No. 24A1203

In the Supreme Court of the United States

LINDA MCMAHON, ET AL., APPLICANTS

v.

STATE OF NEW YORK, ET AL.

REPLY IN SUPPORT OF APPLICATION FOR A STAY

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The Department of Education has determined that it can carry out its statutorily mandated functions with a pared-down staff and that many discretionary functions are better left to the States. That is a quintessential decision about managing internal executive-branch functions and the federal workforce that the Constitution reserves to the Executive Branch alone. Yet a federal district court rejected that judgment, invoking concerns over the importance of "an educated citizenry" as "the foundation for our democracy" to issue an injunction compelling the Department to summarily reinstate nearly 1400 employees and submit progress reports until it is "restored to the status quo prior to January 20, 2025." Appl. App. 86a, 88a.

Respondents now downplay that injunction as too insignificant and sui generis to warrant this Court's intervention. But an injunction that supplants the Executive's policy determinations about an agency's functions, and replaces it with a federal district court's judgment that everything the agency does is "vital" or "essential," is not business as usual. Appl. App. 2a-3a, 15a-16a, 38a, 42a, 64a, 69a, 72a, 74a, 79a-80a, 84a-85a. The injunction is all the more remarkable because the court lacked

jurisdiction to issue it. Article III is not a vehicle for every user of government services to vindicate its views on the ideal size of government, and respondents lack any concrete, actual or imminent injury as required to support standing. Otherwise, virtually any member of the public could challenge a reduction in force (RIF) based on the supposed ensuing diminishment in the caliber of federal services.

Further, respondents—States, school districts, and teachers' unions—cannot circumvent the Civil Service Reform Act (CSRA), which allows only terminated employees to demand reinstatement before the Merit Systems Protection Board (MSPB) with appeal to the Federal Circuit. Federal district courts lack jurisdiction to entertain claims by *non*employees like respondents, who seek to litigate the very same claim—the legality of the RIF—with the very same remedy—reinstatement—that the employees themselves can obtain only via the CSRA's channeling scheme. Additionally, the district court lacked equitable authority to order reinstatement, let alone reinstatement en masse. Respondents identify no source of equitable authority outside express statutory schemes like the CSRA that would permit reinstatement here.

Respondents should not be allowed to press gerrymandered theories to skirt jurisdictional limits and irreparably harm the government with an injunction that puts an entire Cabinet department into judicial receivership. For months, district courts have issued similarly flawed injunctions superintending executive-branch personnel matters, including another RIF injunction currently pending on this Court's emergency docket. *Trump* v. *AFGE*, No. 24A1174 (filed June 2, 2025); see Appl. 3 n.1. This Court's intervention is again warranted to ensure that control of the Executive Branch remains where the Constitution assigns it: with the President.

A. The Government Is Likely To Succeed On The Merits

For three independent reasons, respondents' claims are likely to fail: (1) re-

spondents lack standing, (2) the CSRA precludes their claims, and (3) the sweeping reinstatement remedy was unlawful. While respondents emphasize the merits (States Opp. 2, 16, 30-36; Somerville Opp. 3, 22), the threshold jurisdictional barriers should have prevented the lower courts from reaching those questions. In any event, APA and constitutional challenges to the Department's RIF lack merit, as another court recently and correctly concluded. *Ass'n for Educ. Fin. & Pol'y, Inc.* v. *McMahon*, No. 25-cv-1266, 2025 WL 1568301, at *4-*12 (D.D.C. June 3, 2025).

1. Respondents lack Article III standing

a. Respondents offer a highly attenuated standing theory based on the RIF's alleged downstream effects on Department services that respondents use. Appl. 15-21. They assert that, with fewer employees, the Department's "vital assistance" will slow or stop, and respondents' "educational missions" will be undermined. States Opp. 17; Somerville Opp. 25. This Court rejected similarly speculative allegations by the users of government services as "insufficient" in *OPM* v. *AFGE*, No. 24A904 (Apr. 8, 2025). The claims here involve equally speculative allegations that the RIF will disrupt the services respondents allegedly use. Appl. 21. Myriad plaintiffs have brought similarly attenuated claims in the last five months, Appl. 3 & n.1, and this Court's renewed intervention is warranted to confirm that Article III does not grant the public and courts a roving warrant to micromanage government staffing based on speculation that the putative quality of statutorily mandated services will decline.

Respondents do not rehabilitate the court of appeals' erroneous assertion that the district court made "detailed and extensive factual findings" that the Department is "already unable to carry out statutorily assigned functions." Appl. App. 156a. Instead, respondents repeat the hyperbolic claims (States Opp. 1; Somerville Opp. 3, 34

n.14) that the Department has been torn "down to the plywood," "functionally incapacitate[d]," and "effectively dismantle[d]" with "a skeleton crew" left behind. Left unsaid: Some 2183 Department employees plus numerous contractors remain, with tens of billions of dollars in appropriated funds, to carry out the Department's statutory duties. Appl. 17.

Respondents only speculate that the RIF will cause them harm. Respondents chose to make their record largely at the outset, three days after the RIF took effect. Appl. 17-18. And the record has not improved with time: The RIF was in effect for two months, yet the most the States offer now (Opp. 21) is a fired union official's supplemental declaration asserting that the Department has assigned employees to fulfill statutory functions who purportedly do not feel "competent" to do the work. States App. 257 (¶¶ 22-23). If anything, that declaration proves that the Department is committed to carrying out its statutory functions. And while respondents fault (States Opp. 2, 18; Somerville Opp. 23) the government for not rebutting their evidence, it is *respondents'* burden to show standing, not the government's obligation to disprove it. Appl. 17.

b. Respondents highlight various Department services they use, which, they claim, the RIF will impair. Those alleged harms are purely speculative. Respondents make no concrete showing that cuts to any specific office will cause them to lose statutorily mandated services, much less that any harms they have assertedly suffered or will suffer are tied to the RIF.

Funding. Respondents spotlight (States Opp. 10-11, 19-20; Somerville Opp. 9-11, 25-26) their reliance on federal funding from the Department, yet never identify any funding that has been delayed or canceled due to the RIF. A mere "anticipated delay in adjudicating grant applications because of the loss of [agency] staff, on its

own, is not a concrete harm." *Maryland* v. *Corporation for Nat'l & Cmty. Serv.*, No. 25-1363, 2025 WL 1585051, at *21 (D. Md. June 5, 2025).

The States claim (Opp. 10, 20) that cuts to the office that collects data used to calculate funding will inevitably reduce the quality of that data, which will, in turn, produce "inaccurate" funding in future years. But the States' own John Doe declarant acknowledged that contractors could collect those data; he just worried about quality control. States App. 230 (¶ 18). Regardless, such speculation—that cuts will harm the remaining staff's ability to collect data, that contractors will collect data poorly, that staff will not adequately check the data, that data flaws will produce inaccurate funding, and that respondent States will suffer, not benefit, from any inaccuracies—is far too attenuated to support Article III standing. See *Clapper* v. *Amnesty Int'l*, 568 U.S. 398, 410 (2013). Moreover, the States identify no statutory entitlement to particular data quality, so they lack an articulable injury, and an injunction to restore statutory functions would not redress their alleged harm. The States also allege (Opp. 9-10) that the Department is providing "preliminary" funding estimates more slowly, but again identify no statutory authority requiring these estimates, which are provided by an office "not directly impacted by the RIF." States App. 233 (¶ 10).

The Somerville respondents' funding theory is even more attenuated. They emphasize (Opp. 9-11) the importance of "timely disbursements" and "reliable expectations" and assert that, without funding, students may experience "academic failure or learning loss." But generalized fears about how the RIF might affect funding streams and long-term planning cannot establish a concrete injury. Appl. 16, 24-25. Tellingly, the only specific examples the Somerville respondents cite (Opp. 10) involve the States, not themselves. The States do not rely on those declarations for good reason: Besides one claim of trivial tech-support delays, Appl. 18, all involve asserted

funding delays caused by other, unrelated policy changes pre-dating the RIF. D. Ct. Doc. 71-13 ¶¶ 45-46 (Mar. 24, 2025) (alleged change in approval process before affected employees began administrative leave); D. Ct. Doc. 71-31 ¶ 7 (Mar. 24, 2025) (same); D. Ct. Doc. 71-22 ¶ 12 (Mar. 24, 2025) (asserting non-payment of funds in declaration signed on March 20, 2025, before affected employees began administrative leave).

Certifications. The States similarly speculate (Opp. 10-11, 17-19) that fewer staff will be unable to timely certify colleges to receive federal financial aid. But the cited declarations by terminated employees primarily contend that the remaining staff will conduct inadequate audits, creating the risk of "wasted" "taxpayer funds"—which is an injury, if at all, to the federal government, not the States. States App. 156 (¶ 9), 184 (¶¶ 14-16). The assertion that staffing cuts will cause delay rests on the erroneous premise that statutes mandate a particular *quality* of audit and that more staff creates efficiency, not the opposite. The States' only actual example of delay (Opp. 10-11, 18-19) is a request for a new campus approval made in December 2024—7.5 weeks before the end of the *previous* Administration—which this Administration approved barely a month after the RIF. Appl. 18-19. Given the evident alternative causes for such timing, the example underscores the lack of traceability and redressability in respondents' standing theories. The States emphasize (Opp. 18-19) a supposed lack of substantive response from a senior political appointee at the Department, but how that email relates to the RIF or proves causation is a mystery. If anything, the Department's ability to approve new campuses swiftly after the RIF belies the States' speculation.

Informational Injury. Respondents also rely (States Opp. 10, 19-20; Somerville Opp. 12-14, 25-29) on their asserted interest in using Department data and guid-

ance. This Court has never endorsed the notion that an Article III injury arises whenever an agency stops disseminating information as effectively, least of all when no specific legal obligation to disseminate specific information exists in the first place. Appl. 23-24. The Somerville respondents dispute that premise (Opp. 27-28) yet cite no case finding an informational injury absent a specific statutory obligation to provide information. And respondents concede (States Opp. 3-4; Somerville Opp. 3) that this case concerns only the Department's statutorily mandated functions. They cannot leverage their generalized interest (Somerville Opp. 13-14, 28) in nonmandatory "technical assistance," such as "racial bias" training from the Office for Civil Rights and legal advice on grant applications from the Office of the General Counsel, into an Article III injury. Nor would an injunction necessarily redress their harms by restoring such discretionary informational services to respondents' preferred levels.

Respondents have no statutory right to any particular level of government data or guidance. Appl. 21-22. The Somerville respondents note (Opp. 28 n.11) that some forms of technical assistance are statutorily mandated, but cite only general instructions to, *e.g.*, "compile statistics * * * in areas of demonstrated national need," 20 U.S.C. 9511(b)(2), or "provide information on loan forbearance," 20 U.S.C. 1092(d)(1), that do not require particular staffing levels. The States allege (Opp. 19-20) that they use the National Assessment of Educational Progress, which may be at least partly mandated by statute. Compare 20 U.S.C. 9622(b)(3)(A)(i) and (iv) ("shall conduct"), with 20 U.S.C. 9622(b)(3)(A)(ii) and (iii) ("may conduct"). But that statute confers broad discretion to delegate the assessment to third-party organizations; the Department need not use its own employees. 20 U.S.C. 9622(a). Speculation that staffing cuts will lessen the quality of the Department's publications is no cognizable injury.

Civil-Rights Enforcement. Respondents all but abandon their allegations

relating to the Office for Civil Rights—one of the three offices the district court highlighted as the best supposed proof of respondents' irreparable harm. Appl. App. 13a-16a, 26a, 33a-34a, 49a n.14, 62a, 79a-85a. The States assert (Opp. 11, 23) a "dut[y]" to enforce civil-rights laws, arguing that any federal underenforcement will increase their enforcement burdens. Accord Somerville Opp. 13. That is not a cognizable theory of harm. Appl. 25. Regardless, the cited provisions simply obligate federal funding recipients to avoid race and sex discrimination in their own operations, not to replace all federal enforcement with their own. 20 U.S.C. 1682; 42 U.S.C. 2000d-1.

c. Further, respondents can establish neither causation nor redressability. They do not show that any diminishment in Department services was caused by the RIF rather than other policies, nor that adding more staff would improve those services. Respondents' standing theory rests "on the unfounded assumption that the [Department] employees would seamlessly return to their prior roles and functions and respond to communications and complete tasks in the timeframe the States expect." *Maryland*, 2025 WL 1585051, at *22. Indeed, the States admit (Opp. 22-23) that increased staffing will not compel the Department to approve particular applications. And they concede anew (Opp. 38) that the Department could fire every employee who performs discretionary functions in a different RIF. Respondents cannot show that blocking *this* RIF would cure their harms when they would apparently have no objection to the Department firing all of the same employees tomorrow through some other unspecified process. Appl. 21-22.

Moreover, the district court's sweeping remedy is disconnected from respondents' asserted harms. Cf. Appl. at 29-30, *Trump* v. *AFGE*, No. 24A1174 (filed June 2, 2025) (*AFGE* Appl.). The court enjoined the President's not-yet-implemented proposals to return control over education to the States, to the extent permitted by stat-

ute, and transfer certain functions to other agencies. Appl. App. 88a. But beyond an unelaborated claim of "direct and significant harms" (States Opp. 21), respondents never explain how those policy ideas injure them. Appl. 22. And respondents cannot possibly show that reinstating *all* 1400 employees is necessary to redress their asserted injury. Appl. 21-23. As another court recently explained in "depart[ing]" from the district court's analysis here: End-users of Department services cannot demonstrate "standing to challenge the termination of every employee * * * impacted by the RIF." *American Educ. Research Ass'n* v. *Department of Educ.*, No. 25-1230, 2025 WL 1665401, at *6 (D. Md. June 12, 2025).

2. The CSRA precludes jurisdiction

a. Separately, the government is likely to succeed on the merits because, as with other recent injunctions, the district court lacked jurisdiction to assess the legality of government personnel actions. See Appl. 25-30; *AFGE* Appl. at 15-20; Appl. at 19-21, *OPM* v. *AFGE*, No. 24A904 (filed Mar. 24, 2025). In the CSRA, Congress set out "a comprehensive system for reviewing personnel action taken against federal employees." *United States* v. *Fausto*, 484 U.S. 439, 455 (1988). Affected employees must bring their claims to the MSPB in the first instance, including challenges to RIFs, 5 C.F.R. 351.901, and constitutional claims, *Elgin* v. *Department of the Treasury*, 567 U.S. 1, 12-13 (2012), and can obtain relief including reinstatement, *id.* at 6; 5 U.S.C. 1204(a)(2), 7701(g). Unsurprisingly, at least some employees have reportedly attempted to challenge this RIF before the MSPB. Appl. 9.

That detailed scheme deprives federal district courts of jurisdiction to entertain repackaged challenges to that same RIF. See *Fausto*, 484 U.S. at 455. The district court acknowledged that "had the Department eliminated only a single program office or conducted a more limited RIF," the CSRA would foreclose respondents'

claims. Appl. App. 42a. That should have been the end of the matter, instead of an invitation to adopt an extra-statutory exception to CSRA exclusivity for larger-scale terminations. See *id.* at 42a-43a. Similarly, the Somerville respondents now appear to concede (Opp. 34 n.14) that their theory would allow third parties with standing to challenge even "[g]arden-variety personnel actions and normal government management of agencies" in federal court.

This Court should reject those arbitrary, atextual exceptions to the CSRA's exclusive, reticulated framework requiring challenges to terminations to be brought by employees before the MSPB. Congress did not give States, school districts, teachers' unions, and anyone else indirectly affected by terminations "greater rights than were available under the CSRA to employees who enjoyed rights under that statute." *Graham* v. *Ashcroft*, 358 F.3d 931, 934 (D.C. Cir. 2004) (Roberts, J.). Nor did Congress conceivably enact a judicial-review scheme whereby conflicting decisions about the same personnel actions could proliferate. Multiple district courts have now denied preliminary injunctions against parts of the same RIF—victories rendered meaningless by the decision below. *Carter* v. *United States Dep't of Educ.*, No. 25-744, 2025 WL 1453562, at *1 (May 21, 2025); *American Educ.*, 2025 WL 1665401, at *5-*6; *Ass'n for Educ. Fin.*, 2025 WL 1568301, at *7-*8.

b. Respondents insist they are challenging "the Department's incapacitation," States Opp. 23, or "effective dismantling," not "individual personnel actions," Somerville Opp. 30. But their suit undoubtedly seeks to undo a specific personnel action—the RIF—and impose a remedy as to personnel—reinstatement—and thus it falls in the heartland of challenges that Congress channeled through the MSPB and Federal Circuit. See D. Ct. Doc. 1, at 49 (Mar. 13, 2025) (requesting injunction against "Agency Defendants * * * ordering a reduction in force"); 25-cv-10677 D. Ct.

Doc. 1, at 61 (Mar. 24, 2025) (asking district court to "bar[] Defendants * * * from continuing to carry out the March 11, 2025 reduction in force"). The CSRA's comprehensive scheme is "exclusive," regardless of the nature of the challenge, including "constitutional" ones.[1] *Elgin*, 567 U.S. at 12-13.

Respondents contend (States Opp. 24-26 & n.12; Somerville Opp. 30-35) that, because they are not federal employees and cannot sue under the CSRA, *Elgin* and *Fausto* do not bar their suit in federal district court. But "it is the comprehensiveness of the statutory scheme involved, not the adequacy of specific remedies" that precludes jurisdiction; even where "the CSRA provides no relief," it "precludes other avenues of relief." *Graham*, 358 F.3d at 935 (internal quotation marks and citation omitted); see Appl. 28. Thus, "the omission of review procedures" for respondents, "coupled with the provision of such procedures for" employees, is "strong evidence that Congress intended to preclude [respondents] from obtaining judicial review." *Fausto*, 484 U.S. at 447-448 (discussing *Block* v. *Community Nutrition Inst.*, 467 U.S. 340, 345-348 (1984)). Were respondents correct, nonemployees injured by an employee's termination—say the employee's spouse or creditor—could implausibly evade the CSRA and challenge the termination in federal district court.

Respondents reason that the CSRA "reference[s] the APA multiple times" and thus "cannot be said to have silently foreclosed APA review." Somerville Opp. 33 (citing 5 U.S.C. 1103, 1105). But those references to the APA just selectively incorporate certain APA provisions; they do not suggest that Congress wanted to allow

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[1] For this reason, *Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians* v. *Patchak*, 567 U.S. 209 (2012) (cited at Somerville Opp. 34 n.13)—which dealt with whether the United States had waived sovereign immunity through the APA, 567 U.S. at 215, not whether a comprehensive statutory scheme precluded judicial review—is inapposite. Here, unlike there, a statute *is* "'addressed to the type of grievance which the [respondents] seek[] to assert'" (claims challenging personnel actions) and thus "prevent[s] an APA suit." *Id.* at 216 (citation omitted).

nonemployees to use APA claims to challenge personnel actions and bypass the CSRA's reticulated scheme. The APA remains available to challenge any particular failure of the Department to carry out mandatory functions, should it ever occur. Appl. 34. Respondents could, for example, sue to "compel agency action unlawfully withheld or unreasonably delayed." 5 U.S.C. 706(1). And apart from the APA, respondents could challenge any alleged failure of the Department to disperse funds under the Tucker Act, in the Court of Federal Claims. 28 U.S.C. 1491.[2]

Thus, respondents' argument (States Opp. 23; Somerville Opp. 34-35) that the "presumption in favor of judicial review" permits them to bypass the CSRA lacks merit. Respondents could seek judicial review, just not to challenge personnel actions as they do here. The CSRA gives *employees* a forum for judicial review of personnel actions (via the MSPB and, eventually, the Federal Circuit). There, employees might even challenge the RIF itself or assert constitutional claims—a point that respondents do not dispute. See Appl. 9; 5 C.F.R. 351.901; *Elgin*, 567 U.S. at 12-13. But the CSRA does not perversely prevent *employees* from going to court, while allowing States, school districts, and teachers' unions, who are strangers to the employment relationship, to press for those same remedies outside the CSRA process.[3] Respondents' view of the CSRA invites forum shopping and conflicting rulings among courts or between courts and agencies—exactly what channeling under the CSRA prevents.

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[2] The States claim (Opp. 29) that the government forfeited any argument that they should bring claims under other statutes. That misses the point: Respondents lack valid claims under other statutes. But, should legally cognizable harms manifest, respondents may have remedies outside the CSRA besides reinstatement. Regardless, the government made this exact point below. Gov't C.A. Mot. 19.

[3] The Somerville respondents discuss (Opp. 34) a vacated circuit-court decision, but that opinion reiterates what this Court's cases say: The CSRA eliminates federal-district-court jurisdiction over "personnel actions covered by the CSRA," which undoubtedly includes the RIF here. *Feds for Med. Freedom* v. *Biden*, 63 F.4th 366, 372 (5th Cir.) (en banc), vacated, 144 S. Ct. 480 (2023); Appl. 8-9.

See *Fausto*, 484 U.S. at 445.

Respondents also invoke *Axon Enterprise, Inc.* v. *FTC*, 598 U.S. 175 (2023), but *Axon* does not license federal-district-court jurisdiction whenever plaintiffs assert that "a case presents questions that 'are fundamental, even existential' about an agency's 'structure or very existence.'" States Opp. 23-24 (quoting 598 U.S. at 180). Rather, *Axon* permitted a pre-enforcement separation-of-powers challenge to an agency's structure to avoid "'being subjected' to 'unconstitutional agency authority'" during administrative proceedings, which was "impossible to remedy once the proceeding is over." 598 U.S. at 191 (citation omitted). *Axon* thus distinguished those facts from the "specific substantive decision" to "fir[e] * * * employee[s]." *Id.* at 189. Because respondents' suits challenge "personnel action taken against federal employees," *Fausto*, 484 U.S. at 455, *Axon* confirms they are "'of the type Congress intended to be reviewed within [the CSRA's] statutory structure,'" *Axon*, 598 U.S. at 186 (quoting *Thunder Basin Coal Co.* v. *Reich*, 510 U.S. 200, 208, 212 (1994)). Moreover, the States are wrong (Opp. 25-26) in asserting that they can bypass the CSRA because the MSPB supposedly lacks "expertise" relevant to their claims. Regulations expressly contemplate that the MSPB can entertain challenges to RIFs, and constitutional claims are channeled through the MSPB under *Elgin*. See pp. 9, 12, *supra*.

3. The district court's remedy was unlawful

a. The district court's injunction exceeded its remedial authority by ordering the reinstatement of nearly 1400 Department employees and restoration of the "status quo prior to January 20, 2025," while blocking the President's Executive Order seeking the return of the Department's functions to the States to the extent per-

mitted by statute.[4] Appl. App. 88a. While respondents suggest that this Court's cases barring the reinstatement remedy are irrelevant after the merger of law and equity, see Somerville Opp. 38 (referencing *White* v. *Berry*, 171 U.S. 366 (1898), and *In re Sawyer*, 124 U.S. 200 (1888)), they do not dispute that absent statutory authority, a federal court may grant only those equitable remedies that were "traditionally accorded by courts of equity." *Grupo Mexicano de Desarrollo, S.A.* v. *Alliance Bond Fund, Inc.*, 527 U.S. 308, 319 (1999). Reinstatement was not a remedy traditionally available at equity, and respondents cite no statute authorizing district courts to reinstate federal employees to improve their access to Department services. Appl. 32. Those principles are fatal to their claims. See Appl. 30-34.

Respondents first contend (Somerville Opp. 36) "there is no substantial 'reinstatement'" because the employees that the Department must reinstate were on administrative leave when the district court issued its injunction. Somerville Opp. 36. But in respondents' own telling (States Opp. 7; Somerville Opp. 5), affected employees ceased performing job functions immediately, even though formal separation has not yet occurred. The district court's injunction reverses that personnel action, thus requiring the Department to "reinstate federal employees whose employment was *terminated* or otherwise *eliminated*." Appl. App. 88a (emphasis added).

Respondents also echo the First Circuit's reasoning that, even though courts of equity could not award reinstatement, they would have had "'authority to remedy the effective disabling of a cabinet department,'" even where "the disabling occurred through the termination of staff." States Opp. 27 (citation omitted); see Somerville

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[4] The States (Opp. 27) claim forfeiture but do not dispute that the First Circuit passed on this question. While the States argue that this Court should not grant a stay based on an issue passed upon, but not pressed, below, they do not explain the basis for any such limitation, which would shield blatant legal errors from this Court's review.

Opp. 39 (respondents are not "seeking reinstatement of any particular employees" but "simply want the courts to ensure that the Department is *in* business"). But if a court lacks equitable authority to order reinstatement of one employee, it does not retain equitable authority to order the reinstatement of 1400. Appl. 33. Plaintiffs cannot evade equity's ban on reinstatement orders by seeking even more reinstatements. The First Circuit's and respondents' theory invents a groundless large-numbers exception to that rule.

Respondents assert (States Opp. 27-28; Somerville Opp. 36-37) that reinstatement is a valid equitable remedy, citing *Service* v. *Dulles*, 354 U.S. 363 (1957), *Vitarelli* v. *Seaton*, 359 U.S. 535 (1959), and *Sampson* v. *Murray*, 415 U.S. 61 (1974). But *Service* and *Vitarelli* concerned the validity of each petitioner's discharge, not the propriety of reinstatement as an equitable remedy. *Service*, 354 U.S. at 365 ("This case brings before us the validity of [petitioner's] discharge."); *Vitarelli*, 359 U.S. at 536 ("This case concerns the legality of petitioner's discharge * * * .").[5] And *Sampson*

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[5] The Somerville respondents cite (Opp. 37 n.16) five other decisions from this Court that also did not address whether reinstatement is a proper equitable remedy. See *Rutan* v. *Republican Party of Ill.*, 497 U.S. 62, 65 (1990) (addressing "whether promotion, transfer, recall, and hiring decisions involving low-level public employees may be constitutionally based on party affiliation and support"); *Branti* v. *Finkel,* 445 U.S. 507, 508 (1980) (addressing "whether the First and Fourteenth Amendments to the Constitution protect an assistant public defender who is satisfactorily performing his job from discharge solely because of his political beliefs"); *Elrod* v. *Burns,* 427 U.S. 347, 349 (1976) (addressing "whether public employees who allege that they were discharged or threatened with discharge solely because of their partisan political affiliation or nonaffiliation state a claim for deprivation of constitutional rights secured by the First and Fourteenth Amendments"); *Perry* v. *Sindermann*, 408 U.S. 593, 596, 599 (1972) (addressing "whether the respondent's lack of a contractual or tenure right to re-employment, taken alone, defeats his claim that the nonrenewal of his contract violated the First and Fourteenth Amendments" and other "procedural due process" issues); *Keyishian v. Board of Regents of Univ. of State of N.Y.*, 385 U.S. 589, 592-593 (1967) (addressing whether a state program "violated the Federal Constitution in various respects"). Similarly, the court of appeals cases that respondents cite (Somerville Opp. 37 n.16) do not grapple with whether reinstatement was a remedy traditionally available at equity and are thus off-point.

reiterates that courts of equity traditionally would not "enforce contracts for personal service," as well as "the historical denial of all equitable relief by the federal courts in cases such as [*White* v. *Berry*]." 415 U.S. at 83; but see Somerville Opp. 37 (brushing aside *White*). Though Congress has deviated from that rule for administrative-review schemes, and *Sampson* recognized the possibility of interim reinstatement incidental to such a scheme, 415 U.S. at 78-79, courts lack any freestanding equitable power to award reinstatement like the district court did here.[6]

b. Even where Congress has authorized reinstatement, this Court has demanded an elevated showing "to override the[] factors cutting against the general availability of preliminary injunctions in Government personnel cases." *Sampson*, 415 U.S.at 83-84. The district court required no such showing and instead ordered a sweeping mass reinstatement untethered from respondents' asserted harms. In addition to violating Article III, pp. 8-9, *supra*, the injunction thus exceeds the court's equitable powers. Appl. 32-33.

Respondents fault (States Opp. 28-29; Somerville Opp. 39-40) the government for not proposing an injunction tailored to the employees who perform the specific services respondents actually use. But respondents, as plaintiffs, bear the burden to

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[6] The Somerville respondents (Opp. 39 n.18) also argue that *White*, *Sawyer*, *Walton* v. *Oklahoma House of Representatives*, 265 U.S. 487 (1924), and *Harkrader* v. *Wadley*, 172 U.S. 148 (1898), "concern lower federal courts' authority to enjoin state proceedings to remove state officers, or concern appointees." But this Court has repeatedly recognized that courts of equity lack the power to reinstate federal officials. See, *e.g.*, *Baker* v. *Carr*, 369 U.S. 186, 231 (1962) (explaining that the Court has "withheld federal equity from staying [the] removal of a federal officer"); *White*, 171 U.S. at 376 (stating, in a case involving the removal of a federal official, that "a court of equity ha[s] no jurisdiction over the appointment and removal of public officers"). The Court has explained that the no-reinstatement rule "reflect[s] * * * a traditional limit upon equity jurisdiction, and not upon federal courts' power to inquire into matters of state governmental organization." *Baker*, 369 U.S. at 231. Respondents argue (Somerville Opp. 39 n.18) that some of these cases "involve political appointees," but do not explain why that distinction matters.

demonstrate standing for "each form of relief that they seek." *Murthy* v. *Missouri*, 603 U.S. 43, 61 (2024) (citation omitted). Respondents chose to seek "extraordinary," "broad relief" "without any parsing of what the [Department's] statutory mandates are and what employees are necessary to accomplish them." *American Educ.*, 2025 WL 1665401, at *6. Having asked the district court for the moon and gotten it, respondents cannot now complain that the government should have cured *their* overbroad injunction request.

The States claim that, notwithstanding the district court's command to restore the January 20, 2025 "status quo," Appl. App. 88a, the Department need not guarantee any "minimum level of staffing" so long as it "perform[s] its statutory duties." Opp. 3-4, 40. On that view, the injunction is meaningless because respondents do not identify any specific statutory duty the Department is not performing. The Somerville respondents, though, contend (Opp. 21) that a full restoration of the "*status quo ante*" is required. Either way, respondents have not alleged that they use *all* of the Department's services. An injunction forcing the Department to retain employees to perform innumerable services that respondents do not use (like a Dallas office serving other States, Appl. 23) vastly exceeds the court's Article III and equitable authority. See *Gill* v. *Whitford*, 585 U.S. 48, 66 (2018).

B. The Remaining Factors Favor A Stay

Certworthiness. Respondents do not dispute that this Court frequently intervenes when lower courts inject themselves into executive-branch personnel matters. Appl. 34-35. Respondents recast (States Opp. 37-38; Somerville Opp. 22-24) this case as involving split-less, fact-bound "quibbles" over jurisdiction and remedy that would not ordinarily warrant review. That claim is hard to credit given respondents' apocalyptic rhetoric about the "functional[] incapacitat[ion]" (States Opp. 1) and

"destr[uction]" of the Department "by executive fiat" (Somerville Opp. 2). In any event, there is a split: The First Circuit's CSRA analysis diverges from the D.C. Circuit's and that of numerous district courts. Appl. 30; see *AFGE* v. *Trump*, 929 F.3d 748, 761 (D.C. Cir. 2019). And even without a split, a district court's wresting of an entire Cabinet department from presidential control plainly warrants certiorari, especially given the recent cavalcade of similar injunctions. See Appl. 3 & n.1.

Irreparable Harm. Respondents do not meaningfully dispute the First Circuit's conclusion (Appl. App. 169a) that the government would be irreparably harmed by paying unrecoverable salaries. Appl. 35-36. Nor do respondents dispute that unlawfully intruding on the Executive Branch's internal affairs is an obvious harm. Appl. 36. The Somerville respondents (Opp. 24) call the harm "modest and temporary," but forcing a Cabinet department to maintain a workforce 60% larger than its leaders deem appropriate, potentially for years, is neither modest nor temporary.

The potential compliance burdens are massive as well. Appl. 36-37. The injunction is forcing the Department to effectively "'stand[] up' an entire agency" with all the corresponding "logistical complexities" from "arranging for facilities for physical workspace" to "updating, reactivating, and re-issuing" computers and phones. D. Ct. Doc. 147-1 ¶ 6 (June 10, 2025). The States recast (Opp. 14, 40) the injunction as just requiring a restoration of statutory functions, without any "specific timeline or a minimum level of staffing." But the Department's statutory functions are alive and well, so on that reading, the injunction does nothing. The Somerville respondents, however, emphatically reject that view: They trivialize the burdens (Opp. 42) and demand (Opp. 21) a return "to the *status quo ante*," implying that nothing less than pre-Inauguration Day staffing levels will suffice. That radical disagreement over the

injunction's scope confirms the impossible bind for the Department.[7]

Balance of the Equities. Respondents' asserted harms do not outweigh the government's paramount interest in overseeing the Executive Branch. Appl. 37-39. Respondents claim (States Opp. 1, 4, 38; Somerville Opp. 40-41) the mantle of the status quo, insisting that a stay would cause mass disruption. But see *Labrador* v. *Poe*, 144 S. Ct. 921, 930 (2024) (Kavanaugh, J., concurring) (explaining the malleability of invocations of "the status quo"). But while respondents sued without identifying an actual or imminent injury, the *district court* waited months to issue the injunction and then ordered the Department to reinstate employees who had long stopped working. If there is any status quo, it is maintaining the RIF.

Respondents' lack of irreparable harm is particularly clear given their emphasis (States Opp. 2, 9-10, 20, 33-34; Somerville Opp. 1-3, 9-11, 25-26) on federal funding—monetary claims that can be raised later. Appl. 38. While the States note that their claims are not "*solely* monetary," their monetary focus still undermines claims of irreparable harm. Opp. 38 n.15 (emphasis added); accord Somerville Opp. 43-44.

At bottom, respondents insist (States Opp. 39-40; Somerville Opp. 44) that this case is about vindicating Congress's policy judgment that the Department should exist. But the Department exists and continues to fulfill its statutory functions unless and until Congress decides otherwise. The public's interest in allowing the Executive, not a single district court, to set the appropriate level of government staffing to carry out those functions strongly favors a stay.

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[7] The application noted (at 37) an imminent emergency compliance hearing set at respondents' request. Respondents subsequently withdrew that request, and the district court canceled the hearing. D. Ct. Docket entries 145-146 (June 7 and 9, 2025). Were this Court to deny a stay, respondents would presumably resume seeking to micromanage compliance.

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For the foregoing reasons and those stated in the government's application, this Court should stay the district court's preliminary injunction.

Respectfully submitted.

D. JOHN SAUER
Solicitor General

JUNE 2025