

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION

STATE OF TEXAS, *et al.*,

Plaintiffs,

v.

ROBERT F. KENNEDY, JR., in his official  
capacity as Secretary of Health & Human  
Services, *et al.*,

Defendants.

Case No. 5:24-cv-225

**UNOPPOSED MOTION FOR EXTENSION OF TIME**

Defendants respectfully request that this Court grant a 30-day extension on their deadline to file a consolidated response to plaintiffs' motion for summary judgment and cross-motion for summary judgment, which is currently due on or before June 15, 2026 (*see* Dkt. No. 102). If this extension request is granted, defendants' consolidated brief would be due July 15, 2026. Plaintiffs have indicated that they consent to this request, and ask that the deadline for their consolidated response to defendants' cross-motion and reply be extended to August 6, 2026, to accommodate defendants' request. As previously indicated, defendants will forgo the filing of a reply brief.

Good cause supports this motion, as set forth below:

1. This case is a challenge to a final rule issued by the Department of Health and Human Services under the Administrative Procedure Act. Specifically, plaintiffs assert that this final rule, *Nondiscrimination of the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance*, 89 Fed Reg. 40,066 (May 9, 2024), exceeds defendants' statutory authority, is arbitrary and capricious, and violates the Spending Clause of the United States Constitution. *See* Dkt. No. 104.

2. Shortly after the change in presidential administrations, this Court granted defendants' unopposed motion for stay of all deadlines. *See* Dkt. No. 44. Defendants sought a stay in light of the Executive Order titled "Defending Women From Gender Ideology Extremism And Restoring Biological Truth To The Federal Government," in order to evaluate their position in this case. *See* Dkt. No. 43. The Court granted the stay on January 25, 2025. *See* Dkt. No. 44.

3. The case remained stayed until March 31, 2026, at which time the Court set a briefing schedule on the parties' planned cross-motions for summary judgment. Dkt. No. 102. Plaintiffs filed their opening brief on May 4, 2026. Dkt. No. 104. Under the existing schedule, defendants' consolidated response and cross-motion for summary judgment is due on or before June 15, 2025. *See* Dkt. No. 102.

4. Counsel that had previously been assigned to represent defendants in this case is leaving the Department of Justice this week. Undersigned counsel was only recently assigned to this case. The requested extension of time is necessary to allow sufficient time for undersigned counsel to research the facts and applicable law further, taking into account preexisting summer travel schedules.

5. The requested extension is reasonable and will not prejudice the parties or unduly delay the case. Plaintiffs' counsel is unopposed to the request.

For the foregoing reasons, defendants respectfully request that the deadline for their consolidated response and cross-motion for summary judgment be due on or before July 15, 2026, and the deadline for plaintiffs' consolidated response to defendants' cross-motion and reply be extended to August 6, 2026.

DATED: June 8, 2026

Respectfully submitted,

BRETT A. SHUMATE  
Assistant Attorney General, Civil Division

MICHELLE R. BENNETT  
Assistant Director, Federal Programs Branch

/s/ Jacob S. Siler  
JACOB S. SILER (D.C. Bar No. 1003383)  
Trial Attorney  
Civil Division, Federal Programs Branch  
U.S. Department of Justice  
1100 L Street, NW  
Washington, DC 20005  
Telephone: (202) 353-4556  
E-mail: jacob.s.siler@usdoj.gov

*Counsel for Defendants*

### **CERTIFICATE OF CONFERENCE**

I hereby certify that on June 3, 2026, I conferred with plaintiffs' counsel via email to seek plaintiffs' position on this motion. On June 8, 2026, Kyle Tebo stated via email that plaintiffs do not oppose the motion.

/s/Jacob S. Siler  
Jacob S. Siler

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**[PROPOSED] ORDER**

Before the court is defendants' unopposed motion for extension of time. After due consideration of defendants' motion and applicable law, the Court finds that the Motion should be and hereby is granted and orders as follows:

Defendants consolidated response and cross-motion for summary judgment is hereby extended so that it is due on or before July 15, 2026.

Plaintiffs' consolidated response to defendants' cross-motion and reply is hereby extended so that it is due on or before August 6, 2026.

**SO ORDERED**

Date: \_\_\_\_\_

\_\_\_\_\_  
James W. Hendrix  
United States District Judge