct.

This Court has already recognized that the “grant terminations will impact hundreds or thousands of researchers across the UC System” and that “hundreds of grant terminations were . . . issued through unreasoned form letters.” Order at 54, 57. Defendants here have terminated at least 16 DOD grants and at least 3 DOT grants to UC researchers. Dkt. 38 at 2-3²⁶; DEFSDOT_00004-06; Zach Young Decl. at ¶ 7; Cabraser Decl., Ex. E. Defendants' expedited production furthermore demonstrates additional UC grants are being assessed for termination on an ongoing basis. *See e.g.*, Cabraser Decl., Ex. E at 5 (UC grants marked in June 2025 as “NOT yet terminated. Awaiting DOGE mission-critical review.”). In the context of a Rule 23(b)(2) class, this is enough for purposes of numerosity. *Chinitz*, 2020 WL 7391299, at *8 (“under Rule 23(b)(2), ‘the numerosity requirement is relaxed and plaintiffs may rely on reasonable inferences arising from plaintiff[s] other evidence that the number of unknown and future members is sufficient to make joinder impracticable.’”); *see also Wedra v. Cree, Inc.*, No. 19-cv-3162 (VB), 2022 WL 2116760, at *2 (S.D.N.Y. June 13, 2022) (“[A] plaintiff need not establish the precise number of class members so long as the plaintiff reasonably estimates that the number is substantial, and relies on reasonable inferences drawn from the available facts.”). This is especially true given the likelihood that DOT/DOD classes will ultimately be consolidated with the EPA/NEH/NSF classes before trial.

²⁶ Defendants' initial estimates are under-inclusive as they captured only those grants awarded directly to the UC and do not include grants in which a UC is a sub-awardee or in which a UC researcher may be named as a co-Principal Investigator.

2. **There Are Common Questions of Law and Fact and the Proposed Classes Satisfy Rule 23(b)(2).**

Plaintiffs must also demonstrate “the capacity of classwide proceedings to generate common answers to common questions of law or fact that are apt to drive the resolution of the litigation.” *Mazza v. Am. Honda Motor Co.*, 666 F.3d 581, 588 (9th Cir. 2012) (internal quotation marks omitted). As the Court noted, commonality is satisfied where, like here, plaintiffs challenge “a system-wide practice or policy that affects all of the putative class members.” Order at 54 (quoting *Armstrong v. Davis*, 275 F.3d 849, 868 (9th Cir. 2001), *overruled on other grounds by Johnson v. California*, 543 U.S. 499 (2005)). By amending their complaint to allege unlawful DOD and DOT grant terminations alongside unlawful grant terminations by EPA, NEH, and NSF, Plaintiffs have asked the same “common questions” that the Court already recognized were sufficient to establish Rule 23(a)(2) commonality. For example: whether Agency Defendants followed Trump and DOGE directives in terminating grants to both Classes; whether grant terminations violated the First Amendment rights of both sets of class members; and whether the Agency Defendants’ terminations to the Form Termination Class were arbitrary and capricious in violation of the APA. *See* Order at 54, 55, 58; AC ¶¶ 380–84 (alleging that DOD terminated grants at the behest of President Trump and DOGE), ¶¶ 438–53 (alleging that DOT terminated grants pursuant to President Trump’s orders), ¶¶ 550–55 (alleging that Defendants, including DOD and DOT, violated the First Amendment in terminating grants), ¶ 573 (alleging that Defendants violated the APA by distributing generic form letters to class members).

The Rule 23(b)(2) requirement is satisfied for the same reasons. Plaintiffs must show that “the party opposing the class has acted or refused to act on grounds that apply generally to the class.” Fed. R. Civ. P. 23(b)(2). Plaintiffs have done so. The Amended Complaint focuses *entirely* on Defendants’ general course of conduct that caused substantially similar class-wide injuries to all class members. *See, e.g.*, AC ¶¶ 141–221 (EPA), ¶¶ 247–303 (NEH), ¶¶ 322–57 (NSF), ¶¶ 380–414 (DOD), ¶¶ 438–84 (DOT). The proposed DOD/DOT Equity Termination and Form Termination Classes, then, satisfy Rule 23(b)(2) for identical reasons as the current Classes.

1 **3. Plaintiffs’ Claims Are Typical of Those of the Proposed Classes.**

2 To satisfy typicality, Plaintiffs must show that their claims are “typical of the claims or
3 defenses of the class.” Fed R. Civ. P. 23(a)(3). “The purpose of the typicality requirement is to
4 assure that the interest of the named representative aligns with the interests of the class.” *Hanon*
5 *v. Dataproducts Corp.*, 976 F.2d 497, 508 (9th Cir. 1992) (citation omitted). The Court has
6 already ruled that the original Plaintiffs met the typicality requirement for both the Equity
7 Termination and Form Termination Classes. Order at 56, 58-59. Drs. Berman and Handy, as
8 proposed class representatives, also satisfy the typicality inquiry.

9 Dr. Berman’s termination letter, like those issued to class representatives and class
10 members of the DOD/DOT Form Termination Class, offered no reasoned explanation for the
11 termination of his grant. *See* AC ¶¶ 403–05 (Berman termination letter stating only that “[t]he
12 Government intends to terminate this Award under the authority of 2 CFR 200.340(a)(4)” without
13 providing any reasoning). The same is true of Dr. Handy’s termination letter. Although it includes
14 slightly more content than other form letters, the fails to identify the reasoning behind the Agency
15 Defendant’s purportedly changed priorities and does not account for the Plaintiffs’ reliance
16 interests. *See* DEFSDOT_00004.²⁷ As such, both Plaintiffs’ grants were terminated in a way
17 typical of the other proposed members of the DOD/DOT Form Termination Class.

18 The same goes for the DOD/DOT Equity Termination Class. Dr. Handy’s grant was
19 terminated because it was “inconsistent” with DOT’s “priorities,” including “DOT’s priority to
20 cease promoting DEI initiatives that discriminate on the basis of race, national origin, or another
21 protected characteristic.” *Id.* ¶ 471. Dr. Handy’s original grant application specified that its
22 research activities would relate to environmental justice. *Id.* ¶ 466. Her second grant termination
23 letter cited her project’s “environmental justice themes” as “discriminatory consideration” that
24 was “inconsistent with DOT’s priorities.” *Id.* ¶ 477. As the Court noted, “[t]his is precisely the
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27 ²⁷ Even more confusingly, the language cited in the termination letter that, according to the DOT,
28 demonstrates “inconsisten[cy] with DOT’s priorities” appears to be excerpted not from the specific
grant materials but rather from other statements made by the grantee consortium outside of the
grant materials. *Id.* This would further accentuate the First Amendment violation as well as the
arbitrariness of the termination.

1 type of conduct other Equity Termination Class members will have been subject to and same
2 injury other members will have suffered.” Order at 56.

3 Although his form termination letter offers almost no explanation, Dr. Berman’s grant
4 termination appears to follow a similar pattern. The record confirms that DOD executed DEI-
5 related grant terminations. *See* DEFSDOD_00015 (directing “termination” of grants “which
6 represent wasteful spending on climate change, DEI, social science, and other activities where are
7 not aligned DoD and DoN priorities”). And while the exact machinations of Defendants’
8 termination criteria remain opaque (DOD did not produce DEI keywords), Berman’s claims are,
9 on their face, typical of DOD/DOT Equity Termination Class members.

10 **4. Plaintiffs and Class Counsel Will Adequately Represent the Proposed**
11 **Classes.**

12 Absent class members must be adequately represented for judgment to bind them.
13 *Hansberry v. Lee*, 311 U.S. 32, 42-43 (1940). This prerequisite is satisfied if the representative
14 party “will fairly and adequately protect the interests of the class.” Fed. R. Civ. P. 23(a)(4).
15 Resolution of the adequacy issue requires the Court to address two questions: “(1) do the named
16 plaintiffs and their counsel have any conflicts of interest with other class members and (2) will
17 the named plaintiffs and their counsel prosecute the action vigorously on behalf of the class?”
18 *Kim v. Allison*, 87 F.4th 994, 1000 (9th Cir. 2023) (quoting *Hanlon v. Chrysler Corp.*, 150 F.3d
19 1011, 1020 (9th Cir. 1998)). The Court has already ruled that class counsel and the original
20 Plaintiffs are adequate. *See* Order at 57–60. That same logic applies here.

21 Berman and Handy are adequate class representatives for the same reasons as the original
22 Plaintiffs. They have no conflicts of interest with absent class members. They are committed to
23 the vigorous prosecution of this action, as evidenced in their Declarations. And their interests are
24 aligned with those of the new Form Termination and Equity Termination class members. *See id.*
25 at 57–59. Berman and Handy are adequate class representatives.

26 Even if Dr. Berman’s grant (unlike Dr. Handy’s) was terminated for reasons unrelated to
27 DEI, Plaintiffs need not advance representatives that experienced every single variety of harm
28 suffered by the class. *Lyon*, 308 F.R.D. at 214 (certifying a Rule 23(b)(2) class where “Plaintiffs

do not seek individualized relief for each class member, but rather ask for systemic changes consistent with a single overarching constitutional standard that will be applicable to all class members”); *Coreas v. Bounds*, No. TDC-20-0780, 2020 WL 5593338, at *15 (D. Md. Sept. 18, 2020) (rejecting the defendants’ argument against certification that “different subsets of putative class members may be entitled to relief where others would not” because “there is available relief that would benefit the entire class or an entire subclass”). *Scholl v. Mnuchin*, 489 F. Supp. 3d 1008, 1046 (N.D. Cal. 2020) (“Plaintiffs assert that Rule 23(b)(2) is met [] because defendants implemented a generally applicable policy of denying CARES Act payments to incarcerated persons. . . . The court agrees with plaintiffs that defendants’ policy is generally applicable to the class as a whole.”). Further, the DOD/DOT Equity Termination Class is, at a minimum, adequately represented by Dr. Handy.

Plaintiffs have demonstrated that all Rule 23(a) requirements, as well as the Rule 23(b)(2) requirement, are satisfied for the new proposed classes. As such, the Court should provisionally certify the Equity Termination and Form Termination Classes as to DOD and DOT and appoint Drs. Berman and Handy as class representatives.

III. The Court Should Issue a Preliminary Injunction as to the Additional Agency Defendants for All the Reasons in the Court’s Prior Order.

The Court has already enjoined the EPA, NEH, and NSF from effectuating grant terminations to members of the Form Termination and Equity Termination classes; vacated grant terminations by those agencies; and ordered those agencies to reinstate terminated grants. Order at 61. The Court should issue an additional preliminary injunction that extends its decision to DOD and DOT for the same reasons.

A preliminary injunction is warranted where the moving party establishes that (1) it is likely to succeed on the merits; (2) irreparable harm is likely in the absence of preliminary relief; (3) the balance of equities tips in the movant’s favor; and (4) an injunction is in the public interest. Order at 17; *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). These factors strongly favor Plaintiffs.

1 **A. Plaintiffs Are Likely to Succeed on the Merits of Their Claims that the DOD**
 2 **and DOT Grant Terminations are Unlawful.**

3 The Court already determined that Plaintiffs are likely to succeed on the merits of their
 4 claims that “grant terminations pursuant to the Equity Termination Orders violate the First
 5 Amendment and, in the case of NSF and NEH, were contrary to congressionally mandated
 6 directives to both agencies under the APA.” Order at 17. The Court also found that Plaintiffs are
 7 “likely to succeed in showing that the mass grant terminations carried out via form letters were
 8 conducted in a manner that was arbitrary and capricious.” *Id.* at 25. For nearly identical reasons,
 9 the Court should rule that Plaintiffs are likely to succeed on their claims against DOD and DOT.

10 **1. Defendants’ Grant Terminations Violate the First Amendment.**

11 The First Amendment prohibits the government from “regulating speech when the specific
 12 motivating ideology or the opinion or perspective of the speaker is the rationale for the
 13 restriction.” *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829, 833 (1995).
 14 “Discrimination against speech because of its message is presumed to be unconstitutional.” *Id.* at
 15 828. “[E]ven in the provision of subsidies, the Government may not ‘ai[m]at the suppression of
 16 dangerous ideas.’” *Nat’l Endowment for the Arts v. Finley*, 524 U.S. 569, 587 (1998) (quoting
 17 *Regan v. Taxation with Representation of Wash.*, 461 U.S. 540, 550 (1983) (alteration in
 18 original)). In the grantmaking context, the government may not reject “a whole class of projects”
 19 based on “viewpoint alone,” or use Federal funding to “impose a disproportionate burden
 20 calculated to drive certain ideas or viewpoints from the marketplace.” *Rhode Island Latino Arts v.*
 21 *Nat’l Endowment for the Arts*, No.25-cv-79-WES, 2025 WL 1009026, at *12 (D.R.I. Apr. 3,
 22 2025) (quoting *Finley*, 524 U.S. at 587).

23 However, Defendants’ limited—and deficient—production shows that DOD and DOT
 24 engaged in viewpoint discrimination when terminating grants at the Executive’s behest. Senior
 25 officials at both agencies publicly stated they were working “hand in hand with the DOGE team”
 26 to terminate grants in accordance to the Executive Orders”²⁸ Dr. Berman’s termination notice

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 28 ²⁸ C. Todd Lopez, *Initial DOGE Findings Reveal \$80 Million in Wasteful Spending at DOD*, U.S.
 Dep’t of Def. (Mar. 4, 2025), <https://www.defense.gov/News/News-Stories/Article/Article/4096431/initial-doge-findings-reveal-80-million-in-wasteful-spending-atdod/>.

1 fails to provide any reasons for his grant termination, but DOD declarant Jason Day confirms that
 2 “topics [were] used to identify terminations.”²⁹ Day Decl. at 9. DOT violations are more obvious.
 3 Plaintiff Handy’s termination notices show that Defendants believe Plaintiffs’ speech conflicts
 4 with the Administration’s views and that they terminated the grants because they related to
 5 forbidden topics. *See* Handy Decl. ¶¶ 24, 32. DOT Secretary Duffy announced that DOT was
 6 terminating grants that “advance[d] a radical DEI and green agenda.”³⁰ An internal DOT
 7 memorandum shows the Agency was directed “to identify and eliminate all orders, directives,
 8 rules, regulations, notices, guidance documents, *funding agreements*, programs, and policy
 9 statements, or portions thereof ... that *reference or relate in any way* to climate change,
 10 greenhouse gas emissions, racial equity, gender identity, diversity, equity, and inclusion goals,
 11 environmental justice, or the Justice 40 Initiative.” DEFS DOT_00008 (emphasis added). The goal
 12 of such action could not be clearer: “to drive certain ideas or viewpoints from the marketplace.”
 13 *Rhode Island Latino Arts*, 2025 WL 1009026, at *12 (quoting *Finley*, 524 U.S. at 587). In short,
 14 the record shows that DOD and DOT terminated grants *en masse* purely to promote particular
 15 ideological viewpoints. The First Amendment does not tolerate such viewpoint discrimination.
 16 Accordingly, Defendants’ actions are unconstitutional.

17 **2. Defendants’ Grant Terminations Are Contrary to Law Under the** 18 **APA.**

19 The APA prohibits agency action that exceeds statutory or constitutional authority or is
 20 otherwise contrary to law. 5 U.S.C. §706(2)(A), (C); *Kaweah Delta Health Care Dist. v. Becerra*,
 21 123 F.4th 939, 944 (9th Cir. 2024) (“[U]nder our system of separation of powers, neither good
 22 intentions nor pressing policy problems can substitute for an agency’s lack of statutory authority
 23 to act.”); *Nw. Env’t Advocates v. U.S. EPA*, 537 F.3d 1006, 1025-27 (9th Cir. 2008). By refusing
 24 to spend money that Congress appropriated, Defendants are violating the Impoundment Control
 25 Act of 1974 and the appropriations statutes underlying DOD’s and DOT’s funding schemes.

26 _____
 27 ²⁹ The DOD declarant notably fails to state what particular topics were banned and what
 methodology was used to identify grants relating to these topics, as the Court ordered.

28 ³⁰ *U.S. Transportation Secretary Sean P. Duffy Defunds Woke University Grants*, U.S. Dep’t of
 Trans. (May 2, 2025), <https://www.transportation.gov/briefing-room/us-transportation-secretary-sean-p-duffy-defunds-woke-university-grants>.

1 Similarly, Defendants are violating DOD's and DOT's enabling statutes and other laws
 2 passed by Congress that include grantmaking as a directive. For example, Congress passed
 3 legislation instructing DOD to award grants to institutions of higher education. The David L.
 4 Boren National Security Education Act of 1991 instructed the Secretary of Defense to create the
 5 National Security Education Program, which would award grants to institutions of higher
 6 education in order enable such institutions to establish, operate, or improve programs in foreign
 7 languages, area studies, counter proliferation studies, and other international fields that are critical
 8 areas of those disciplines through research.³¹ By terminating grants, Defendants are acting
 9 contrary to that Congressional direction.

10 Defendants are also acting contrary to their enabling statutes by terminating funding of
 11 particular research topics, "because those terminations were based on Plaintiffs' pursuit of the
 12 very goals that Congress had mandated." Order at 22. For example, Dr. Handy's terminated grant
 13 funded her research in a Congressionally mandated DOT priority research area. Through the 2021
 14 IIJA, Congress specifically directed DOT to award grants to UTC program proposals that
 15 addressed the research priority of "Preserving the Environment." 49 U.S.C. § 6503(c)(1). Dr.
 16 Handy's grant proposal targeted this research priority. *See* Handy Decl. ¶ 19. By terminating that
 17 grant, DOT acted contrary to Congress's direct mandate. The APA does not allow an agency to
 18 flout Congress's clear directives in this way. *See, e.g., Health Ins. Ass'n of Am., Inc. v. Shalala*,
 19 23 F.3d 412, 416 (D.C. Cir. 1994) (explaining that a court may not accept "the agency's policy
 20 judgments ... if they conflict with the policy judgments that undergird the statutory scheme");
 21 *Brown & Williamson Tobacco Corp. v. FDA*, 153 F.3d 155, 176 (4th Cir. 1998), *aff'd*, *FDA v.*
 22 *Brown & Williamson Tobacco Corp.*, 529 U.S. 120 (2000) (explaining that "federal agencies"
 23 cannot "substitute their policy judgments for those of Congress").

24 Defendants have exceeded their own statutory authority and have therefore violated 5
 25 U.S.C. Section 706(2)(A) and (C). Accordingly, "the only appropriate remedy is vacatur."

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 28 ³¹ David L. Boren National Security Education Act of 1991, Pub. Law. No. 102-183, 105 Stat.
 1271 (codified at 50 U.S.C. §1901 et seq.).

1 *Kaweah*, 123 F.4th at 944. Defendants’ actions violate statutory commands and are otherwise
 2 *ultra vires*.

3 **3. Defendants’ Grant Terminations Are Arbitrary and Capricious Under**
 4 **the APA.**

5 The APA prohibits arbitrary and capricious action. 5 U.S.C. §706(2)(A). *Kalispel Tribe of*
 6 *Indians v. U.S. Dep’t of the Interior*, 999 F.3d 683, 688 (9th Cir. 2021). It requires federal
 7 agencies to engage in “reasoned decisionmaking” (*Dep’t of Homeland Sec. v. Regents of the*
 8 *Univ. of Cal.*, 591 U.S. 1, 16 (2020)), meaning an agency must “examine the relevant data and
 9 articulate a satisfactory explanation for its action including a rational connection between the
 10 facts found and the choice made.” *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*,
 11 463 U.S. 29, 43 (1983) (citation omitted) (quotations omitted). Therefore, agency action,
 12 particularly action which represents a departure from prior agency policy, is lawful only if it rests
 13 “on a consideration of the relevant factors.” *Id.* at 42-43.

14 Further, an agency action is arbitrary and capricious if the agency has relied on factors
 15 which Congress has not intended it to consider, entirely failed to consider an important aspect of
 16 the problem, offered an explanation for its decision that runs counter to the evidence before the
 17 agency, or is so implausible that it could not be ascribed to a difference in view or the product of
 18 agency expertise. *Id.* An agency action is also arbitrary and capricious if, when departing from a
 19 prior policy, an agency does not “display awareness that it *is* changing position” or does not
 20 “show that there are good reasons for the new policy.” *FCC v. Fox Television Stations, Inc.*, 556
 21 U.S. 502, 515 (2009) (emphasis in original).

22 Defendants’ mass termination of grants awarded to Plaintiffs and the Class was arbitrary
 23 and capricious. Defendants do not provide reasoning for the grant terminations or the changes in
 24 agency priorities. *See, e.g.*, Berman Decl. ¶ 30. The DOD and DOT terminations notices “provide
 25 no indication that Defendants have ‘considered the relevant factors’ and do not ‘articulate a
 26 rational connection between the facts found and the choice made.’” Order at 27 (citing *Baltimore*
 27 *Gas & Electric Co. v. Natural Res. Def. Council, Inc.*, 462 U.S. 87, 105 (1983)) (cleaned up). As
 28 with the termination letters at issue in the prior Order, the DOD termination letters simply state

1 that the terminated grants “no longer effectuate[] the program goals or agency priorities” with
 2 little to no reasoned explanation. *See, e.g.*, Berman Decl. ¶ 30; DEFSDOT_00004,
 3 DEFSDOT_00006. Such conclusory statements cannot constitute reasoned explanations for
 4 agency action. *See, e.g., Drs. for Am. v. Off. of Pers. Mgmt.*, 766 F. Supp. 3d 39, 53 (D.D.C.
 5 2025) (“[Plaintiff’s] arbitrary and capricious argument is simple: the agencies’ removal decisions
 6 were ‘completely unreasoned’ and thus were not the product of reasoned decisionmaking. . . . The
 7 Court agrees that [Plaintiff] has demonstrated a likelihood of success on the merits as to this
 8 claim.”).

9 The DOT termination letters are slightly more detailed but still fall well short of the mark.
 10 They include, for example, specific quotes from the grants that the Agency claims demonstrate
 11 inconsistency with its anti-DEI crusade. DEFSDOT_00004, DEFSDOT_00006. But they too lack
 12 adequate explanation for Defendants’ sudden change in priorities. *Id.*; Order at 29 (“Nothing in
 13 the letters or any other source in the record provides the reasoned explanation that the APA
 14 requires.”).

15 Equally as important, both the DOD and the DOT termination letters show that the
 16 agencies failed to consider the reliance interests of grantees (a fact the other Agency Defendants
 17 conceded in a recent argument before the Ninth Circuit). *See* Order at 26-28. Instead, Plaintiffs
 18 were left stranded, without funding, in the middle of multi-year research projects they were told
 19 would be fully funded. Berman Decl. ¶ 33; Handy Decl. ¶ 34. Grantees who had received some,
 20 but not all, of their awards had already spent significant time on their projects. Handy Decl. ¶
 21 34(a) (“As of the terminations of the grants, 79 research projects were in progress and may not be
 22 completed.”). Grantees had been using their federal funds to pay for their salaries and those of
 23 their staff and research assistants. Without those funds, they have had to lay off critical staff
 24 members and research assistants. Berman Decl. ¶ 33(b)–(c); Handy Decl. ¶ 34(b)–(c). As the
 25 Court noted, Defendants have failed to introduce any evidence that they considered the
 26 consequences of prematurely terminating partially-funded research projects that would have
 27 benefited grantees, affiliate institutions, and members of the public alike. *See* Order at 30.
 28

1 Finally, as this Court previously concluded, Defendants’ terminations of already-awarded
 2 grants constitute final agency action for APA purposes. Order at 31-33. As such, APA review is
 3 appropriate.

4 **B. The Harms Caused by DOD’s and DOT’s Unlawful Conduct Will Become**
 5 **Irreparable Absent The Court’s Intervention.**

6 Plaintiffs must demonstrate that they are “likely to suffer irreparable harm in the absence
 7 of preliminary relief.” *Winter*, 555 U.S. at 20. They are able to do so here, as DOD and DOT are
 8 causing the exact same irreparable harm as EPA, NEH, and NSF. *See* Order at 47–48. DOD and
 9 DOT have caused irreparable harm to Berman and Handy’s First Amendment rights. *See id.* at 47
 10 (the violation of First Amendment rights “unquestioningly” causes irreparable injury). The other
 11 irreparable harms DOD and DOT have caused include sizable monetary losses, layoffs, hiring and
 12 training disruptions, interruption of graduate research programs, injury to professional reputation,
 13 and potential cancellation of research altogether. Order at 47–48. DOD’s and DOT’s grant
 14 terminations have caused and will continue to cause concrete harm and create uncertainty (in
 15 many cases, to the point of operational chaos) for Dr. Berman, Dr. Handy, and the proposed class
 16 members. This Court and others have recognized these types of harms as warranting preliminary
 17 injunctive relief. *See* Order at 47–49; *City & Cnty of S.F. v. USCIS*, 408 F. Supp. 3d 1057, 1123
 18 (N.D. Cal. 2019) (recognizing “burdens on . . . ongoing operations” for public entities, including
 19 administrative costs caused by changes in federal policy, as constituting irreparable harm);
 20 *Tennessee v. Dep’t of Educ.*, 104 F.4th 577, 613 (6th Cir. 2024) (same).

21 **C. The Balance of Equities Weigh in Plaintiffs’ Favor, and An Expanded**
 22 **Preliminary Injunction Is in the Public Interest.**

23 The equities and public interest, which merge when the government is a party, tip sharply
 24 in favor of Plaintiffs. *Wolford v. Lopez*, 116 F.4th 959, 976 (9th Cir. 2024). The threatened and
 25 actual harm to Plaintiffs far outweighs the federal government’s interests in immediately
 26 enforcing these grant terminations, and preserving Plaintiffs’ constitutional and statutory rights is
 27 in the public interest. *See Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (“[I]t is always
 28 in the public interest to prevent the violation of a party’s constitutional rights” (citation omitted));
Nat’l Treasury Emps. Union v. U.S. Dept. of Treasury, 838 F. Supp. 631, 640 (D.D.C. 1993)

1 (“The preservation of . . . the legality of the process by which government agencies function
 2 certainly weighs heavily in the public interest.”); *Clarke v. Off. of Fed. Housing Enter. Oversight*,
 3 355 F. Supp. 2d 56, 66 (D.D.C. 2004) (“[T]here is a substantial public interest in ensuring that
 4 [the agency] acts within the limits of its authority.”); *Widakuswara v. Lake*, No. 1:25-cv-1015,
 5 2025 WL 1166400, at *17 (D.D.C. Apr. 22, 2025) (“[T]here is a substantial public interest ‘in
 6 having governmental agencies abide by the federal laws that govern their existence and
 7 operations.’”) (citation omitted).

8 The government will suffer no harm from ceasing to terminate already authorized grants
 9 for which Congress has already appropriated funds, nor from returning to the orderly and legally
 10 compliant grant administration processes in place prior to Inauguration Day. The government will
 11 certainly continue to function (and will indeed function better) if the status quo ante is restored.
 12 *See* Order at 49 (“An agency is not harmed by an order prohibiting it from violating the law.”).
 13 The balance of equities therefore strongly supports a preliminary injunction. *See id.* at 48.

14 CONCLUSION

15 For all of these reasons, Plaintiffs respectfully request that the Court grant their Motion to
 16 provisionally certify the DOD/DOT Form Termination and Equity Termination Classes; appoint
 17 Eli Berman and Susan Handy as Class Representatives; and issue an additional preliminary
 18 injunction applicable to DOD and DOT.

19 Dated: August 1, 2025

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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that August 1, 2025, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to registered parties.

Executed August 1, 2025 at San Francisco, California.

/s/ ELIZABETH J. CABRASER
ELIZABETH J. CABRASER