



## Trump agenda ignites legal challenges

After just 3 weeks in the White House, US President Donald Trump's executive orders have caused chaos and concern—and now, resistance. Susan Jaffe reports from Washington, DC.

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For details of the executive orders see <https://tinyurl.com/3yap4ety>

For more on lawsuits opposing the executive orders see <https://www.justsecurity.org/107087/tracker-legal-challenges-trump-administration-actions/>

Just hours after his inauguration as the 47th US President, Donald Trump moved swiftly to keep many of his campaign promises by unleashing an avalanche of executive orders. But, just as quickly, critics have filed court challenges across the country to roll back what they call an unparalleled expansion of presidential power aimed at restructuring the US Government, including health and science agencies at home and overseas.

Many of Trump's orders repudiate the policies of his Democratic predecessor, Joe Biden. "The new president has the right to have his own policies", said Georges Benjamin, Executive Director of the American Public Health Association. "But he is not the only policy maker in this country...The president is not a king—that's not the way it works."

So far, two dozen lawsuits have been filed, according to an online litigation tracker compiled by Just Security, a project of the New York University School of Law. Several lawsuits target Trump's orders on immigration: eliminating the 14th Amendment to the US Constitution's guarantee of citizenship for anyone born in the USA, speeding up the deportation of undocumented immigrants, and punishing cities and states that offer them sanctuary. As *The Lancet* went to press, a federal district court judge in Washington state blocked the order eliminating birthright citizenship until a full hearing is held.

Executive orders are official presidential declarations used to implement laws passed by Congress or regulations issued under those laws. Past presidents have used executive orders to make policy changes when Congress refuses to do so. But the Trump Administration has issued these orders pre-emptively, before appealing

to Congress, where Trump's Republican allies hold the majority of seats.

"There's nothing unusual about an executive order", said Professor Emeritus Laurence Tribe, an expert in constitutional law at Harvard Law School. "What is unusual is for the President of the United States to say, 'I can do anything I want, as long as I package it in an executive order. I can exercise not only the power to enforce the laws, which is basically what the executive branch does, but also the power to ignore law.' And that is completely outside our constitutional system", he said. "That is what dictators can do—it's not what presidents can do."

Federal laws create guardrails to restrict presidential power, explained Dorit Reiss, Professor of Law at UC Law San Francisco. Congress sets the Government's budget, "and the president cannot unilaterally cancel funding", she said. The agencies within the executive branch must follow standard administrative procedures before issuing rules or taking other actions. Other laws contain specific directions for the agencies, such as how the Food and Drug Administration can ban a vaccine. "Congress is the senior partner, and the Administration's job is to faithfully execute the laws passed by Congress", she said. But it is ultimately up to the courts to decide whether the executive branch has violated these requirements and if so, to force compliance.

The most significant court rulings so far that restrain the Trump Administration are two decisions blocking an order from the White House Office of Management and Budget (OMB) to temporarily pause federal funds Congress had authorised for a range of services and operations. The OMB provided less

than 24 h advance notice, causing panic and confusion in state agencies, universities, social service agencies, and other groups that rely on this funding. A lawsuit to block the freeze filed by 23 state Attorney Generals estimated that trillions of dollars would be put on hold, including money for childcare programmes in Michigan, veterans' nursing care in Washington state, and billions of dollars for immunisation and other health programmes.

On Jan 31, 2025, federal court Chief Judge John McConnell in Rhode Island ruled in favour of the states after rejecting the Administration's request to dismiss the case because officials rescinded a memorandum ordering the freeze. He referred to comments Trump's Press Secretary posted on social media claiming that withdrawing the memo was "NOT a rescission of the federal funding freeze....The President's EOs [executive orders] on federal funding remain in full force and effect, and will be rigorously implemented." McConnell issued a temporary restraining order to halt the President's freeze until a hearing is held on the matter.

"The Executive's action unilaterally suspends the payment of federal funds to the States and others simply by choosing to do so, no matter the authorizing or appropriating statute, the regulatory regime, or the terms of the grant itself", McConnell wrote in his decision. "The Executive cites no legal authority allowing it to do so; indeed, no federal law would authorize the Executive's unilateral action here."

In another lawsuit challenging the funding freeze filed by the American Public Health Association and several non-profit organisations, a federal judge in Washington, DC also ruled against the Administration. Both

decisions could be reversed if the government appeals and wins.

Unions and associations representing hundreds of thousands of federal employees have challenged an executive order eliminating job protections for some civil service professionals so they can be fired for any reason, including failure to faithfully implement Administration policies. The groups have also challenged an order creating the Department of Government Efficiency, a White House task force headed by Elon Musk intended to eliminate fraudulent or wasteful spending and radically shrink the size of the Government. As part of this effort, the Administration has offered 8 months of salary to two-thirds of the 3 million federal workers if they leave (except for postal workers, members of the military, and those working in immigration enforcement and national security).

In a few instances, the Administration has responded to criticism without being prodded by lawsuits. Hours after his inauguration, Trump issued an immediate pause on funds Congress had authorised under the 2022 Inflation Reduction Act. The next day, Trump issued a second order explaining that the pause applies only to funding for projects addressing climate change and electric vehicle charging stations.

Another Jan 20 order established a 90-day pause on foreign aid but, a week later, the Administration issued an exception for life-saving humanitarian assistance. After another 4 days and much anxiety among aid workers, it issued a limited waiver for the President's Emergency Plan for AIDS Relief (PEPFAR), which provides HIV prevention services to millions of people globally and has saved more than 25 million lives. However, *Lancet* reports from Ukraine and Kenya indicate the exceptions came too late or were not specific enough to avoid disrupting or even closing some programmes.

After 25 Democratic Senate Members demanded an exemption for the Department of Veterans Affairs (VA) from Trump's executive order establishing an immediate hiring freeze, it was granted for some employees. The VA provides health care for more than 9.1 million military veterans at 1380 medical facilities, as well as other services. However, dozens of Trump's orders have taken effect, with serious consequences for global health, biomedical research, drug safety, abortion access, and the nation's ability to fight infectious diseases.

After Trump imposed a communications blackout at the Centers for Disease Control and Prevention (CDC), publication of its highly respected Morbidity and Mortality Weekly Report was cancelled for the first time in 60 years. The first week the journal was suspended, the week of Trump's inauguration, it was due to contain data about avian influenza and how to protect cattle herds, according to news reports.

Some CDC data have also been removed from the agency's website, including sections of the Behavioral Risk Factor Surveillance System. KFF, a health research and polling organisation in Washington, DC, describes it as "one of the most widely used national health surveys and has been ongoing for about 40 years". As *The Lancet* went to press, the website displayed a note saying: "CDC's website is being modified to comply with President Trump's Executive Orders".

"I'm concerned about the integrity of the CDC and whether it will still be able to report what's actually happening in health in the US", said Tom Frieden, President and CEO of Resolve to Save Lives and a former CDC director during the Obama Administration. "The CDC really does have a non-partisan mission, which is a safer, healthier country."

Trump's executive order requiring a 90-day freeze on foreign aid is still in effect, along with an immediate

stop-work order disrupting projects that were already funded (with a limited exception for PEPFAR). "That effectively has led to canceling services and some organizations are looking at potentially laying off staff", said Jen Kates, Senior Vice President and Director of the Global Health & HIV Policy Program at KFF. "It's caused a lot of confusion and chaos."

The Administration is also evaluating whether to continue the entire global health portfolio, including efforts to prevent malaria, tuberculosis, and HIV/AIDS, and programmes providing maternal and child health care, and family planning. Musk and Trump have taken steps to shut down the agency, including putting nearly 60 senior USAID staff on leave and firing hundreds of contractors.

At the National Institutes of Health (NIH), Acting Director Matthew Memoli refuted an executive order that bans meetings of experts who evaluate grant applications, discontinues funding for travel and training, and prohibits public communications. In a memorandum to NIH staff on Jan 27, 2025, *The New York Times* reported that Memoli said clinical trials can resume, patients can travel to research sites, and funding is available for essential laboratory supplies. With a budget of \$48 billion, the NIH is the world's largest public funder of biomedical and behavioural research.

"I don't think there is a concerted effort to single out biomedical researchers, but there is a tone of anger and reprisal in all of these efforts", said Harold Varmus, former NIH Director, Nobel Prize recipient, and Professor of Medicine at Weill Cornell Medicine. "That's unfortunate, because I don't think there's really anybody—regardless of how they voted for president—who wants to see the effort to control disease slowed down."

Susan Jaffe

For KFF's overview of executive actions on global health see <https://www.kff.org/global-health-policy/fact-sheet/overview-of-president-trumps-executive-actions-on-global-health/>