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continued onto next page)*

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

LOS ANGELES HOMELESS
SERVICES AUTHORITY,

Plaintiffs,

v.

DONALD J. TRUMP, in his official
capacity as President of the United
States of America, *et al.*,

Defendants.

No. 2:26-cv-07056-DOC-AJR

**JOINT STATUS REPORT ON PRE-
TRIAL SCHEDULE**

Honorable David O. Carter
United States District Judge

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JOINT STATUS REPORT

I. Introduction

On August 13, 2026, the Court ordered the Parties to submit, by no later than Noon on August 18, 2026, a joint status report concerning “discovery cut-off, expert cut-off, dispositive motion dates, and pretrial dates.” Dkt. 63. The Parties, through their counsel of record, conferred on August 17, 2026. The Parties therefore submit their current positions.

II. Plaintiff’s Position

As a threshold matter, Plaintiff believes that the Parties should meet and confer at a Rule 26(f) Conference about the scope of discovery in this case. It is not known at this time what information or documents will be excluded from the administrative record compiled by Defendants. Plaintiff is concerned that the administrative record will be incomplete. Moreover, limited discovery is proper into the pretextual and bad faith nature of Defendants’ decision to suspend Plaintiff when it did. Plaintiff has asserted constitutional claims, not just claims under the Administrative Procedure Act. Dkt. 1.

The Court has expressed “concern[] that the remedial plan proposed by HUD in its June 18 Letter, initiating a direct-to-HUD protocol, is a pretextual attempt to bypass the carefully constructed CoC scheme set up by Congress.” Dkt. 63 at 24, 26 (stating that “HUD is leveraging a crisis of its own making to wrest power to itself that Congress expressly granted to local communities”). It is unlikely that a curated administrative record will shed light on actions taken by senior administration officials. Plaintiff is entitled to conduct discovery into the existence of improper executive influence, including the actual facts and actual decision-making that led to Plaintiff’s suspension. See, e.g., *Pacito v. Trump*, 2026 WL 2240195, *1 (August 4, 2026) (ruling constitutional claim did not fundamentally overlap with APA claims where the constitutional claim “turns on what motivated the policies, not on whether the agencies explained them”);

1 *California v. U.S. Dep't of Homeland Sec.*, 612 F. Supp. 3d 875, 897-98 (N.D. Cal.
2 2020) (allowing discovery where allegations of racial and ethnic animus “are different
3 than plaintiffs’ APA allegations” and the record “sheds no light on actions taken by
4 senior administration officials”).

5 At this time, it is not necessary for this Court to resolve future discovery disputes
6 that may or may not arise. Given the February 23, 2027 trial date set by the Court (Dkt.
7 63), Plaintiff proposes the following schedule:

8 Rule 26(f) Conference September 4, 2026

9 Expert cutoff December 8, 2026

10 Discovery cutoff January 4, 2027

11 Dispositive motion deadline January 4, 2027

12 Pretrial Conference February 12, 2027
13

14 **III. Intervenor’s Position**

15 Plaintiff-in-Intervention the Los Angeles Continuum of Care (“LA CoC”) agrees
16 that the Parties should meet and confer at a Rule 26(f) Conference about the scope of
17 discovery in this case, consistent with this Court’s order to meet and confer concerning
18 discovery cut-off, expert cut-off, dispositive motion dates, and pretrial dates, Order
19 Granting Preliminary Injunction, Dkt. 63 at 28. LA CoC submits that limited discovery
20 is both permissible and appropriate here and proposes a schedule below

21 LA CoC disagrees with HUD that no discovery is permissible. HUD’s position is
22 premature because HUD has not yet lodged the administrative record, which is due by
23 the Court’s order on August 24, 2026 (Dkt. 63 at 27), and the parties have not met and
24 conferred about the scope of discovery. Whether the record HUD ultimately produces is
25 complete and sufficient for judicial review cannot be assessed until it is filed. It is not
26 known at this time what information or documents will be excluded from the
27 administrative record compiled by Defendants, and the administrative record may be
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1 incomplete. A curated administrative record is unlikely to shed light on actions taken by
2 senior administration officials. Foreclosing all discovery before the record exists would
3 ask the Court to rule in a vacuum.

4 Although APA review ordinarily proceeds on the administrative record, the
5 record-review rule is not absolute. The Ninth Circuit recognizes that a district court may
6 permit a party to supplement the administrative record or take limited extra-record
7 discovery in at least four circumstances: (1) to determine whether the agency considered
8 all relevant factors and adequately explained its decision; (2) when the agency relied on
9 documents not in the record; (3) when necessary to explain technical terms or complex
10 subject matter; and (4) when the plaintiff makes a showing of agency bad faith. *Lands*
11 *Council v. Powell*, 395 F.3d 1019, 1030 (9th Cir. 2005); *San Luis & Delta-Mendota*
12 *Water Auth. v. Locke*, 776 F.3d 971, 992-93 (9th Cir. 2014); *Animal Def. Council v.*
13 *Hodel*, 840 F.2d 1432, 1436 (9th Cir. 1988). The presumption is in favor of a complete
14 record, and the agency bears the burden of compiling the whole record required by 5
15 U.S.C. § 706. *Camp v. Pitts*, 411 U.S. 138, 142 (1973).

16 At least three of these circumstances are implicated by LA CoC's allegations.
17 First, the failure-to-consider exception applies. LA CoC alleges that HUD acted without
18 notice, a hearing, or presentation of facts and failed to consider critical consequences,
19 including disruption of the region's HMIS and CES systems and the effective disbanding
20 of the nation's largest Continuum of Care. Whether HUD failed to consider an important
21 aspect of the problem is central to LA CoC's arbitrary-and-capricious claim. *Motor*
22 *Vehicle Mfrs. Ass'n v. State Farm*, 463 U.S. 29, 43 (1983); *Dep't of Homeland Sec. v.*
23 *Regents of the Univ. of Cal.*, 591 U.S. 1, 25 (2020).

24 Second, the bad-faith exception applies. LA CoC alleges that HUD's stated
25 rationale is a pretext for a predetermined agenda to seize control of federal homelessness
26 funding and impose its own priorities favoring criminalization and institutionalization.
27 The LA CoC also notes the Court's concerns that HUD's actions are "a pretextual
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1 attempt to bypass the carefully constructed CoC scheme set up by Congress.” Dkt. 63 at
2 24, 26. Those allegations, including the possibility of improper executive influence,
3 justify a limited extra-record inquiry into whether HUD’s stated reasons were its actual
4 reasons. *Dep’t of Com. v. New York*, 588 U.S. 752, 781 (2019) (recognizing that extra-
5 record inquiry may be appropriate on a strong showing of bad faith or improper
6 behavior); *Citizens to Preserve Overton Park v. Volpe*, 401 U.S. 402, 420 (1971).

7 Third, LA CoC claims that HUD acted without observance of procedure required
8 by law, in violation of 5 U.S.C. § 706(2)(D), including by bypassing the remedial
9 procedures in 24 C.F.R. § 578.107. Adjudicating whether HUD followed those required
10 procedures may require facts about the agency’s process that are not captured in the
11 record HUD elects to compile. Defendants’ own authority confirms that discovery is not
12 categorically barred. The very case Defendants cite for completing the record by motion,
13 *Dep’t of Com. v. New York*, 588 U.S. 752, 765, 781 (2019), is the case in which the
14 Supreme Court upheld extra-record discovery into the agency’s actual reasons for acting.
15 Discovery therefore is not categorically unavailable; it is a question of degree that turns
16 on the record HUD produces and the showing LA CoC can make.

17 LA CoC does not seek plenary discovery now. Instead, LA CoC asks the Court to
18 decline Defendants’ invitation to foreclose discovery before the administrative record
19 exists and to order the parties to meet and confer on a discovery plan after the AR is
20 lodged. The parties should file a joint report after that meeting, outlining each party’s
21 discovery plan and respective position on the scope of discovery. Any disputes—
22 including the threshold question whether and to what extent discovery is warranted—
23 should be presented through an expedited briefing and hearing procedure so they can be
24 resolved promptly while preserving the February 23, 2027 trial date.

- 25 • Administrative record lodged and served by HUD: August 24, 2026 (Dkt.
26 63 at 27).
- 27 • Rule 26(f) Conference: on or before September 4, 2026.

- Joint report from the Rule 26(f) Conference, including the parties' discovery plan and respective positions on the scope of discovery: September 25, 2026.
- Status conference: October 27, 2026 (as set by the Court).
- Expert disclosures / expert discovery cutoff: December 8, 2026.
- Discovery completion, including resolution of any motions to compel and completion of follow-up discovery: January 4, 2027.
- Dispositive motion cutoff: January 4, 2027.
- Pretrial conference: February 12, 2027.
- Trial / hearing on the papers: February 23, 2027.

IV. Defendants' Position

There is a strong presumption against discovery into administrative proceedings. This Court has ordered the Defendants to preserve and lodge the administrative record of their decision-making process regarding LAHSA's suspension appeal, including both the June 11 and June 18 letters. *See* Dkt. 63 at pg. 27.

The claims asserted in the Plaintiff's and Intervenor's Complaints, are based on challenges to an agency decision. This case does not require, nor does it properly utilize traditional methods of discovery or a traditional pre-trial schedule. *See* Fed. R. Civ. P. 26(a)(1)(B) (exempting administrative record cases from the Rule 26 disclosure requirements); *see also* Fed. R. Civ. P. 26(f) (exempting administrative record cases from the Rule 26 conference of counsel).

Instead, under the Administrative Procedure Act ("APA"), judicial review of federal agency action is limited to determining whether the agency's actions were arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law. As such, an APA claim is not triable to a jury. *W. Radio Services Co. v. U.S. Forest Serv.*, 578 F.3d 1116, 1123 (9th Cir. 2009). Further, "typically APA review of an agency

1 decision is limited to the administrative record” *Wilson v. Comm’r of Internal*
2 *Revenue*, 705 F.3d 980, 991 (9th Cir. 2013). “In APA agency review cases, private
3 parties may not introduce new facts, and discovery is ordinarily not available.” *Blue*
4 *Mountains Biodiversity Project v. Jeffries*, 99 F.4th 438, 452 (9th Cir. 2024), *cert.*
5 *denied*, 145 S. Ct. 1048 (2025) (citing *Pitts*). The general rule is that agency actions are
6 to be judged on the agency record alone, without discovery. *Id.* (citation omitted).

7 Summary judgment briefing is an appropriate procedure for presenting the legal
8 question of whether the agency could reasonably have acted it did. *See Occidental Engr.*
9 *Co. v. I.N.S.*, 753 F.2d 766, 770 (9th Cir. 1985). Ultimately, this Court’s final
10 adjudication of the issues should be limited to review of the administrative record upon
11 which the agency based its decision. *See e.g.*, 5 U.S.C. § 706; *Camp v. Pitts*, 411 U.S.
12 138, 142 (1973); *City & Cty. of San Francisco v. United States*, 130 F.3d 873, 877 (9th
13 Cir. 1997) (In APA cases, “the function of the district court is to determine whether or
14 not as a matter of law the evidence in the administrative record permitted the agency to
15 make the decision it did.”).

16 Consistent with this authority, summary judgment briefing based on the
17 evidentiary record, followed by a hearing (such a hearing is sometimes called a “trial on
18 the briefing,” but additional evidence and testimony is not taken), is the appropriate
19 procedure for adjudicating the claims in this lawsuit. As such, Defendants propose the
20 following schedule:

- 21 • Defendants will lodge and serve the Administrative Record (AR) by August
22 24, 2026, consistent with the Court’s Order (Dkt. 63 at pg. 27).
- 23 • Plaintiff and Intervenor’s separate Opening Briefs will be due by October 8,
24 2026 (45 days later).
- 25 • Defendants’ Opposition Briefs will be due by November 20, 2026 (43 days
26 later).
- 27 • Plaintiff and Intervenor’s separate Reply Briefs will be due by December
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1 18, 2026 (28 days later).

- 2 • Oral argument and a hearing on the briefing (i.e. “trial on the briefs”) will at
3 the latest, February 23, 2027, at 9:00 a.m. in Courtroom One at the Felicitas
4 and Gonzalo Mendez United States Courthouse (formerly known as the
5 First Street Courthouse).

6 If the Court adopts the Defendants’ schedule, Defendants further request that the
7 Court advance the hearing on the briefing to a mutually available date in January 2027 as
8 the briefing schedule will be completed by then.

9 As the government is preparing the AR in anticipation of the lodging on August
10 24, 2026, Defendants contend that AR will include a complete and sufficient record for
11 this Court to review and traditional discovery should not be allowed. Even if Plaintiff
12 and Intervenor contend that the anticipated AR is not sufficient, it is speculative to
13 consider at this time, and there are specific procedures to remedy the AR by way of
14 filing a motion to complete the AR. *See Dept. of Com. v. New York*, 588 U.S. 752, 765
15 (2019) (employing this terminology); *see also In re U.S.*, 583 U.S. 29, 30 (2017) (same).

16 Moreover, even outside of the APA procedures, discovery not permitted where
17 “unreasonably cumulative or duplicative,” where the party has had ample opportunity to
18 obtain the information by discovery in the action, or where the burden of discovery
19 “outweighs its likely benefit.” Fed. R. Civ. P. 26(b)(2)(C).

20 Therefore, Defendants request that the Court adopt their proposed briefing
21 schedule and not enter an order setting a traditional discovery schedule, which is neither
22 appropriate nor necessary for resolving the legal claims presented by the Plaintiff’s and
23 Intervenor’s Complaints.

24 Finally, Defendants note their responsive deadlines to the operative complaints.
25 Defendants intend to file a pleading in response to the Plaintiff’s Complaint on or by
26 October 2, 2026, in accordance with when they were served under Fed. R. Civ. P. 4(i)
27 and when they must respond under Fed. R. Civ. P. 12(a)(2). Defendants will file a
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pleading in response to the Intervenor's Complaint once they are served in accordance with Fed. R. Civ. P. 4(i) and the applicable schedule for responding.

Dated: August 18, 2026

Respectfully submitted,

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8 * Pursuant to Local Rule 5-4.3.4(2), the filer attests that all signatories listed, and on
9 whose behalf the filing is submitted, concur in the filing's content and have authorized
10 the filing.
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