



# Federal and State Attacks on Vaccine Policy

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## Presenters



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# Roadmap

- › Introduction
- › NIH Vaccine Research Litigation
- › Federal Vaccine Approvals and Recommendations
- › State Litigation
- › This Just In... Questions and Discussion



# INTRODUCTION

# About the Network

The Network for Public Health Law provides visionary leadership in the use of law to protect, promote and improve health.

## We work with:

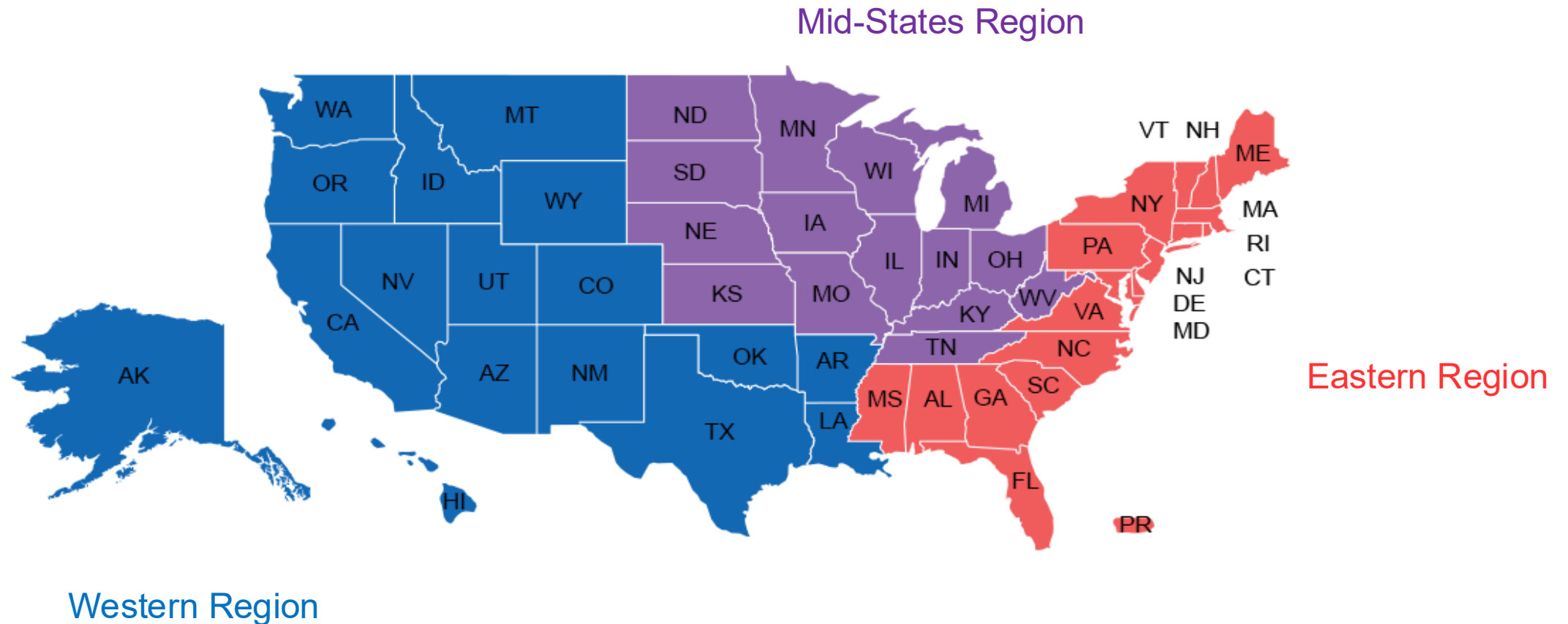
- › Public health officials and practitioners
- › Policymakers
- › Attorneys
- › Community and Advocacy Organizations

## We provide:

- › Research and analysis
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# NIH VACCINE RESEARCH LITIGATION

## Cancelled NIH Grants for “Vaccine Hesitancy” and “COVID-related” Research

- › *APHA et al. vs. NIH et al.*
- › *Massachusetts et al. vs. Kennedy et al.*
- › August 21<sup>st</sup> Supreme Court 5-4 partial stay of District Court of Massachusetts orders
- › NIH may stop funding contested \$783 million grants until adjudicated in Court of Federal Claims

*APHA et al. v. NIH et al.*, (1:25-cv-10787) D. Mass. (filed Apr. 2, 2025), <https://www.courtlistener.com/docket/69835536/american-public-health-association-v-national-institutes-of-health/>; *Commonwealth of Massachusetts et al. v. Robert F. Kennedy Jr. et al.*, (1:25-cv-10814) D. Mass. (filed Apr. 4, 2025), <https://www.courtlistener.com/docket/69843493/commonwealth-of-massachusetts-v-kennedy-jr/>.

## Jackson's “Calvinball” Dissent

*“This is Calvinball jurisprudence with a twist. Calvinball has only one rule: There are no fixed rules. We seem to have two: that one, and this Administration always wins.”*

## Cancelled BARDA Contracts for mRNA Vaccine Research

- › \$766 million in H5N1 avian influenza mRNA vaccine research contracts to Moderna terminated on May 28<sup>th</sup>
- › \$500 million terminated on August 5<sup>th</sup> for 22 mRNA vaccine development investments
- › No new mRNA projects will be funded

## Entrenching Political Oversight Over Scientific Recommendations

- › EO 14332: *Improving Oversight of Federal Grantmaking*
  - › *Grants must be reviewed by senior political appointees to ensure they “demonstrably advance the President's policy priorities.”*
  - › *Prohibits peer review recommendations from being “ministerially ratified” or “routinely deferred to.”*

## FAQ on Executive Orders

# Act for Public Health

*An initiative of the Public Health Law Partnership*



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## Executive Orders & Public Health Practice: FAQs



Act for Public Health, *Executive Orders & Public Health Practices: FAQ* (Feb. 21, 2015), available at <https://actforpublichealth.org/executive-orders-faqs/>.

# FEDERAL VACCINE APPROVALS AND RECOMMENDATIONS

## Federal Agency Roles

FDA

- Vaccine license approval
- Monitors safety & effectiveness

CDC

- Evidence-based\* recommendations for use in age & risk groups

\* Prior to June 9, 2025

## FDA's COVID Vaccine Booster Approvals

- › Approvals for ages 65+ years
- › Approvals for ages 5 to 64 years with high-risk underlying medical condition only
- › Approvals for ages 6+ months to 4 years with high-risk underlying medical condition only
- › Moderna vaccine only one available for ages 6+ months to 5 years after revoking Pfizer EUA

## CDC/ACIP Vaccine Recommendation 2025 Changes

- › Only thimerosal-free influenza vaccines
- › Removed COVID-19 vaccine recommendation during pregnancy
- › No recommendation for 2025-2026 COVID-19 vaccines

## Evidence-Based Vaccine Recommendations

- › Vaccine Integrity Project
- › American Academy of Pediatrics
- › American Academy of Family Physicians
- › American College of Physicians
- › American College of Obstetricians and Gynecologists
- › Society for Maternal-Fetal Medicine

# STATE LITIGATION

## Religious Exemptions to Vaccine Requirements

- › West Virginia Executive Order 7-25
  - › *Guzman v. West Virginia State Board of Education*
  - › *ACLU-WV v. West Virginia State Board of Education*
- › California SB 277 (2015)
  - › *Royce v. Bonta* (9<sup>th</sup> Circuit Court of Appeals)

W.Va. Exec. Order No. 7-25 (Jan. 14, 2025), <https://apps.sos.wv.gov/adlaw/executivejournal/readpdf.aspx?DocID=97525>; Ca. SB 277 (June 30, 2015), [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160SB277](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB277); *Royce, et al., vs. Bonta*, (25-2504) 9th Cir. (filed Apr. 18, 2025), <https://dockets.justia.com/docket/circuit-courts/ca9/25-2504>.

# THIS JUST IN... Q & A

## Ouster of CDC Leadership

- › Susan Monarez, Ph.D., CDC Director
- › Deb Houry, M.D., M.P.H., Chief Medical Officer, Deputy Director for Program and Science
- › Demetre Daskalakis, M.D., M.P.H., Director of the National Center for Immunization and Respiratory Diseases
- › Dan Jernigan, M.D., M.P.H., Director of the National Center for Emerging and Zoonotic Infectious Diseases
- › Jen Leyden, M.D., Ph.D., Director for the Office of Public Health Data, Surveillance, and Technology

## Thank you for attending!

**You will receive an email notification when the slides and recording of today's webinar have been posted on the Network website.**



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