

**In The
Supreme Court of the United States**

LINDA MCMAHON, Secretary of Education, et al.,

Applicants,

v.

State of NEW YORK et al.,

Respondents.

OPPOSITION OF STATE PLAINTIFFS TO APPLICATION TO STAY
THE PRELIMINARY INJUNCTION ISSUED BY
THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MASSACHUSETTS

ANDREA JOY CAMPBELL
Attorney General
Commonwealth of Massachusetts
1 Ashburton Place
Boston, Massachusetts 02108
(617) 963-2277

ANNE E. LOPEZ
Attorney General
State of Hawai'i
425 Queen Street
Honolulu, Hawai'i 96813
(808) 586-1360

ROB BONTA
Attorney General
State of California
300 South Spring Street
Los Angeles, California 90013
(213) 269-6364

LETITIA JAMES
Attorney General
State of New York
BARBARA D. UNDERWOOD*
Solicitor General
ESTER MURDUKHAYEVA
Deputy Solicitor General
MATTHEW W. GRIECO
Senior Assistant Solicitor General
28 Liberty Street
New York, New York 10005
(212) 416-8016
barbara.underwood@ag.ny.gov

**Counsel of Record*

Dated: June 13, 2025

(Complete counsel listing appears on signature pages.)

TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	ii
INTRODUCTION	1
BACKGROUND	4
A. Federal Law Governing the Department of Education	4
B. Defendants' Actions	6
C. District Court Proceedings	8
D. Court of Appeals Proceedings	13
ARGUMENT	15
I. Petitioners Have Not Established That They Are Likely to Succeed on the Merits.	16
A. The District Court Has Jurisdiction over Respondent States' Claims.	16
1. Respondent States have standing.	16
2. The Civil Service Reform Act does not divest the district court of jurisdiction.	23
3. The scope of the preliminary injunction is appropriate.	27
B. The Lower Courts Correctly Found That Petitioners' Actions Are Likely Unlawful.	30
1. Petitioners' actions are likely arbitrary and capricious and contrary to law, and thus violate the Administrative Procedure Act.	30
2. Petitioners' actions are likely unconstitutional.	36
II. The Remaining Factors Weigh Strongly Against a Stay.	37
CONCLUSION	40

TABLE OF AUTHORITIES

Cases	Page(s)
<i>AFGE v. OPM</i> , No. 25-cv-1780, 2025 WL 820782 (N.D. Cal. Mar. 14, 2025)	22
<i>Axon Enter., Inc. v. Federal Trade Comm’n</i> , 598 U.S. 175 (2023)	24-25
<i>Biden v. Nebraska</i> , 600 U.S. 477 (2023)	16-17, 35-36, 39
<i>Califano v. Yamasaki</i> , 442 U.S. 682 (1970)	27
<i>Clapper v. Amnesty Int’l USA</i> , 568 U.S. 398 (2013)	17
<i>Clinton v. City of New York</i> , 524 U.S. 417 (1998)	36
<i>Department of Commerce v. New York</i> , 588 U.S. 752 (2019)	30
<i>Department of Education v. California</i> , 145 S. Ct. 966 (2025)	38-39
<i>Does 1-3 v. Mills</i> , 142 S. Ct. 17 (2021)	15
<i>Elgin v. Department of Treasury</i> , 567 U.S. 1 (2012)	24-25
<i>Hollingsworth v. Perry</i> , 558 U.S. 183 (2010)	15, 37
<i>INS v. Chadha</i> , 462 U.S. 919 (1983)	36
<i>Labrador v. Poe</i> , 144 S. Ct. 921 (2024)	15
<i>Maryland v. USDA</i> , Nos. 25-1248, 25-1338, 2025 WL 1073657 (4th Cir. Apr. 9, 2025)	26

Cases	Page(s)
<i>Nken v. Holder</i> , 556 U.S. 418 (2009)	15, 30
<i>Norton v. Southern Utah Wilderness All.</i> , 542 U.S. 55 (2004)	29
<i>OPM v. AFGE</i> , No. 24A904, 2025 WL 1035208 (U.S. Apr. 8, 2025)	22
<i>Sackett v. EPA</i> , 566 U.S. 120 (2012)	23
<i>Sampson v. Murray</i> , 415 U.S. 61 (1974)	27-28
<i>Susan B. Anthony List v. Driehaus</i> , 573 U.S. 149 (2014)	17
<i>Thunder Basin Coal Co. v. Reich</i> , 510 U.S. 200 (1994)	26
<i>United States v. Fausto</i> , 484 U.S. 439 (1988)	26
<i>United States v. Texas</i> , 599 U.S. 670 (2023)	22
<i>United States v. Williams</i> , 504 U.S. 36 (1992)	27
<i>Utility Air Regul. Grp. v. EPA</i> , 573 U.S. 302 (2014)	36
<i>West Virginia v. EPA</i> , 597 U.S. 697 (2022)	33
<i>Youngstown Sheet & Tube Co. v. Sawyer</i> , 343 U.S. 579 (1952)	36-37
 Constitution	
U.S. Const. art. I, § 1	36

Laws & Regulations	Page(s)
Pub. L. No. 96-88, 93 Stat. 668 (1979)	4
Full-Year Continuing Appropriations and Extensions Act, 2025, Pub. L. No. 119-4, 139 Stat. 9	32
20 U.S.C.	
§ 1070a	4
§ 1070b-1070b-4	4
§ 1087-51 to -58	4
§ 1087a-1087j	4
§ 1094	17
§ 1099c	17
§ 1099c-1	17
§ 1400-1482	4
§§ 1681-1689	5
§ 1682	23
§ 3401	32
§ 3402	32
§ 3441	32
§ 3443	32
§ 3444	32
§ 3445	32
§ 3446	32
§ 3473	1, 5, 33-36, 38-39
§ 6301-6577	4
§ 9511	19
§ 9543	5
§ 9543	19
§ 9622	19
29 U.S.C. § 794	5
42 U.S.C.	
§ 2000d	5
§ 2000d-1	23
34 C.F.R. pt. 668	17

Miscellaneous Authorities	Page(s)
Associated Press, <i>Reagan Says He Won't Seek End to Education Dept. Now</i> , N.Y. Times, Jan. 30, 1985	32
<i>Hearing Before the Subcomm. on Lab., Health & Human Servs., Educ. & Related Agencies of the Senate Comm. on Appropriations</i> , 119th Cong., 1st Sess. (2025), https://www.appropriations.senate.gov/hearings/a- review-of-the-presidents-fiscal-year-2026-budget-request-for-the- department-of-education	31
<i>Legislative History of Public Law 96-88, Department of Education Organization Act</i> vol. 2.....	35
Lexi Lonas Cochran, <i>Trump Says Student Loans Moving to SBA, 'Special Needs' to HHS</i> , The Hill (Mar. 21, 2025), https://thehill.com/homenews/education/5207597-trump-student-loans- sba-special-needs-disabled-students-hhs-mcmahon-kennedy/	8
Nandita Bose & Kanishka Singh, <i>Trump Says He Wants Education Department to Be Closed Immediately</i> , Reuters (Feb. 13, 2025), https://www.reuters.com/world/us/trump-says-he-wants-education- department-be-closed-immediately-2025-02-12/	6
Office of the Clerk, Roll Call 156, Bill Number: H.R. 5 (Mar. 24, 2023)	32
Ronald Reagan, First State of the Union Address, 128 Cong. Rec. 159 (Jan. 26, 1982)	32
Time Staff, <i>2024 Person of the Year Interview with Time</i> , Time (Dec. 12, 2024), https://time.com/7201565/person-of-the-year-2024-donald- trump-transcript/	6
U.S. Dep't of Educ., <i>About NAEP: A Common Measure of Student Achievement</i> , https://nces.ed.gov/nationsreportcard/about/ (last updated Apr. 17, 2025)	20

INTRODUCTION

Respondent States¹ brought this action to challenge petitioners' effort to functionally incapacitate the Department of Education through a drastic reduction in force (RIF). The district court correctly concluded, based on a detailed factual record unrebutted by petitioners, that the States are likely to show the RIF is arbitrary and capricious, contrary to law, and unconstitutional. First, the RIF has improperly eliminated or decimated teams that perform statutorily mandated tasks without considering, much less providing for, alternate mechanisms by which such duties can be satisfied. Second, the RIF violates affirmative statutory restrictions on the Secretary's authority to reallocate, consolidate, alter, or abolish statutory functions within the Department. *See* 20 U.S.C. § 3473. Finally, the RIF and statutory function transfer violate the Executive's duty to take care that the laws be faithfully executed and the separation of powers by reorganizing the Department without authorization from Congress. The district court recognized that petitioners' actions have caused and are likely to continue to cause irreparable harm to the States, and entered a preliminary injunction tailored to restore the parties to the status quo prior to petitioners' unlawful conduct.

¹ This opposition to stay is submitted on behalf of respondents New York, Massachusetts, Hawai'i, California, Arizona, Colorado, Connecticut, Delaware, Illinois, Maine, Maryland, Minnesota, Nevada, New Jersey, Oregon, Rhode Island, Vermont, Washington, and Wisconsin; the District of Columbia; and Attorney General Dana Nessel for the People of Michigan. Respondents in the consolidated *Somerville* action are separately represented.

In seeking a stay from this Court and the courts below, petitioners barely attempt to argue that their actions are lawful. Instead, petitioners insist that a stay is appropriate *even if*—as respondents have demonstrated—the RIF has decimated the Department, rendering it unable to perform its statutory functions. The district court and court of appeals properly denied petitioners’ requests for a stay. This Court should deny the request as well.

First, petitioners miss the mark in challenging respondent States’ standing. The district court noted numerous statutorily mandated functions that the States rely on deeply and that the Department is no longer capable of performing because of the RIF. For example, the RIF has eliminated almost all of the department staff who review the certification and recertification of higher education institutions for federal student aid. Petitioners have failed to explain how the Department can continue to perform timely certification reviews with no staff, and disruptions in federal certification have already interfered with the ability of public colleges and universities to meet enrollment goals and provide academic programs.

Similarly, the RIF has gutted the offices within the Department tasked by Congress to collect, report, analyze, and disseminate statistical data related to education. Petitioners insist that the States are not entitled to quality in data collection and therefore lack standing to complain about the elimination of these offices. But the collection of accurate and reliable data is necessary for numerous statutory functions within the Department that greatly affect the States. Among other things, this data is used to allocate billions of dollars in educational funds among the States under

Title I of the Elementary and Secondary Education Act. Petitioners have offered no explanation of how such allocation can occur without the collection and analysis of underlying data, or of how the data can be collected or analyzed without staff. The district court’s detailed factual findings—based on extensive evidence submitted by respondents that was wholly un rebutted by petitioners—catalog numerous other harms to the States.

Second, petitioners are wrong to argue that the Civil Service Reform Act (CSRA) bars respondents’ lawsuit. The function of the CSRA is to channel adverse employment action claims by federal employees and their unions into administrative proceedings. This Court has never suggested that the CSRA applies to lawsuits brought by States to challenge a government agency’s failure to perform a statutory duty. To the contrary, this Court’s cases confirm that Congress did not intend cases such as this one to be channeled to administrative bodies without expertise in government agencies’ performance of their statutory functions.

Third, petitioners complain that, even assuming that they have acted unlawfully, the district court’s injunction improperly requires reinstatement of all the terminated employees. This argument mischaracterizes the injunction and obscures the fact that petitioners have identified no other form of relief that would redress respondents’ injuries. As an initial matter, the court of appeals correctly held that restoring the agency’s staff to the extent needed to carry out statutory functions is an appropriate and available remedy in this case. Moreover, petitioners are simply wrong to argue that the district court required the Department to maintain the

staffing levels set by the prior administration. Petitioners are free to reduce staffing levels if such reduction does not prevent the Department from performing its statutory duties. What petitioners cannot do is seek to curtail *all* relief to the States without identifying any alternative approach to redress the States' injuries.

Finally, the equitable factors strongly favor respondents—especially in light of the States' strong showing of likelihood of success on the merits and petitioners' scant efforts to refute that showing. Petitioners point to the challenges the Department faces in reactivating workers who have been on paid leave since the RIF, but that is why the preliminary injunction should remain in place pending briefing on the merits of petitioners' appeal: those challenges would be far greater if the States prevail months from now, after the employees are separated and have found other jobs. At that point, it would be far more difficult to restore the Department to functional status, and in the meantime, the States would continue to suffer the many harms caused by petitioners' actions.

BACKGROUND

A. Federal Law Governing the Department of Education

Congress created the Department of Education in 1979. *See* Pub. L. No. 96-88, 93 Stat. 668 (1979) (codified as amended at 20 U.S.C. §§ 3401-3510). The Department is obligated by statute to administer numerous programs, including the federal student aid system, federal grants for higher education, and federal funds for birth-to-grade-12 education. *See* 20 U.S.C. §§ 1070a, 1087a-1087j, 1087-51 to -58, 1070b-1070b-4, 1400-1482, 6301-6577.

In addition, Congress requires that the Department “collect, report, analyze, and disseminate statistical data related to education,” including state and local education, and much of that data is essential for proper allocation of department program resources. 20 U.S.C. § 9543(a)(1). The Department must also investigate and enforce various laws in the education context via its Office for Civil Rights (OCR), including Title VI of the Civil Rights Act of 1964 (prohibiting discrimination based on race, color, or national origin), *see* 42 U.S.C. § 2000d; Title IX of the Education Amendments of 1972 (on the basis of sex), *see* 20 U.S.C. §§ 1681-1689; and Section 504 of the Rehabilitation Act of 1973 (on the basis of disability), *see* 29 U.S.C. § 794.

Congress has expressly restricted the authority of the Secretary of Education to unilaterally alter the Department’s functions. *See* 20 U.S.C. § 3473. The Secretary may “consolidate, alter, or discontinue” certain enumerated entities, *id.* § 3473(b), but only after giving the appropriate House and Senate oversight committees at least ninety days to evaluate “a full and complete statement of the action proposed to be taken” and the “facts and circumstances” supporting such proposal, *id.* § 3473(b)(2). Similarly, Congress has expressly prohibited the Secretary from abolishing certain statutory entities within the Department, *see id.* § 3473(a)(2), and from reallocating or discontinuing any functions transferred to the Department from other departments, *see id.* § 3473(a)(1), (3). The Secretary’s discretion is further limited by Congress’s mandate that any reorganization be “necessary or appropriate.” *Id.* § 3473(a).

B. Defendants' Actions

After the 2024 election, President-elect Trump told *Time* magazine that “you can do a lot of things without Congress” to cut the size of the federal government.² The President-elect offered a specific example: “A virtual closure of Department of Education in Washington.”³

After his inauguration, President Trump stated that he wanted the Department “closed immediately.”⁴ On March 3, 2025, Secretary Linda McMahon announced “Our Department’s Final Mission” in a speech posted to the Department’s website. (Respondents’ Appendix (Resp. App.) 58-63.) Secretary McMahon stated that the Department would perform “one final, unforgettable public service to future generations of students” (Resp. App. 61), and that the changes would “profoundly impact staff, budgets, and agency operations here at the Department” (Resp. App. 59).

The following week, the Department announced that it had “initiated a reduction in force (RIF) impacting nearly 50% of the Department’s workforce.” (Resp. App. 64.) The RIF announcement noted that the Department had employed 4,133 workers on Inauguration Day, and that “[a]fter today’s actions, the Department’s workforce will total roughly 2,183 workers.” (Resp. App. 64-65.) The announcement

² Time Staff, *2024 Person of the Year Interview with Time*, Time (Dec. 12, 2024), <https://time.com/7201565/person-of-the-year-2024-donald-trump-transcript/> (last visited June 13, 2025).

³ *Id.*

⁴ Nandita Bose & Kanishka Singh, *Trump Says He Wants Education Department to Be Closed Immediately*, Reuters (Feb. 13, 2025), <https://www.reuters.com/world/us/trump-says-he-wants-education-department-be-closed-immediately-2025-02-12/> (last visited June 13, 2025).

claimed that the Department “will continue to deliver on all statutory programs that fall under the agency’s purview,” but did not explain how that would be possible given the RIF. (Resp. App. 64.) The announcement stated that the affected employees would be on administrative leave starting March 21, and would leave the Department’s payroll on June 9. (Resp. App. 67.)

Employees subject to the RIF received a mass email stating that “your organizational unit is being abolished along with all positions within the unit—including yours.” (*See, e.g.*, Resp. App. 206.) The email explained that the terminations were not based on the employees’ “performance or contributions,” but were part of the Department’s “restructuring process.” (*See, e.g.*, Resp. App. 207.) Immediately after the mass email was sent, affected staff lost the ability to access relevant software on their computers and could no longer send emails outside the Department. (*See, e.g.*, Resp. App. 150-151.)

On March 20, President Trump signed an Executive Order titled “Improving Education Outcomes by Empowering Parents, States, and Communities.” (Resp. App. 54-57.⁵) The Executive Order directs that Secretary McMahon “shall, to the maximum extent appropriate and permitted by law, take all necessary steps to facilitate the closure of the Department of Education.” (Resp. App. 55.) The following day, President Trump said he had “decided that the SBA, the Small Business Administration . . . will handle all of the student loan portfolio,” and that although administration of student loans is a “pretty complicated deal,” the portfolio would be “coming out of the

⁵ Exec. Order No. 14242, 90 Fed. Reg. 13679 (Mar. 25, 2025).

Department of Education immediately.”⁶ The President also stated that “special needs” and “nutrition programs” would be transferred to the Department of Health and Human Services.⁷ Subsequent statements by Secretary McMahon confirmed that additional head-count reductions—beyond the March 11, 2025 RIF—are planned should the district court’s injunction be stayed, and that the Department has begun to take steps to transfer Federal Student Aid out of the Department. (Resp. App. 220.) And filings made with the district court suggest that the Department has already begun taking steps to transfer other statutory functions out of the Department through interagency agreements that have been paused in light of the district court’s injunction. (Resp. App. 285, 290-297.)

C. District Court Proceedings

In March 2025, respondent States filed the complaint in this action, alleging that the RIF is “an effective dismantling of the Department” because it is “so severe and extreme that it incapacitates components of the Department responsible for performing functions mandated by statute.” (Resp. App. 2.) Plaintiffs alleged that the actions of the defendants (petitioners here): (1) violate the separation of powers; (2) violate the Take Care Clause of the Constitution; (3) are ultra vires; and (4) violate the Administrative Procedure Act as both contrary to law and arbitrary and capricious.

⁶ Lexi Lonas Cochran, *Trump Says Student Loans Moving to SBA, ‘Special Needs’ to HHS*, The Hill (Mar. 21, 2025), <https://thehill.com/homenews/education/5207597-trump-student-loans-sba-special-needs-disabled-students-hhs-mcmahon-kennedy/> (last visited June 13, 2025).

⁷ See *id.*

(Resp. App. 41-48.) On March 24, 2025, the States moved for a preliminary injunction.⁸ (*See* Dist. Ct. ECF Nos. 69-71.)

At oral argument on the motion, petitioners sought to portray the RIF as a “streamlining” of the Department to cut “bureaucratic bloat” that was separate from the President’s goal of closing the Department. (App. 118a-120a.) Petitioners conceded that only Congress can abolish the Department, but when the court asked petitioners to point to evidence in the record that “the administration is working on a legislative agenda” to that end independent of the RIF, petitioners pointed only to the plaintiffs’ own declarations and the statements from the President and Secretary therein referring to the goal of closure. (App. 120a.)

In a detailed opinion granting respondents’ motions (App. 1a-88a), the district court made factual findings regarding numerous actual and imminent harms suffered by the States because of petitioners’ actions. For example, the Department’s Office of Elementary and Secondary Education (OESE) failed to timely provide States with preliminary Title I allocation figures for the upcoming academic year, data that in the past had been provided shortly after Congress passed a continuing resolution. (App. 64a-65a.) OESE’s delay after this year’s March 2025 continuing resolution has a domino effect. Absent an accurate and timely allocation of Title I funding from the Department, States could not properly allocate funds among their own agencies and

⁸ Eleven days after the States filed their complaint, a group of school districts and teachers unions (referred to in the record below as the Somerville plaintiffs) filed a lawsuit against the same defendants raising similar claims. The defendants requested that the cases be consolidated, and the district court granted the motion on consent of the plaintiffs. (App. 4a-6a.)

local districts, which in turn could not set funding for the next academic year's educational programs and salaries. (App. 64a-65a.)

Similarly, the States suffered various harms from cuts to the Department's Institute of Education Sciences (IES). (App. 69a-70a.) The cuts leave only three people to prepare an annual report that has historically required the work of thirty people, which an IES employee confirms is an impossible task, and indeed that the three remaining people would lack the time and expertise to manage even a fraction of NCES's annual contracts. (Resp. App. 228-229.) IES data and support are used for Title I funding allocations as well as numerous other projects and initiatives. For example, Rhode Island depends upon IES to administer the State's own longitudinal data system, which the State uses to evaluate the success of programs in everything from computer science to the arts, to determine if students' preparation for college is rigorous, and to assess the employment outcomes of adult education programs. (App. 71a; Resp. App. 118-120.)

In addition, the States demonstrated that, because of the RIF, the Department's pace of approvals for recertifications and change requests for federal student aid has slowed, and that such delays directly injure public universities and colleges as arms of the state because they depend on meeting enrollment targets to be financially viable and provide anticipated programs. (App. 71a-72a.) For example, a technical college in Washington State came close to shutting down a new Tacoma campus, firing staff, and terminating programs because of a severe delay in the Department's approval for students at the new campus to be eligible for financial aid. (App. 71a; Resp. App. 133-

136.) Although such applications had been approved in the past in less than seven weeks, the college's application for the Tacoma campus had been sitting with no action for fourteen weeks at the time this lawsuit was filed. (Resp. App. 133-134.) The application was ultimately approved in April 2025 after more than eighteen weeks of waiting, and about a month after this lawsuit was filed. But by that time, the delay had already injured the college by leaving it unable to enroll students who depend on financial aid for the spring 2025 semester, meaning that the total enrollment for that term was just nine students—the limited few who could attend without financial aid and far short of the fifty students contemplated by the operations forecast and necessary to make the Tacoma campus financially viable. (Resp. App. 135-136.)

The States also demonstrated that the Department will be unable to administer the grant program that allows States to help students attain English language proficiency because petitioners eliminated the Office of English Language Acquisition (OELA) and transferred its functions to another unit that does not have the expertise necessary to perform OELA's statutorily mandated functions. (App. 73a; Resp. App. 162, 255.) In addition, States will be forced to dedicate greater resources to civil rights enforcement because the Department cut half of the staff at OCR, including seven of the twelve regional OCR offices. (App. 79a-82a.) As the district court noted, this is "not a situation where Plaintiff States are merely being delegated tasks previously handled by the OCR"; States must instead replace mandatory statutory functions formerly performed by OCR. (App. 80a.) States have mandatory obligations under

federal statutes, including Title VI of the Civil Rights Act, and will face increased burdens in meeting those obligations if OCR is not functional. (App. 81a-82a.)

After concluding that respondents had standing and that it had jurisdiction, the district court held that the States and other plaintiffs were likely to show that petitioners have violated the separation of powers and the Take Care Clause (App. 46a-52a), and that petitioners have also violated the APA (App. 52a-63a). The RIF was arbitrary and capricious, the district court found, because the Department had not considered how the elimination of fifty percent of the workforce would affect operations. (App. 60a.) The RIF also was contrary to law because it violated the restrictions in 20 U.S.C. § 3473 on the Secretary's authority to restructure the Department (see *supra* at 5), as well as the statutes that require the Department to perform specific statutory functions. (App. 61a-62a.) The district court likewise found that petitioners' transfer of statutory functions out of the Department failed to pass legal muster. (App. 60a n.22.) After weighing the parties' respective harms and equities, the district court enjoined the Secretary and the Department from carrying out the RIF or transferring statutory functions from the Department, and directed them "to restore the Department to the status quo such that it is able to carry out its statutory functions." (App. 88a.)

Petitioners noticed an appeal shortly after the district court's decision and filed a one-paragraph motion seeking a stay pending appeal. The district court denied the motion. (App. 142a-144a.)

D. Court of Appeals Proceedings

Petitioners then moved in the court of appeals for a stay pending appeal. Following expedited briefing, the court of appeals issued a brief order denying an administrative stay (App. 145a-146a), and a 26-page opinion explaining its reasons for denying the stay motion in full (App. 148a-173a).

First, the court of appeals concluded, contrary to petitioners' arguments, that harm to the States was "certainly impending." (App. 155a-157a (quoting *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 402 (2013)).) Specifically, the court pointed to the district court's detailed factual findings regarding the RIF's impact on particular statutorily mandated functions, such as IES's inability to collect and analyze necessary educational data. (See App. 155a n.2.; see *supra* at 10) The court of appeals also noted that petitioners had neither introduced evidence to rebut the States' evidence of the effect of the RIF, nor pointed to evidence in the record to rebut the district court's findings. (App. 156a.) With respect to the President's statement that responsibility for student loans would be stripped from the Department's responsibilities "immediately," the court of appeals found that petitioners had pointed to no record basis to doubt the President's word about this undisputedly illegal transfer. (App. 156a n.3.)

Second, the court of appeals noted that petitioners' only argument on the merits of respondents' APA claims was a single sentence generally asserting the government's authority to set staffing levels. Because petitioners did not even acknowledge—let alone dispute—the district court's factual findings regarding the

RIF's impact on statutorily mandated functions or the illegality of the transfer of statutory functions out of the Department, the court of appeals held that petitioners had failed to make the required "strong showing" (under *Nken v. Holder*, 556 U.S. 418 (2009)) that the district court's APA ruling is likely wrong.⁹ (App. 163a.)

Third, the court of appeals found that petitioners overstated the breadth of the preliminary injunction in seeking to stay it. In particular, the court of appeals rejected petitioners' interpretation of the injunction as a mandate to maintain the same level of staffing as the preceding Administration. (App. 167a.) What the district court had enjoined was specifically the March 11 RIF and the announced transfer of statutory functions out of the Department, because those actions were unlawful. (App. 167a-169a.) As relief, the preliminary injunction restored the Department to the status quo such that it is able to perform its statutory functions pending the outcome of this litigation, but did not mandate a particular staffing level or a timeframe for compliance. (App. 167a, 169a n.5.)

Finally, the court of appeals held that any monetary harm to petitioners did not outweigh the injury to respondents from the Department's inability to perform statutorily mandated functions. (App. 170a-171a.) The court of appeals also weighed the public interest in preventing unlawful agency action against petitioners' asserted interest in pursuing policy goals, and concluded that the public interest favored requiring petitioners to abide by federal law—in short, that the States' strong likeli-

⁹ In light of petitioners' failure to meaningfully defend their actions as valid under the APA, the court of appeals found it unnecessary to address respondents' constitutional arguments at this preliminary stage of the case. (App. 162a.)

hood of showing that petitioners violated the law is also a reason why the public interest lies in denying a stay.

ARGUMENT

A stay pending appeal is not a matter of right, even if irreparable injury may occur, but a matter of judicial discretion, and the party seeking the stay bears the burden of showing why the circumstances warrant that exercise of discretion. *Nken v. Holder*, 556 U.S. 418, 433-34 (2009). Four factors govern the inquiry: “(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.” *Id.* at 434 (quotation marks omitted).

When this Court is asked to grant a stay pending the filing of a petition for a writ of certiorari, the applicant must show a reasonable probability that the Court will grant certiorari. *See Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010) (per curiam). In other words, in addition to satisfying the four standard *Nken* factors, the applicant must show why this Court is likely to exercise its discretion to grant review, lest a party force a “merits preview” unnecessarily and “on a short fuse without benefit of full briefing and oral argument.” *Does 1-3 v. Mills*, 142 S. Ct. 17, 18 (2021) (Barrett, J., concurring); *see also Labrador v. Poe*, 144 S. Ct. 921, 931 (2024) (Kavanaugh, J., concurring) (certworthiness inquiry is in addition to, not subsumed in, likelihood-of-success inquiry).

**I. PETITIONERS HAVE NOT ESTABLISHED THAT THEY ARE
LIKELY TO SUCCEED ON THE MERITS.**

Petitioners do not even attempt to rebut the lower courts’ finding that petitioners’ actions are likely unconstitutional and unlawful under the APA.¹⁰ Instead, petitioners assert that, even if they have impermissibly dismantled a cabinet-level department, such that it is unable to perform its statutorily mandated responsibilities, respondents’ claims are not reviewable and they are not entitled to relief. That untenable proposition should be rejected. Petitioners fail to make a strong showing that they are likely to prevail as to any of their threshold challenges to reviewability or to the scope of relief on appeal.

A. The District Court Has Jurisdiction over Respondent States’ Claims.

1. Respondent States have standing.

A State has standing to challenge a federal official’s or agency’s conduct if the State has suffered “a concrete and imminent harm to a legally protected interest . . . that is fairly traceable to the challenged conduct and likely to be redressed by the lawsuit.” *Biden v. Nebraska*, 600 U.S. 477, 489 (2023). Providing education is a core function of state government, and enabling students to obtain education is a public function, such that any injury to this public function is “necessarily a direct injury” to the State itself. *Id.* at 491. Moreover, state-created entities directed to providing

¹⁰ Petitioners’ stay application refers the Court to their stay motion in the court of appeals for arguments that the district court erred on the merits. *See* Appl. at 34 n.7, 38. But the cited pages of the circuit filing are principally devoted to the same threshold arguments they raise in this Court. *See* Defs.’ CA1 Stay Mot. at 16-19.

education—including public universities and state agencies that help fund education through grants and financial aid—are instrumentalities of the States, and any impairment of their public purpose in providing education confers standing on the States to challenge that action on their behalf.¹¹ *Id.*

The factual record assembled by respondent States—which defendants did not even attempt to rebut—shows that States have already suffered direct injury to their educational missions and that other injuries caused by petitioners’ actions respecting the Department are imminent. *See Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158 (2014); *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 409 (2013). A sampling of these injuries is detailed below.

Federal Student Aid. A college or university may participate in federal student aid programs only if it has a program participation agreement with the Department and meets eligibility standards. *See* 20 U.S.C. §§ 1094, 1099c, 1099c-1; 34 C.F.R. pt. 668. An institution must be certified when it first accepts students on financial aid, and must be recertified every one to six years or whenever the institution adds a new campus, changes ownership, merges with another institution, or makes major program changes. (Resp. App. 156-157.) The RIF has eliminated most of the department staff who handle certifications and recertifications, including seventeen out of the eighteen financial analysts and the entire team that oversees large

¹¹ Petitioners are thus wrong to say that the district court relied on a theory of *parens patriae* standing (Appl. at 24) when it held that the RIF will injure States’ mission to educate students (App. 26a). If the RIF has injured or will injure a plaintiff State’s “performance of its public function” to educate students, then the case can go forward. *Nebraska*, 600 U.S. at 494.

school groups and foreign schools that participate in Title IV programs. (Resp. App. 157, 183-184.) Analysts with decades of experience attested that it will be impossible for the Department to perform its certification functions with the staff who remain, and that outside staff lacks the expertise to perform those functions. (Resp. App. 158, 184.) Petitioners offered no evidence to rebut these statements.

At a minimum, the threadbare staff attempting to perform certifications will not be able to do so in a timely fashion. Certifications expire on a rolling and regular basis, and the resulting backlog from demonstrably inadequate staffing is certain to leave institutions ineligible for Pell Grants, subsidized loans, and other aid. That in turn will jeopardize the very existence of state colleges and universities, which cannot meet enrollment targets or sustain financial viability without students who receive financial aid. (Resp. App. 74-82.) Although petitioners attempt to portray the injury to the States as based on “uncertainty, fear, mayes, and ifs” (Appl. at 17), petitioners have never attempted to explain how the Federal Student Aid process will function without the staff who performed essential functions, and no remarkable inference is required to conclude that state educational institutions will soon suffer lost enrollment and loss of opportunity to expand because of the Department’s incapacitation.

Indeed, the Department’s certification delays have *already* resulted in harms to a technical college in Washington State that was able to enroll only students who were not financial-aid dependent for its Spring 2025 semester, leading to enrollment of a class only one-fifth the intended size and costing the college approximately \$60,000 in tuition. See *supra* at 10-11. Contrary to petitioners’ contention (Appl. at

19), this certification delay was traceable to the RIF: when the technical college sent a post-RIF inquiry about the certification to the email address set up by FSA to answer eligibility questions, the college received no substantive response—but did get an email from a high-level political appointee implying the inquiry was inappropriate. (Resp. App. 134-135.) The certification was not approved until after the States had filed their motion for a preliminary injunction in this case. See *supra* at 9, 11.

Data Collection and Analysis. Congress created IES in the Education Sciences Reform Act of 2002. IES contains four centers focused on collecting, analyzing, and transmitting educational data. See 20 U.S.C. § 9511(c)(3). Of these four centers, the National Center for Education Statistics (NCES) is particularly critical to the States. NCES is required to “collect, report, analyze, and disseminate statistical data related to education,” including state and local education; student achievement in core academic areas; workplace conditions for teachers; violence at schools; access to early childhood education; and other topics. 20 U.S.C. § 9543(a)(1). Using the data it collects, NCES must publish an annual National Assessment of Educational Progress, see 20 U.S.C. § 9622, also known as “the Nation’s Report Card.” (Resp. App. 106, 118.) States rely on the Nation’s Report Card as the “gold standard” for assessing what American students actually know on a subject-by-subject basis, and without the annual report, States will be unable to evaluate their performance internally or as compared to other States. (Resp. App. 118.) In addition, the Department’s Office of Elementary and Secondary Education (OESE) requires data collected

by NCES to calculate Title I allocations to each State pursuant to a grant formula. (Resp. App. 230.) See *supra* at 9-10.

The RIF has reduced the size of NCES from more than *eighty* employees to just *three* employees. (Resp. App. 192-193, 228-229.) It therefore takes no remarkable inference to conclude that Title I funding will not be properly allocated among States, because the RIF has removed from NCES the staff needed to collect and verify the accuracy of educational data collected from across the country. (Resp. App. 230.) In addition, it would be virtually impossible for the three remaining NCES employees to produce the statutorily mandated Nation's Report Card, which was previously generated by thirty employees. (Resp. App. 228-229.)

Because the loss of IES data leads directly to States receiving inaccurate levels of Title I funding, petitioners are wrong (*see* Appl. at 20, 23-24) to dismiss these harms as mere informational loss. Moreover, petitioners are wrong to say (*see* Appl. at 20) that the States have no interest in the quality of research or data itself. The Department's own website acknowledges that the Nation's Report Card "is a congressionally mandated program" that IES is charged with overseeing and administering, and has provided "meaningful results" for the nation, for the States, and for local districts. U.S. Dep't of Educ., *About NAEP: A Common Measure of Student Achievement*, <https://nces.ed.gov/nationsreportcard/about/> (last updated Apr. 17, 2025) (last visited June 13, 2025). And the factual record shows that States need the Nation's Report Card data to set rigorous academic standards, and evaluate the quality of their education systems in comparison to other States. (Resp. App. 118.)

Indeed, because States themselves can collect information only from within their own borders, the Nation's Report Card and other IES data are the *only* reliable way that a State can assess its educational achievement against the nation as a whole. (Resp. App. 129.)

Finally, as two former Secretaries of the Department and a current departmental employee made clear, effectuation of the President's March 21 Directive to transfer Federal Student Aid and IDEA funding and programming out of the Department is likely to have dramatic and negative impacts on the federal government's ability to fulfill its obligations under federal law, causing direct and significant harms to the respondent States. (Resp. App. 101-102, 140, 145-146, 233.)

These harms, as well as others detailed in the district court's opinion based on the district court's extensive factual findings, are more than sufficient to confer standing on the States. And although petitioners claim that the States' injuries must be speculative because the lawsuit was filed shortly after the RIF (Appl. at 17-18), that contention is wrong for two reasons. First, the sheer scale of the RIF and the elimination of entire teams with expertise devoted to mandatory functions makes the injuries to States nonspeculative. Second, well after the initial filing of the lawsuit, the States submitted additional evidence confirming the harms. Indeed, the States filed declarations more than a month after commencement of the lawsuit showing that the Department has not yet determined how it will complete statutorily mandated tasks with the remaining staff. (Resp. App. 257.)

The complete elimination of entire teams devoted to statutorily mandated tasks also distinguishes this case from *OPM v. AFGE*, No. 24A904, 2025 WL 1035208 (U.S. Apr. 8, 2025). That case involved an order that terminated only probationary employees across several agencies, and there was no suggestion in that case that entire offices or programs had been eliminated. *See AFGE v. OPM*, No. 25-cv-1780, 2025 WL 820782, at *1 (N.D. Cal. Mar. 14, 2025). Petitioners are wrong to say that *AFGE* established a rule that any harm flowing from the termination of employees is “speculat[ive].” *See* Appl. at 21. Rather, the Court merely applied *Clapper* in an emergency order, holding that the allegations of nine plaintiffs in that particular case were “presently insufficient” to establish standing. Order, *OPM*, 24A904 (U.S. Apr. 8, 2025). Here, as the court of appeals rightly recognized (App. 157a-158a), and as discussed above (see *supra* at 17-21, *Clapper* points the other way because existing and imminent harms flow directly from the RIF.

Petitioners also err in arguing that the States have failed to show redressability because “respondents have no statutory right to any particular level of government services.” *See* Appl. at 21. This case is not one in which States are attempting to compel a federal agency to reach a particular substantive result as to any exercise of statutory authority. *Cf. United States v. Texas*, 599 U.S. 670, 681-82 (2023). Rather, the States’ allegation here is that the RIF has so starved the Department of the human resources that it needs to perform mandatory statutory functions that the Department is abdicating its statutory responsibilities. *See id.* at 682-83. In other words, the States are not alleging that their injury derives from the Department’s exercise of a

statutory function in a particular way, such as the denial of a specific certification application. Rather, the States' injuries derive from the Department's inability to perform those statutory functions *at all*.

Finally, petitioners miss the mark in suggesting that States have tried to “manufacture standing” by taking on greater civil rights enforcement. *See* Appl. at 25. As the district court correctly concluded (App. 13a-14a, 81a-82a), States have affirmative obligations under federal law, including Title VI and Title IX, to enforce civil rights laws in education. *See* 42 U.S.C. § 2000d-1; 20 U.S.C. § 1682. Without OCR's fulfillment of *its* statutory duties, States will be forced to expend more resources to comply with *their* discrete mandatory duties. (App. 81a-82a.)

2. The Civil Service Reform Act does not divest the district court of jurisdiction.

Petitioners argue (Appl. at 25-30) that, even where a RIF results in the dismantling of a cabinet-level Department, the CSRA precludes district court review. That assertion should be rejected.

The APA carries with it a strong presumption in favor of judicial review of agency action. *See Sackett v. EPA*, 566 U.S. 120, 128 (2012). Contrary to petitioners' contention, the CSRA does not overcome that presumption as to respondent States' claims. The district court correctly concluded that this case is not about the propriety of discrete employment actions, but rather about the Department's inability to perform its statutory functions. (App. 42a-45a.) In other words, the States are not suing for the benefit of department employees, but to prevent their own injuries resulting from the Department's incapacitation. When a case presents questions that

“are fundamental, even existential” about an agency’s “structure or very existence,” *Axon Enter., Inc. v. Federal Trade Comm’n*, 598 U.S. 175, 180 (2023), it would be “surprising” to conclude that Congress would have intended the case to be heard before an administrative body handling federal employment disputes—and far more likely that federal district court is the proper venue, *id.* at 189.

The heavy reliance petitioners put on *Elgin v. Department of Treasury*, 567 U.S. 1 (2012), is misplaced, because that case confirms that the CSRA’s exclusive-review mechanism applies to claims brought by federal employees and former employees challenging employment decisions. The petitioners in *Elgin* challenged their dismissal from federal jobs for failing to register for the Selective Service, and it is implicit throughout the Court’s opinion that the CSRA was at issue only because the petitioners were former employees. *See* 567 U.S. at 10 (framing question presented as “the availability of judicial review of a federal employee’s challenge to an employment decision”).

Both the majority and the dissent in *Elgin* refute petitioners’ suggestion (Appl. at 28) that when Congress enacted the CSRA, it contemplated the exclusion of nonemployees from the courts in a case that pertains to the very existence of an agency. For the six-Justice majority in *Elgin*, the case turned on the fact that it was brought by employees to challenge an action alleged to be illegal because of its effect on employment—which was true even as to the constitutional claim; namely, that requiring only males to register for the draft is unconstitutional discrimination. *See* 567 U.S. at 15. Justice Alito, in a dissent joined by two other Justices, argued that

the CSRA should be understood to channel only “fact-specific employment disputes,” not constitutional claims, especially in light of “[t]he presumptive power of the federal courts to hear constitutional challenges.” *Id.* at 24 (Alito, J., dissenting). Thus, although the majority and the dissent disagreed about whether the constitutional nature of an employee’s claim about his employment removed it from the scope of the CSRA, all nine Justices agreed that the focus of the statute was on employees as employees.

This case is far more like *Axon* than like *Elgin*. *See Axon*, 598 U.S. at 188 (considering case’s resemblance to past CSRA cases). In *Axon*, the question presented was a structural one—the “very existence of an agency” was at stake, and consequently the administrative review process at issue did not displace district court jurisdiction. *Id.* at 189. Here, too, the States’ claims are structural in nature—respondents allege that the Department has incapacitated its own ability to perform statutory functions in a manner that violates the separation of powers and the APA. *See id.* at 194 (“The Commission knows a good deal about competition policy, but nothing special about the separation of powers.”). The fact that the Department here chose to achieve its unlawful goal through the elimination of much of its workforce does not bring this case within the employment-based expertise of the Merit Systems Protection Board. *See id.* at 195. Indeed, petitioners do not appear to argue that the MSPB has expertise relevant to *any* of respondents’ claims—and that alone should be fatal to petitioners’ invocation of the CSRA. *See id.* at 188-89 (“Recall our task: to decide if a claim is ‘of

the type’ Congress thought belonged within a statutory scheme.”); *see also Thunder Basin Coal Co. v. Reich*, 510 U.S. 200, 214 (1994).

Another case cited by petitioners confirms that the CSRA was not intended to exclude States from bringing suits like this one. In *United States v. Fausto*, 484 U.S. 439, 448 (1988), the Court found evidence that Congress intended to exclude a particular class of employees from both the district courts and the MSPB, because of the “comprehensive” attention that the CSRA as a whole “gives throughout to the rights of nonpreference excepted service employees,” while omitting that employment class from the MSPB review provisions. *Id.* Petitioners do not suggest that any provision of the CSRA reflects that sort of “considered congressional judgment” with respect to respondents here.¹²

¹² Petitioners cite several other CSRA exclusion cases (Appl. at 25-30). All but one were brought by employees or unions, and are inapposite for that reason. The sole exception is a recent decision by a divided panel of the Fourth Circuit that does not clearly rest on the CSRA. *See Maryland v. USDA*, Nos. 25-1248, 25-1338, 2025 WL 1073657 (4th Cir. Apr. 9, 2025). The majority’s order in *Maryland* notes that the federal government raised both standing and CSRA-channeling arguments but does not specify which of those two arguments forms the basis for the stay—and indeed the majority offers no analysis of the parties’ CSRA arguments. *Id.* at *1. In any event, assuming the panel’s order was grounded in any part on the CSRA, the dissent persuasively explains the majority’s error: The government’s argument depended upon a faulty premise that the States are trying to vindicate the rights of employees, and the CSRA is inapplicable when the States are asserting their “separate harms as state *qua* states.” *Id.* at *3 (Benjamin, J., dissenting) (quotation marks omitted).

3. The scope of the preliminary injunction is appropriate.

An injunction may be as broad as “necessary to provide complete relief to the plaintiffs.” *Califano v. Yamasaki*, 442 U.S. 682, 702 (1970). Here, the district court appropriately tailored its injunction to ensure that the Department is able to fulfill its statutorily mandated functions while this case is litigated. None of petitioners’ challenges to the scope of the preliminary injunction has merit.

First, petitioners are wrong to argue (*see* Appl. at 31-33) that reinstatement is unavailable as a remedy under the APA. As an initial matter, the court of appeals correctly observed that petitioners did not raise this argument to the district court. (App. 166a.) Although this Court may consider “an issue not pressed [below] so long as it has been passed upon” by the court of appeals, *United States v. Williams*, 504 U.S. 36, 41 (1992), this prudential rule in cases where certiorari has been granted does not justify the extraordinary remedy of a stay pending resolution of the appeal in the court of appeals.

In any event, the argument is meritless. To be sure, courts sitting in equity are traditionally unwilling “to enforce contracts for personal service either at the behest of the employer or of the employee.” *See Sampson v. Murray*, 415 U.S. 61, 83 (1974). But there is no evidence that “a court of equity would historically have been deprived of authority to remedy the effective disabling of a cabinet department of its statutorily assigned functions” merely because the disabling occurred through the termination of staff rather than a directive to staff to cease performing certain functions. (App. 166a-167a.) Indeed, petitioners acknowledge (Appl. at 32-33) that this Court has

recognized the authority of district courts to grant injunctive relief directing the government to employ an individual. *See Sampson*, 415 U.S. at 80. If district courts have such authority in cases involving plain-vanilla employment disputes such as *Sampson*, they certainly have such authority where agency actions result in the elimination of key functions.

Second, petitioners complain that the district court exceeded its authority by ordering the reinstatement of nearly 1,400 employees. Appl. at 32-34. At the outset, and as the court of appeals has already explained (App. 167a, 169a), the preliminary injunction is tailored to remedy the injuries from *this* unlawful RIF (App. 88a). The injunction does not require the Department to permanently maintain a particular level of staffing, and petitioners are free to attempt a new RIF in accordance with the law.

More fundamentally, petitioners ask this Court to stay the injunction in full even though they never proposed a narrower alternative that would remedy respondents' injuries. Instead, petitioners maintain that the district court was required to "tailor its reinstatement order to restore any particular function or functions upon which respondents allege they rely" and to "confirm that all those functions are statutorily mandated and not discretionary" in the first instance. Appl. at 33. But unlike in other cases involving challenges to RIFs at federal agencies, petitioners never presented evidence to the district court attempting to explain how the Department is carrying out its functions at a reduced staffing level. *Contra* Decl. of Ronald J. Sartini, *Robert F. Kennedy Hum. Rts. Ctr. v. DHS*, No. 25-cv-1270 (D.D.C. June 2, 2025), ECF

No. 40-1. To the contrary, Secretary McMahon admitted to Congress earlier this month that the Department did not analyze whether it could perform its statutory functions at the reduced staffing levels prior to executing the RIF (see *infra* at 31), and petitioners have not represented that they have completed such analysis since. This Court should not reward petitioners' failure to put forward any legal argument or evidence in support of tailoring by staying the injunction in its entirety for lack of tailoring.

Finally, petitioners argue for the first time in this stay motion that the injunction is improperly broad because respondents should have framed their APA claims as seeking to "compel agency action unlawfully withheld" under 5 U.S.C. § 706(1) or pursued monetary "remedies in the Court of Federal Claims under the Tucker Act." Appl. at 34. These arguments were never presented to the district court *or* to the court of appeals, and this Court should not consider them. They are incorrect anyway. Respondents' APA challenge is based on affirmative steps that petitioners took to dismantle the Department, not on the subsequent omission of particular actions. *See Norton v. Southern Utah Wilderness All.*, 542 U.S. 55, 62 (2004) (explaining the difference between "failure to act" and "denial"). And none of respondents' claims challenge specific grant terms or conditions or seek contractual remedies that can be channeled to the Court of Federal Claims.

B. The Lower Courts Correctly Found That Petitioners’ Actions Are Likely Unlawful.

Because a stay is an exercise of judicial discretion, and because the party seeking the stay bears the burden of showing why that discretion should be exercised, *see Nken*, 556 U.S. at 433-34, petitioners’ choice not to address the ultimate merits of this action (*see* Appl. at 34 n.7) is notable, and weighs heavily against a stay. In any event, the lower courts were correct.

1. Petitioners’ actions are likely arbitrary and capricious and contrary to law, and thus violate the Administrative Procedure Act.

a. A rational agency action must offer “genuine justifications for important decisions,” so that those reasons “can be scrutinized by courts and the interested public.” *Department of Commerce v. New York*, 588 U.S. 752, 785 (2019). Here, as the district court found (App. 59a-69a), petitioners have offered no explanation for their actions beyond a generalized reference to efficiency, which itself is at odds with petitioners’ statements characterizing the challenged actions as supporting the Department’s “final mission” of closure. An “explanation for agency action that is incongruent with what the record reveals about the agency’s priorities and decisionmaking process” is inherently arbitrary and capricious. *See Department of Commerce*, 588 U.S. at 785. Here, as the district court correctly found, petitioners have never drawn any connection between the RIF and the goal of increasing efficiency—and the unrebutted factual record submitted by petitioners shows that the RIF has had the opposite effect. That is because, as the district court determined, the claimed goal of efficiency is irreconcilable with petitioners’ actual goal of closure. (App. 59a.)

Indeed, as the district court concluded, the record belies petitioners' claim that the RIF was calculated to improve efficiency as opposed to simply diminishing the Department. In February 2025, FSA directors were told to provide management with lists of tasks that are statutorily required, with a due date of March 13, 2025. (Resp. App. 237.) But the Department could not have considered those lists in choosing who to terminate, as it announced the RIF and turned off employees' computer access on March 11, 2025, two days *before* that due date. And at the same June 3 hearing that petitioners cite in their application (see Appl. at 6), Senator Murray asked Secretary McMahon whether, before imposing the RIF, the Department had considered "how the Department would still be able to execute the law after losing so many employees." *Hearing Before the Subcomm. on Lab., Health & Hum. Servs., Educ. & Related Agencies of the S. Comm. on Appropriations*, 119th Cong., 1st Sess., at 01:25:59 (2025)¹³ (McMahon testimony). Secretary McMahon replied that the plan was to "restructure the department," *id.* at 01:26:22; and when Senator Murray asked, "You didn't do an actual analysis to determine what the effects of this would be?", Secretary McMahon replied: "No." *id.* at 01:26:38.

Moreover, to the extent efficiency was the goal (though the record indicates that it was not), Congress has already made an explicit judgment that the structure of the Department *is* an efficiency. As the district court noted (App. 1a-2a), many of the statutory programs the Department administers preexisted the Department—

¹³ Available at <https://www.appropriations.senate.gov/hearings/a-review-of-the-presidents-fiscal-year-2026-budget-request-for-the-department-of-education>.

and Congress streamlined those functions by placing them under a single department. In the Department’s organizing statute, Congress found that “the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education.” 20 U.S.C. § 3401(8). And Congress declared that creating the Department “will enable the Federal Government to coordinate its education activities more effectively.” *Id.* § 3402. In furtherance of that purpose, Congress in 1979 transferred functions related to education from other agencies to the Department. *See* 20 U.S.C. § 3441 (transfers from Department of Health, Education, and Welfare); § 3443 (Department of Labor); § 3444 (National Science Foundation); § 3445 (Department of Justice); § 3446 (Department of Housing and Urban Development). And this year—almost two months after President Trump’s inauguration, four days after the RIF, and aware of the President’s goal that the Department be abolished—Congress appropriated funding for the Department to operate at the same level as in 2024. *See* Full-Year Continuing Appropriations and Extensions Act, 2025, Pub. L. No. 119-4, § 1101(a)(8), 139 Stat. 9, 11.¹⁴

¹⁴ Congress has consistently maintained its support for the Department. In 1982, President Reagan proposed a budget that would have abolished both the Department of Education and the Department of Energy. *See* Ronald Reagan, First State of the Union Address, 128 Cong. Rec. 159 (Jan. 26, 1982). Congress debated the idea, and President Reagan eventually withdrew it, conceding that the proposal had “received very little support in the Congress.” Associated Press, *Reagan Says He Won’t Seek End to Education Dept. Now*, N.Y. Times, Jan. 30, 1985, at A13. And more recently, when certain members of Congress proposed legislation in 2023 to abolish the Department, the House of Representatives rejected the proposal in a bipartisan vote. *See* Office of the Clerk, Roll Call 156, Bill Number: H.R. 5 (Mar. 24, 2023).

As they did below, petitioners concede (Appl. at 2, 6, 10) that only Congress can abolish the Department, and that the Department is bound to perform its statutory duties until that happens. But when the government takes a sweeping and unprecedented action—such as eliminating half of the employees at a cabinet-level Department, including the entirety of teams devoted to statutorily mandated functions, with more cuts likely to follow—and seeks to reassure the Court by asserting that other statutory safeguards will keep the agency in line, the government’s position “does not so much *limit* the breadth of the Government’s claimed authority as *reveal* it.” *West Virginia v. EPA*, 597 U.S. 697, 729 (2022). As the court of appeals observed, petitioners have never even attempted to “engage with the District Court’s record-based findings about the extent of the RIF or the intent behind both it and the transfer of functions to shut down the Department.” (App. 163a.) Nor have petitioners made *any* argument at any stage in these proceedings that they can lawfully transfer Federal Student Aid and IDEA programming and funding out of the Department. Petitioners’ portrayal of their actions as “streamlining” and “eliminating discretionary functions” is neither a reasoned explanation nor a factual rebuttal, but “merely favorably characterizes the actions” that violate the APA, as respondents demonstrated through their factual case. (App. 163a.)

b. Petitioners’ actions are also contrary to law. As explained above (at 5), 20 U.S.C. § 3473 bars the Secretary from restructuring the Department except in accordance with the statute’s provisions. § 3473(a)(2)-(3), (b)(2). For example, Congress permits the Secretary to consolidate or transfer the functions of OELA

(responsible for English-language learning, see *supra* at 11) or NCES (responsible for education statistics used to allocate Title I funds, among other purposes, see *supra* at 10, 19-21), among other enumerated entities. See *Id.* § 3473(b)(1). But to exercise this authority, the Secretary first must provide ninety days’ notice to the relevant House and Senate oversight committees with “a full and complete statement of the action proposed to be taken,” including the “facts and circumstances” that warrant the action. *Id.* § 3473(b)(2). In addition, § 3473 bars the Secretary from reassigning the functions of certain statutory entities to another entity (whether within the Department or to another department). *Id.* § 3473(a)(3), (b).

It is undisputed that the Department abolished OELA in its entirety, and functionally eliminated NCES by reducing its staff from eighty to three, without giving notice to Congress, in blatant violation of § 3473. See *supra* at 10, 17-19. The RIF is thus contrary to law. Yet despite the centrality of § 3473, petitioners have conspicuously refused to acknowledge the statute, let alone analyze it. Petitioners’ sole mention of § 3473 in the courts below was a single sentence in their reply brief in support of the court of appeals stay motion, in which they stated that the RIF is “not an exercise of § 3473 authority.” Defs.’ CA1 Reply Br. at 9 n.4. That is no answer, because § 3473 affirmatively restrains the Secretary’s authority to reorganize the Department. See § 3473(a)(1)-(3), (b)(2). Any action whose practical effect is to “establish, consolidate, alter, or discontinue” any “organizational entities within the Department” is contrary to law if it violates § 3473. Indeed, the drafters of the Department’s enabling Act included § 3473 specifically to prevent “the administrative

elimination of programs” Congress had created. 2 *Legislative History of Public Law 96-88, Department of Education Organization Act* 1800 (125 Cong. Rec. H8597 (Sept. 27, 1979) (remarks of Rep. Brooks)). The RIF does exactly what Congress took care to prohibit.

That petitioners used mass terminations to force a restructuring of the Department does not permit them to disregard § 3473. Accepting petitioners’ argument here would require the Court to accept that even though Congress provided a specific statutory procedure for the Secretary to consolidate or discontinue a team, the Secretary can simply fire everyone on the team, thus effectively discontinuing the team, without following the statute. As the court of appeals correctly observed, the legality of action disabling a statutory entity cannot turn on whether the disabling was achieved through a “mass termination” of the staff needed to perform the work “rather than through, say, an order for the employees not to carry out their duties.” (App. 167a.)

More fundamentally, § 3473 shows that Congress considered the limits of executive authority to reorganize the Department without congressional action, and affirmatively bounded that authority. This Court recently observed that Congress must “speak clearly” before the Secretary of Education may make sweeping, unilateral changes to programs it administers that affect millions of Americans. *Nebraska*, 600 U.S. at 507. Here, Congress has spoken clearly in *limiting* the Secretary’s authority to reorganize the Department and did so specifically to ensure that administrative action is not available to unilaterally eliminate statutory programs. If the

Administration disagrees with existing statutory law, it may propose legislation through which Congress might change its past policy judgments. And the Secretary may exercise the Department’s lawful reorganization authority under § 3473. But the Secretary cannot unilaterally redirect the nation’s approach to education by starving the Department of the staff necessary to do its work. *See id.*

2. Petitioners’ actions are likely unconstitutional.

The court of appeals found it unnecessary to consider respondents’ constitutional claims in denying a stay because it rightly concluded that respondents are likely to prevail on their APA claims. (App. 162a.) This Court likewise need not consider the likelihood of success on the merits of respondents’ constitutional claims to resolve this motion. In any event, the district court correctly held that respondents were likely to succeed on the merits of these claims.

The federal government has two elected branches: Congress, which “makes laws,” and the President, who “faithfully executes them.” *Utility Air Regul. Grp. v. EPA*, 573 U.S. 302, 327 (2014) (quotation marks and brackets omitted). The Constitution vests “[a]ll legislative Powers” in Congress. *See* U.S. Const. art. I, § 1. The executive branch has no authority to enact, amend, or repeal statutes, and under the Take Care Clause, the President must ensure that the laws are faithfully executed. *See Clinton v. City of New York*, 524 U.S. 417, 438 (1998); *see also INS v. Chadha*, 462 U.S. 919, 954 (1983). The President does not have—under the Constitution or otherwise—the power to disregard or act contrary to statutes, even in an emergency. *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952).

Here, the district court correctly found that petitioners' actions are likely unconstitutional because they "are effectively disabling the Department." (App. 48a-50a.) As explained (*supra* at 9-12, the district court identified extensive evidence—submitted by respondents and wholly unrebutted by petitioners—that petitioners are preventing the Department from fulfilling statutory obligations. In addition, defendants are not even attempting to comply with 20 U.S.C. § 3473's express restrictions on the Secretary's authority to reorganize the Department. In fundamentally reorganizing the Department in a manner "incompatible with the expressed or implied will of Congress," *Youngstown*, 353 U.S. at 637 (Jackson, J., concurring), petitioners have violated the separation of powers and the Take Care Clause.

II. THE REMAINING FACTORS WEIGH STRONGLY AGAINST A STAY.

The remaining factors all strongly counsel against a stay pending appeal. In support of their contention that this Court is likely to grant certiorari, *see Hollingsworth*, 558 U.S. at 190, petitioners point to two cases in which this Court stayed orders restraining the removal of officers who may wield executive power or challenging the President's authority over the military, and thus present issues of particularized Article II powers not at issue here. In a third case cited by petitioners, this Court, as discussed, granted a stay based on a determination of likely lack of standing. See *supra* at 22. In contrast, this case, as the lower courts found, can be resolved on a statutory basis without necessarily reaching a constitutional issue, and involves extensive factual findings by the district court showing that petitioners have

disregarded statutory mandates, and have violated the plain text of 20 U.S.C. § 3473. Under those circumstances, certiorari is unlikely to be granted.

Petitioners argue (Appl. at 36) that the Department will be irreparably harmed without a stay because the preliminary injunction requires it to restore staff more than two months after the RIF, and to cease its efforts to transfer core statutory functions to other components of the federal government. But elsewhere, petitioners argue that this case was brought too *quickly*. See Appl. at 17-18. Petitioners cannot have it both ways. Respondents moved diligently to challenge petitioners' actions, and to assemble a record of the effect of the RIF on the Department's ability to perform its statutory functions. And the difficulties the Department points to demonstrate many of the reasons why a stay would inflict harm on respondents that is greater and harder to repair than the harm that denial of a stay would inflict on the Department. According to petitioners, the preliminary injunction is burdensome because it requires the Department to reopen closed offices and renegotiate service contracts, and because employees have begun returning equipment. Appl. at 36. But as the court of appeals correctly held, the States bear the greater burden of irreparable harm because, should the States prevail on the merits, "there is no guarantee that the Department could return to effective staffing levels on a reasonable timeline," particularly because a stay of the preliminary injunction would force many employees to accept other jobs in the meantime.¹⁵ (App. 171a.)

¹⁵ Petitioners are wrong to say that respondents' claims are solely monetary. See Appl. at 38. This case is not comparable to *Department of Education v. California*,
(continued on the next page)

The main irreparable harm asserted by the Government—that the preliminary injunction improperly interferes with the operations of the executive branch—merely reargues the merits. If respondents are correct either that the RIF is an illegal reorganization in violation of 20 U.S.C. § 3473 or that the RIF has caused the Department to fail to perform statutory functions (or both), then the RIF is not a lawful exercise of executive authority, but unlawful agency action. The same is true for the States’ challenge to the transfer of core statutory functions out of the Department. Reorganization of the executive branch is a power of Congress, and Congress has constrained how the Department may reorganize without statutory authorization. Indeed, Congress has consistently rebuffed efforts to abolish the Department or reduce its funding. See *supra* at 32 n.14.

Petitioners cannot get around congressional limits on their authority by terminating half the agency, including entire teams devoted to statutory functions. This action exceeds the executive’s proper role, see *Nebraska*, 600 U.S. at 503, and petitioners are not irreparably harmed by an order against unlawful action. Nor is it “judicial micromanagement” (Appl. at 37) for a court to ensure the executive does not usurp the legislature’s role, including by pausing executive action while a case proceeds. See *Nebraska*, 600 U.S. at 507; see also *id.* at 503 (“[T]his is a case about

in which all claims before the Court pertained to direct obligations to pay grant money, see 145 S. Ct. 966, 968 (2025). As the court of appeals rightly noted, the harms to States here include lack of “statutorily mandated services” that cannot be recompensed later (App. 171a)—for example, delays in certification and recertification, loss of essential data, and increased state burden to enforce mandatory federal civil rights obligations (see *supra* at 11-12, 23).

one branch of government arrogating to itself power belonging to another. But it is the Executive seizing the power of the Legislature.”) The district court also has not substituted its policy views for those of petitioners (*cf.* Appl. at 39); rather, it has enforced Congress’s policy judgments as reflected in enacted law.

Finally, the court of appeals made clear that the injunction provides petitioners flexibility, and does not impose either a specific timeline or a minimum level of staffing (App. 169a & n.5.) Petitioners speculate that the injunction may impose other duties on them (Appl. at 37), but those speculations have no merit, because such duties do not appear on the face of the injunction. What the preliminary injunction does, in a manner that appropriately reflects respondents’ high likelihood of success on the merits and showing of irreparable harm, is ensure that the pieces necessary for the Department to function cannot be disassembled before this litigation is resolved.

CONCLUSION

The application for stay should be denied.

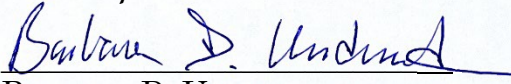
Dated: June 13, 2025

ANDREA JOY CAMPBELL
Attorney General
Commonwealth of Massachusetts
KATHERINE DIRKS
Chief State Trial Counsel
Yael SHAVIT
Chief, Consumer Protection Division
ANNA LUMELSKY
Deputy State Solicitor
ELIZABETH CARNES FLYNN
NATHANIEL HYMAN
ARJUN JAIKUMAR
Assistant Attorneys General
1 Ashburton Place
Boston, Massachusetts 02108
(617) 963-2277

ANNE E. LOPEZ
Attorney General
State of Hawai'i
DAVID D. DAY
Special Assistant to
the Attorney General
KALI KO'ONĀLANI D. FERNANDES
Solicitor General
EWAN C. RAYNER
CAITLYN B. CARPENTER
Deputy Solicitors General
425 Queen Street
Honolulu, Hawai'i 96813
(808) 586-1360

Respectfully submitted,

LETITIA JAMES
Attorney General
State of New York

By: 
BARBARA D. UNDERWOOD
Solicitor General
ESTER MURDUKHAYEVA
Deputy Solicitor General
MATTHEW W. GRIECO
Senior Assistant Solicitor General
28 Liberty Street
New York, New York 10005
(212) 416-8016

ROB BONTA
Attorney General
State of California
CARA M. NEWLON
Associate Deputy Solicitor General
MICHAEL L. NEWMAN
Senior Assistant Attorney General
SRIVIDYA PANCHALAM
JAMES E. STANLEY
Supervising Deputy Attorneys General
LUCIA J. CHOI
MEGAN RAYBURN
NATASHA A. REYES
Deputy Attorneys General
300 South Spring Street
Los Angeles, California 90013
(213) 269-6364

(Counsel listing continues below.)

KRISTIN K. MAYES
Attorney General
State of Arizona
2005 North Central Avenue
Phoenix, AZ 85004

PHIL WEISER
Attorney General
State of Colorado
1300 Broadway, #10
Denver, CO 80203

WILLIAM TONG
Attorney General
State of Connecticut
165 Capitol Avenue
Hartford, CT 06106

KATHLEEN JENNINGS
Attorney General
State of Delaware
820 North French Street
Wilmington, DE 19801

KWAME RAOUL
Attorney General
State of Illinois
115 South LaSalle Street
Chicago, IL 60603

AARON M. FREY
Attorney General
State of Maine
6 State House Station
Augusta, ME 04333

ANTHONY G. BROWN
Attorney General
State of Maryland
200 Saint Paul Place, 20th Floor
Baltimore, MD 21202

DANA NESSEL
Attorney General for
the People of Michigan
525 West Ottawa
Lansing, MI 48909

KEITH ELLISON
Attorney General
State of Minnesota
445 Minnesota Street, Suite 1400
St. Paul, MN 55101

AARON D. FORD
Attorney General
State of Nevada
1 State of Nevada Way, Suite 100
Las Vegas, NV 89119

MATTHEW J. PLATKIN
Attorney General
State of New Jersey
25 Market Street
Trenton, NJ 08625

DAN RAYFIELD
Attorney General
State of Oregon
1162 Court Street NE
Salem, OR 97301

PETER F. NERONHA
Attorney General
State of Rhode Island
150 South Main Street
Providence, RI 02903

CHARITY R. CLARK
Attorney General
State of Vermont
109 State Street
Montpelier, VT 05609

NICHOLAS W. BROWN
Attorney General
State of Washington
800 Fifth Avenue, Suite 2000
Seattle, WA 98104

JOSHUA L. KAUL
Attorney General
State of Wisconsin
Post Office Box 7857
Madison, WI 53707

BRIAN L. SCHWALB
Attorney General
District of Columbia
400 Sixth Street, NW
Washington, D.C. 20001

APPENDIX

APPENDIX

TABLE OF CONTENTS

	Page
Complaint.....	1
Executive Order, Improving Education Outcomes by Empowering Parents, States, and Communities.....	54
Linda McMahon, Secretary of Education, Speech, Our Department’s Final Mission	58
Press Release, U.S. Department of Education Initiates Reduction in Force	64
Declaration of Denise Barton	68
Declaration of Dr. John B. King, Jr.	96
Declaration Drew Echelson, Ed.D (amended)	109
Declaration of Thomas J. Kelly	123
Declaration of Dr. Joyce Loveday	132
Declaration of Arne Duncan	137
Declaration of Shayla Hamlin	149
Declaration of Chris Miller	152
Declaration of Doe Declarant 8	160
Declaration of Doe Declarant 11	179
Declaration of Doe Declarant 12	189
Declaration of Doe Declarant 16	200
Arthur Jones II, <i>McMahon Hijacks House Democrats’ Presser After Closed-Door Meeting Outside Department of Education</i> , abcnews.go.com (Apr. 2, 2025)	215
Declaration of Doe Declarant 18	223
Declaration of Doe Declarant 19	231
Declaration of Lisa Tessitore	235
Declaration of Brittany Coleman	252
Declaration of Doe Declarant 21	272
Status Report Regarding Compliance.....	280
Declaration of Rachel Oglesby.....	283

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF NEW YORK; COMMONWEALTH OF MASSACHUSETTS; STATE OF HAWAII; STATE OF CALIFORNIA; STATE OF ARIZONA; STATE OF COLORADO; STATE OF CONNECTICUT; STATE OF DELAWARE; THE DISTRICT OF COLUMBIA; STATE OF ILLINOIS; STATE OF MAINE; STATE OF MARYLAND; ATTORNEY GENERAL DANA NESSEL FOR THE PEOPLE OF MICHIGAN; STATE OF MINNESOTA; STATE OF NEVADA; STATE OF NEW JERSEY; STATE OF OREGON; STATE OF RHODE ISLAND; STATE OF VERMONT; STATE OF WASHINGTON; and STATE OF WISCONSIN;

Plaintiffs,

v.

LINDA McMAHON, in her official capacity as Secretary of Education; U.S. DEPARTMENT OF EDUCATION; and DONALD J. TRUMP, in his official capacity as President of the United States;

Defendants.

Case No. _____

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. The Department of Education is essential. Plaintiff States rely on the Department for an extraordinary array of programs. The Department provides funds for low-income children and students with disabilities. It enforces the laws that prohibit discrimination in education. It administers federal student aid programs. These are just some of the key ways the congressional acts governing the existence and responsibilities of the Department are deeply intertwined with the education systems in Plaintiff States. Incredibly, all of these significant and statutorily-mandated

functions were covered by a lean staff of only 4,133 people—until March 11, when the Department of Education announced through a press release that it is reducing that staff by 50%. *U.S. Department of Education Initiates Reduction in Force*, Press Release, Department of Education (Mar. 11, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-initiates-reduction-force> (“March 11 Press Release”). This massive reduction in force (RIF) is equivalent to incapacitating key, statutorily-mandated functions of the Department, causing immense damage to Plaintiff States and their educational systems.

2. Although the Department’s March 11 Press Release says that the Department “will continue to deliver on all statutory programs that fall under the agency’s purview,” *id.*, that assertion is easily belied by the extent and effect of the RIF. So too is the assertion from Secretary McMahon, later on March 11, that the terminations were the “first step” on the road to a “total shutdown” of the Department. Filip Timotija, *Education Secretary: Mass layoffs First Step Toward Total Shutdown*, The Hill (Mar. 12, 2025), <https://thehill.com/homenews/education/5190161-linda-mcmahon-education-department-mass-layoffs>.

3. Far from being just a “first step,” the lay-offs are an effective dismantling of the Department. Based on figures provided in the March 11 Press Release, the announced RIF displaces approximately 1,378 employees, all of whom “will be placed on administrative leave” beginning on March 21. March 11 Press Release. These employees join around 600 others who took earlier buy-out offers. *Id.* The press release states that “[a]fter today’s actions, the Department’s workforce will total roughly 2,183 workers,” an approximately 50% cut from the 4,133 workers the Department of Education had “[w]hen President Trump was inaugurated.” *Id.*

4. The RIF is so severe and extreme that it incapacitates components of the Department responsible for performing functions mandated by statute, effectively nullifying those

mandates. For example, seven regional offices of the Department’s Office for Civil Rights (OCR)—including those in New York, Boston, San Francisco, Philadelphia, and Chicago—have been closed down entirely. Juan Perez, Jr. & Rebecca Carballo, *Education Department Documents Detail Massive Scope of Agency Worker Terminations*, Politico (Mar. 12, 2025), <https://www.politico.com/news/2025/03/12/education-department-documents-detail-agency-worker-terminations-00226222>.

5. This massive RIF is not supported by any actual reasoning or specific determinations about how to eliminate purported waste in the Department—rather, the RIF is part and parcel of President Trump’s and Secretary McMahon’s opposition to the Department of Education’s entire existence. The Administration’s goal of eliminating the Department of Education by any means necessary has been plainly and repeatedly stated: President Trump called the Department “a big con job” and declared that he would “like to close it immediately.” Michael C. Bender, *Trump Is Said to Be Preparing Order That Aims to Eliminate Education Dept.*, The New York Times (Mar. 6, 2025), <https://www.nytimes.com/2025/03/06/us/politics/trump-education-department-executive-order.html>. He also stated that he would like Secretary McMahon to put herself “out of a job.” Zachary B. Wolf, *Trump and Musk are moving to smother these three pieces of the government*, CNN (Feb. 5, 2025). Secretary McMahon has affirmed that “President Trump believes that the bureaucracy in Washington should be abolished so that we can return education to the states, where it belongs,” and that she “wholeheartedly support[s] and agree[s] with this mission.” Lexi Lonas Cochran, *McMahon says she ‘wholeheartedly’ agrees with Trump plan to abolish Education Department*, The Hill (Feb. 25, 2025), <https://thehill.com/homenews/education/5162816-mcmahon-abolish-education-department-trump/>. On March 3, 2025, Secretary McMahon asked employees to join her in “perform[ing] one

final, unforgettable public service to future generations of students” by dismantling the Department of Education. *Secretary McMahon: Our Department’s Final Mission*, U.S. Department of Education (Mar. 3, 2025), <https://perma.cc/F7BT-MQ3D>. On the evening of March 11, Secretary McMahon stated that “the President’s mandate,” his “directive to me, clearly, is to shut down the Department of Education.” *See* Timotija, *Education Secretary*, cited *supra* ¶ 2.

6. But the Trump Administration cannot dismantle the Department of Education. It cannot override—whether through large-scale RIFs or otherwise—the statutory framework prescribing the Department’s responsibilities. As the Supreme Court put it nearly a century ago, “[t]o Congress under its legislative power is given the establishment of offices [and] the determination of their functions and jurisdiction.” *Myers v. United States*, 272 U.S. 52, 129 (1926). And, thus, administrative agencies “are creatures of statute.” *Nat’l Fed. of Indep. Bus. v. OSHA*, 595 U.S. 109, 117 (2022).

7. Past attempts to eliminate the Department of Education have reflected these limitations on executive power. President Reagan sought legislation to dismantle the Department of Education, which Congress did not pass. *See* Ronald Reagan, *Address Before a Joint Session of the Congress Reporting on the State of the Union* (Jan. 26, 1982) (“The budget plan I submit to you . . . will realize major savings by dismantling the Departments of Energy and Education.”), available at <https://nationalcenter.org/ncppr/2001/11/04/ronald-reagans-first-state-of-the-union-1982>. Since then, numerous bills have been introduced to shutter the Department of Education. *See* Mona Vakilifathi, *Why Trump is Trying to Reduce the Status of the Department of Education*, Brookings Inst. (July 16, 2018), <https://www.brookings.edu/articles/why-trump-is-trying-to-reduce-the-status-of-the-department-of-education>. Each of these efforts reflects the uncontroversial understanding that only Congress may abolish an agency it created.

8. And while Congress has granted the Secretary of Education—though not the President—the authority to modestly restructure the Department of Education, she is expressly limited to “allocat[ing] or reallocat[ing] functions among the officers of the Department” or modifying “organizational entities within the Department as may be necessary or appropriate.” 20 U.S.C. § 3473(a). She is not permitted to eliminate or disrupt functions required by statute, nor can she transfer the Department’s responsibilities to another agency outside of its statutory authorization. *Id.*

9. Because neither the President nor his agencies can undo the many acts of Congress that authorize the Department, dictate its responsibilities, and appropriate funds for it to administer, the President’s directive to eliminate the Department of Education (“Directive”)—including through the March 11 decimation of the Department’s workforce and any other agency implementation—is an unlawful violation of the separation of powers, and the Executive’s obligation to take care that the law be faithfully executed.

10. The Department’s implementation of the Directive, including through the March 11 RIF, is separately unlawful because it violates the Administrative Procedure Act (APA). It is arbitrary and capricious, and contrary to law.

11. For these reasons, Plaintiff States seek declaratory and injunctive relief against the Directive and any implementation of it by Secretary McMahon and the Department of Education, including the March 11 RIF.

JURISDICTION AND VENUE

12. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (action arising under the laws of the United States). Jurisdiction is also proper under the judicial review provisions of the APA. 5 U.S.C. §§ 702, 704. An actual controversy exists between the parties

within the meaning of 28 U.S.C. § 2201(a), and this Court may grant declaratory relief, injunctive relief, and other relief pursuant to 28 U.S.C. §§ 2201–2202 and 5 U.S.C. §§ 705, 706.

13. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)(2) and (e)(1) because a substantial part of the events or omissions giving rise to the claims asserted herein occurred in this district, and Defendants are United States agencies or officers acting in their official capacities.

PARTIES

A. Plaintiffs

14. Plaintiff State of New York is a sovereign state of the United States of America. As a body politic and a sovereign entity, it brings this action on behalf of itself and as trustee, guardian, and representative of all residents, and political subdivisions of New York. Attorney General Letitia James is the chief law enforcement officer for New York.

15. Plaintiff Commonwealth of Massachusetts is a sovereign commonwealth in the United States of America. Massachusetts is represented by Attorney General Andrea Campbell, who is the chief law enforcement officer of Massachusetts.

16. Plaintiff State of Hawai'i, represented by and through Attorney General Anne E. Lopez, is a sovereign state of the United States of America. The Attorney General is Hawai'i's chief legal officer and chief law enforcement officer and is authorized by Hawaii Revised Statutes § 28-1 to pursue this action.

17. Plaintiff State of California is a sovereign state in the United States of America. California is represented by Attorney General Rob Bonta, who is the chief law enforcement officer of California.

18. Plaintiff State of Arizona, represented by and through its Attorney General, is a sovereign state of the United States of America. Arizona is represented by and through its chief legal officer, Kristin K. Mayes. *See* Ariz. Rev. Stat. § 41-192(A). Attorney General Mayes is authorized to pursue this action on behalf of the State of Arizona. *Id.*

19. Plaintiff State of Colorado is a sovereign state in the United States of America. Colorado is represented by and through its Attorney General Phil Weiser. The Attorney General acts as the chief legal representative of the state and is authorized by Colo Rev. Stat. § 24-31-101 to pursue this action.

20. Plaintiff State of Connecticut is a sovereign state of the United States of America. Connecticut is represented by and through its chief legal officer, Attorney General William Tong, who is authorized under General Statutes § 3-125 to pursue this action on behalf of the State of Connecticut.

21. Plaintiff State of Delaware, represented by and through its Attorney General, Kathleen Jennings, is a sovereign state of the United States of America. The Attorney General is Delaware's chief law enforcement officer and is authorized to pursue this action pursuant to 29 Del. C. § 2504.

22. Plaintiff District of Columbia is a municipal corporation organized under the Constitution of the United States. It is empowered to sue and be sued, and it is the local government for the territory constituting the permanent seat of the federal government. The District is represented by and through its chief legal officer, Attorney General Brian L. Schwalb. The Attorney General has general charge and conduct of all legal business of the District and all suits initiated by and against the District and is responsible for upholding the public interest. D.C. Code. § 1-301.81.

23. Plaintiff State of Illinois is a sovereign state in the United States of America. Illinois is represented by Attorney General Kwame Raoul, who is the chief law enforcement officer of Illinois.

24. Plaintiff State of Maine is a sovereign state of the United States of America. Maine is represented by its Attorney General, who is authorized to pursue this action pursuant to 5 Me. Rev. Stat. § 191.

25. Plaintiff State of Maryland is a sovereign state of the United States of America. Maryland is represented by Attorney General Anthony G. Brown, who is the chief legal officer of Maryland.

26. Plaintiff the People of the State of Michigan is represented by Attorney General Dana Nessel. The Attorney General is Michigan's chief law enforcement officer and is authorized to bring this action on behalf of the People of the State of Michigan pursuant to Mich. Comp. Laws § 14.28.

27. Plaintiff State of Minnesota is a sovereign state of the United States of America. Minnesota is represented by Attorney General Keith Ellison, who is the chief law enforcement officer of Minnesota.

28. Plaintiff State of Nevada is a sovereign state of the United States of America. Nevada is represented by and through its chief legal officer, Attorney General Aaron D. Ford. The Attorney General has the authority to file this suit to protect and secure the interests of the State. NRS 228.170.

29. Plaintiff State of New Jersey is a sovereign state in the United States of America. New Jersey is represented by Attorney General Matthew Platkin, who is the chief law enforcement officer of New Jersey.

30. Plaintiff State of Oregon is a sovereign state of the United States of America. Oregon is represented by Attorney General Dan Rayfield, who is the chief law enforcement officer of Oregon.

31. Plaintiff State of Rhode Island is a sovereign state in the United States of America. Rhode Island is represented by Attorney General Peter F. Neronha, who is the chief law enforcement officer of Rhode Island.

32. Plaintiff State of Vermont is a sovereign state of the United States of America. Vermont is represented by its Attorney General, who is the State's chief legal officer and authorized to pursue this action on behalf of the State. Vt. Stat. Ann. tit. 3, § 159.

33. Plaintiff State of Washington, represented by and through its Attorney General, is a sovereign state of the United States of America. The Attorney General is Washington's chief law enforcement officer and is authorized under Wash. Rev. Code § 43.10.030 to pursue this action.

34. Plaintiff State of Wisconsin is a sovereign state of the United States of America. Wisconsin is represented by Attorney General Josh Kaul, who is the chief law enforcement officer of Wisconsin.

B. Defendants

35. Defendant Linda McMahon is the Secretary of the United States Department of Education and that agency's highest ranking official. She is charged with the supervision and management of all decisions and actions of the agency. She is sued in her official capacity. 20 U.S.C. § 3412.

36. Defendant the United States Department of Education is a cabinet agency within the executive branch of the United States government that has been created by Congress. 20 U.S.C.

§ 3411. Defendants United States Department of Education and Linda McMahon are jointly referred to as “Agency Defendants.”

37. Defendant Donald J. Trump is the President of the United States. He is responsible for the actions and decisions that are being challenged by Plaintiffs in this action and is sued in his official capacity.

LEGAL BACKGROUND

A. The Executive Has No Authority to Incapacitate a Congressionally Created Agency.

38. It is a bedrock constitutional principle that the President and his agencies cannot make law. Rather, they can only—and indeed, they must—implement the laws enacted by Congress, including those statutes that create federal agencies and dictate their duties. The Executive thus can neither outright abolish an agency nor incapacitate it by cutting away the personnel required to implement the agency’s statutorily-mandated duties.

39. Article I, Section 1 of the United States Constitution enumerates that: “[a]ll legislative Powers herein granted shall be vested in Congress.” U.S. Const. Art. I, § 1.

40. “The Framers viewed the legislative power as a special threat to individual liberty, so they divided that power to ensure that ‘differences of opinion’ and the ‘jarrings of parties’ would ‘promote deliberation and circumspection’ and ‘check excesses in the majority.’” *Seila Law LLC v. CFPB*, 591 U.S. 197, 223 (2020) (quoting *The Federalist* No. 70, at 475 (A. Hamilton) and No. 51, at 350).

41. “As Chief Justice Marshall put it, this means that ‘important subjects . . . must be entirely regulated by the legislature itself,’ even if Congress may leave the Executive ‘to act under such general provisions to fill up the details.’” *West Virginia v. EPA*, 597 U.S. 697, 737 (2022) (Gorsuch, J., concurring) (quoting *Wayman v. Southard*, 10 Wheat. 1, 42–43, 6 L.Ed. 253 (1825)).

42. Congress has exclusive authority to abolish executive agencies, and either redistribute their functions to existing or newly created agencies, or to discontinue their functions. *See, e.g.*, Homeland Security Act of 2002, Pub. L. 107-296, 116 Stat. 2135, §§ 471, 441, and 451(b) (abolishing Immigration and Naturalization Service and transferring its functions to the newly-created Department of Homeland Security); Foreign Affairs Reform and Restructuring Act of 1998, Pub. L. 105-277, Division G; 112 Stat. 2681 (abolishing several agencies and consolidating their functions within the Department of State, and creating USAID as an independent executive agency).

43. The Constitution vests executive power in the President. U.S. Const., art. II, § 1. The primary function of the President is understood to be cabined in the “Take Care” clause, which requires that the President “shall take Care that the Laws be faithfully executed.” U.S. Const., art. II, § 3. Nothing in Article II can be construed to authorize the Executive to dismantle a statutorily created agency directly or indirectly.

44. The Executive has no authority to enact, amend, or repeal statutes. *Clinton v. City of New York*, 524 U.S. 417, 438 (1998). The Executive does not have, under the Constitution or otherwise, an undefined “inherent” power, even in “emergency” circumstances, to unilaterally decide to ignore statutes. *See Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952).

45. Indeed, the Executive acts at the “lowest ebb” of his constitutional authority and power when he acts contrary to “the express or implied will of Congress.” *Id.* at 637 (Jackson, J., concurring).

B. The Statutory Framework Authorizing the Department of Education.

46. In 1979, pursuant to its constitutional authority, Congress established the Department of Education, and many of its offices, by statute with the enactment of the Department

of Education Organization Act. That Act made express findings about the importance of the Department’s mission. Department of Education Organization Act, Pub. L. 96-88, 93 Stat. 669 (1979) (codified as amended at 20 U.S.C. §§ 3401–3510); *see also* 20 U.S.C. §§ 3411–3427 (offices); *id.* §§ 3401–3402 (findings and purpose).

47. “[P]rimary responsibility for establishing policy and providing funding for elementary and secondary education rests with the states and instrumentalities therein,” but the Department of Education “has primary responsibility for administering federal elementary, secondary, and postsecondary education programs.” *See* Rebecca R. Skinner et al., *A Summary of Federal Education Laws Administered by the U.S. Department of Education*, Cong. Rsch. Serv. (Dec. 12, 2024) (hereinafter, “the Skinner Report”).

48. Over time, Congress has enacted more statutes authorizing additional functions for the Department of Education and appropriating additional funds for it to administer. The major statutes administered by the Department (as detailed in the Skinner Report, *see id.*) include:

a. The Elementary and Secondary Education Act (ESEA). The ESEA (Pub. L. 89-10, as amended) was enacted in 1965 and was last reauthorized in 2015 by the Every Student Succeeds Act (ESSA) (Pub. L. 114-95). Title I-A, the largest ESEA program, provides compensatory grants to local educational agencies (LEAs). Congress appropriates funds for ESEA on an annual basis.

b. The Individuals with Disabilities Education Act (IDEA). In 1975, Congress enacted Pub. L. 94-142 (now known as the IDEA), which authorizes grant programs that support legally-mandated early intervention and special education services for children with disabilities from birth to age 21. The IDEA was last reauthorized in 2004 (Pub. L. 108-446). Over 90% of IDEA funds are appropriated

for Part B (Section 611), which provides funding for special education services for school-aged children. The authorization of appropriations for Part B is permanent. Funds for Part C—which authorizes state grants for infants and toddlers with disabilities—and Part D—which authorizes national activities—have been appropriated on an annual basis.

c. Higher Education Act of 1965 (HEA). The HEA (Pub. L. 89-329, as amended) was enacted in 1965. It was last comprehensively reauthorized by the Higher Education Opportunity Act of 2008 (HEOA) (Pub. L. 110-315) and has since been amended multiple times. Title IV of the HEA authorizes a number of student aid programs that assist students with postsecondary education expenses. These include the Federal Pell Grant program, the William D. Ford Federal Direct Loan program, and the Federal Work-Study program. The HEA also authorizes programs providing federal support directly to institutions of higher education through Title III and Title V. HEA programs are funded through a combination of discretionary and mandatory appropriations. Mandatory funding for the Direct Loan program is permanently authorized, and mandatory funding for the Federal Pell Grant program is permanently appropriated. Funding continues to be appropriated for other HEA programs annually.

d. Rehabilitation Act of 1973. Under the Rehabilitation Act of 1973 (Pub. L. 93-112, as amended), the Department provides funds to support vocational rehabilitation services primarily through the State Vocational Rehabilitation Services Program, which supports services to help individuals with disabilities. Congress continues to appropriate funding for the program annually.

e. Civil Rights Laws. The Department is also charged with enforcing various civil rights laws that prohibit discrimination in all programs or activities that receive federal financial assistance (unless otherwise noted). These include Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352, as amended); Title IX of the Education Amendments of 1972 (Pub. L. 92-318, as amended); Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112, as amended); the Age Discrimination Act of 1975 (Pub. L. 94-135, as amended); and Title II of the Americans with Disabilities Act of 1990 (Pub. L. 101-336, as amended).

f. Privacy Rights Laws. The Department also enforces laws that protect student privacy rights: (1) the Family Educational Rights and Privacy Act (FERPA); and (2) the Protection of Pupil Rights Amendment (PPRA).

49. Congress has granted the Secretary of Education limited discretion to reallocate functions within the Department, but that authority is modest, and in no way includes the power to eliminate statutorily-created functions. The Secretary is authorized to “allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate.” 20 U.S.C. § 3473(a). “[B]ut the authority of the Secretary” under these provisions “does not extend to: (1) any office, bureau, unit, or other entity transferred to the Department and established by statute or any function vested by statute in such an entity or officer of such an entity, except as provided in subsection (b); (2) the abolition of organizational entities established by this chapter; or (3) the alteration of the delegation of functions to any specific organizational entity required by this chapter.” *Id.* By statute, there are fourteen offices and programs that may be “consolidate[d], alter[ed], or discontinue[d],” or have their “functions” “reallocate[d]” by the Secretary. *Id.*

§ 3473(b)(1). Even then, however, the Secretary must give the congressional committees of jurisdiction “a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of such proposed action,” and then wait ninety days before acting. *Id.* § 4373(b)(2).

50. Thousands of employees have administered the many programs the Department is mandated to operate. Nothing in the numerous statutes creating the Department and describing its mandated functions can be construed as authorizing the Executive to gut an agency such that it can no longer meet its statutory obligations.

C. Requirements Governing RIFs.

51. The Department may engage in limited restructuring and downsizing of its workforce through a RIF, “an administrative procedure by which agencies eliminate jobs and reassign or separate employees who occupied the abolished positions.” *James v. Von Zemenszky*, 284 F.3d 1310, 1314 (Fed. Cir. 2002). But the Department’s authority to administer RIFs does not override Congress’s exclusive authority to abolish executive agencies or to discontinue their functions. And an agency cannot use a RIF to unilaterally cease implementing the agency’s statutorily-mandated duties.

52. Consistent with those limits, any federal agency reducing staff pursuant to a RIF must follow specific statutory and regulatory procedures. These include following required retention preferences for employees. “[I]n any reduction in personnel in any civilian service of any Federal agency, competing employees shall be released in accordance with Civil Service Commission regulations which shall give due effect to tenure of employment, military preference, length of service, and efficiency ratings.” *James*, 284 F.3d at 1314–15; *see also* 5 U.S.C. § 3502(a).

53. All civilian employees in the executive branch of the federal government, including employees of the Department of Education, are covered by the Office of Personal Management's (OPM) regulations regarding RIFs. 5 C.F.R. § 351.202(a). All agencies of the federal government are required to follow the OPM regulations "when the agency determines that a [RIF] is necessary." 5 C.F.R. § 351.204.

FACTUAL ALLEGATIONS

54. The Department of Education operates programs that touch on nearly every aspect and level of education. The Department's elementary and secondary programs annually serve nearly 18,200 school districts and over 50 million students attending roughly 98,000 public schools and 32,000 private schools, while the Department's higher education programs provide services and support to more than 12 million postsecondary students.

A. The Department of Education's Support Across All Spectrums of Education.

55. The Department of Education is among the smallest federal agencies, yet it is charged with performing an immense breadth of work.

The Department's Support for Birth-to-Grade 12 Educational Programs.

56. In federal fiscal year 2024, the Department directed 25.4% of its total spending to states and local governments. The federal government provides 13.6% of the funding for public K–12 education.

57. The two largest sources of federal funding for schools are Title I funding and IDEA funding. The Department of Education distributes over \$18 billion under the Title I program to help support schools with high-poverty populations, providing benefits like extra staff to supplement reading instruction. The Department disburses over \$15 billion in IDEA funding, which helps cover the costs of special education.

58. Public education funding varies significantly across states. K–12 schools in Alaska receive the most federal funding per pupil, followed by North Dakota. Utah and Kansas receive the least federal funding per pupil. New York and Massachusetts are among those that receive the least federal funding per pupil. Nevertheless, every state receives considerable federal funding and services from the Department.

59. The K–12 funding provided by the Department supports a wide variety of educational programs and needs: special education, including paying for assistive technology for students with disabilities; the payment of teacher salaries, and benefits, school counselors, and homeless liaisons; the professional development and salaries for special education teachers, paraprofessionals, and reading specialists; transportation to help children receive the services and programming they need; and physical therapy, speech therapy, and social workers.

60. For instance, Department of Education funding supports education of students with disabilities, both in public and private schools. Funding through IDEA, 20 U.S.C. §§ 1400–1409, pays for a broad range of special education services required by individualized education programs (IEPs) for students with disabilities attending public schools. IDEA funding also helps school districts pay for the costs of placing students with disabilities who need out-of-district placements in special education schools and programs that can meet their needs. *E.g.*, 34 C.F.R. §§ 300.145–300.146. IDEA also provides funding for equitable services for students with disabilities attending regular private schools. 34 C.F.R. §§ 300.130–300.138. IDEA funding helps support the cost of salaries of special education teachers and other service providers who provide direct instruction and services to students with disabilities, such as speech-language pathologists, reading specialists, physical and occupational therapists, audiologists, psychologists, behavioral therapists, deaf and hard of hearing instructors, and other service providers. IDEA funding also supports the cost of

augmentative communication equipment and devices for students with disabilities with speech, language or communication impairments. IDEA also funds the costs of providing Extended School Year programs for students with disabilities who need continuous support outside of the academic year to help students maintain their academic, social, behavioral, and communication skills. IDEA funding also supports professional development activities for special education teachers and other service providers who work with students with disabilities to better meet the students' needs. IDEA funding supports special education instruction and services to students with disabilities who are in institutional settings.

61. The Department of Education also administers grants for various disaster and emergency-related relief and preparations, through the Office of Elementary and Secondary Education and the Department's Disaster Recovery Unit.

62. Department of Education funding also supports early childhood education for children from birth through kindergarten. For instance, the Preschool Development Grant Birth through Five program is a \$250 million competitive federal grant designed to improve states' early childhood systems by building upon existing federal, state, and local early care and learning investments.

The Department's Role in Providing Administrative and Substantive Services for Birth-to-Grade 12 Education.

63. The Department of Education's statutory mission includes promoting "improvements in the quality and usefulness of education through federally supported research, evaluation and sharing of information." 20 U.S.C. § 3402(4).

64. To that end, the Department of Education gathers data, identifies best practices in pedagogy, and disseminates that research to educators and others. The Department also operates several National Centers housed within the Institute of Education Sciences, all of which conduct

research, collect and analyze data, and provide technical assistance to educators, parents, students, policymakers, and the general public on a range of topics aimed at improving academic achievement for all children and ensuring the effectiveness of educational programs. *See* 20 U.S.C. §§ 3419, 9511(a) (establishing the Institute of Education Sciences); 20 U.S.C. § 9531(a) (establishing a National Center for Educational Research); 20 U.S.C. § 9541(a) (establishing the National Center for Education Statistics); 20 U.S.C. § 9561(a) (establishing the National Center for Education Evaluation and Regional Assistance); 20 U.S.C. § 9567(a) (establishing the National Center for Special Education Research). The Department, for example, creates resources to support educators and school districts in meeting academic standards, providing education to children who are English language learners, addressing school safety, bullying, and chronic absenteeism, supporting children with significant behavioral issues, and other important topics.

65. The Department's Office of English Language Acquisition, Language Enhancement and Academic Achievement for Limited English Proficient Students oversees policy for the education needs of linguistically and culturally diverse students. 20 U.S.C. § 3420.

66. The Student Privacy Policy Office implements FERPA and PPRA, both of which specifically mandate the creation of an office and review board to investigate, process, review, and adjudicate violations of the student privacy laws. 20 U.S.C. §§ 1232g(g), 1232h(f).

67. The Department's Office of Safe and Healthy Schools administers, coordinates and recommends policy for programs such as drug and violence prevention programs, character and civic education, and a variety programs supporting students' physical and mental health.

68. The Department's Office of Special Education and Rehabilitative Services (OSERS) provides guidance, technical assistance, and oversight of special education requirements under the IDEA. 20 U.S.C § 3417. The Office of Special Education Programs, established within

OSERS, administers programs concerning education of children with disabilities. 20 U.S.C. § 1402(a).

69. The Department provides guidance relating to the educational rights of students who are homeless under the McKinney-Vento Homeless Assistance Act, 42 U.S.C. §§ 11301–11481. Similarly, the Department provides guidance regarding protections for students in foster care under the ESSA.

70. The Department collects and publishes data relating to education services across the country. For example, it conducts the Civil Rights Data Collection, through which it compiles and publishes data on a broad range of civil rights related topics that serve as a valuable resource to state educational agencies.

The Department's Role in Safeguarding Equal Access to Public Education.

71. The Department of Education plays a critical role in safeguarding equal access to public education through transparency and accountability. The Department's Office for Civil Rights (OCR) was created by Congress and has historically focused on ensuring that schools provide equal access to education across diverse student bodies. 20 U.S.C. § 3413.

72. OCR directs, coordinates, and recommends policy for activities that are designed to, among other things, comply with legislative and regulatory civil rights requirements. For example, in May 2022, OCR announced proposed amendments to the Department of Education's regulations implementing Section 504 of the Rehabilitation Act of 1973. *U.S. Department of Education Announces Intent to Strengthen and Protect Rights for Students with Disabilities by Amending Regulations Implementing Section 504* (May 2022), available at <https://www.ed.gov/about/ed-offices/ocr/news-room#2022>. As part of that process, OCR sought and considered written suggestions from the public about how best to improve the current

regulations. *Id.* In 2024, OCR also promulgated regulations implementing Title IX of the Education Amendments of 1972, restoring strong protections against sexual harassment and assault and reinforcing critical protections for LGBTQ+ students. *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*, 89 Fed. Reg. 33,474 (Apr. 29, 2024).

73. OCR is charged with enforcing and investigating alleged violations of various federal civil rights laws that protect students against discrimination, including Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. OCR has a responsibility to act in a reasonably prompt manner in response to alleged violations of these laws.

74. In FY 2024, OCR reviewed the highest volume of complaints ever, totaling 22,687 complaints. U.S. Department of Education Office for Civil Rights, *2024 Fiscal Year Annual Report* (2024), available at <https://www.ed.gov/media/document/ocr-report-president-and-secretary-of-education-2024-109012.pdf>. That number represented an 18% increase over a previous record high in FY 2023 of 19,201 complaints. *Id.*

75. In addition to their enforcement and investigative work, OCR has provided trainings and technical assistance to state educational agencies and local educational agencies on civil rights laws. For example, OCR provided training to state and local educational agencies regarding digital accessibility of websites and other electronic documents for individuals who have disabilities, including blindness.

The Department's Administration of Higher Education Programs and the Federal Student Loan System.

76. The federal student loan programs administered under Title IV of the Higher Education Act of 1965, as amended, are central components of the financial aid provided to

students in Plaintiff States. These programs are designed to provide critical assistance to prospective students and expand access to higher education to students who could not otherwise afford to pursue a degree or certificate.

77. The Department manages the federal student loan system through its Office of Federal Student Aid (FSA), which handles loan disbursement, servicing and borrower assistance. 20 U.S.C. § 1018.

78. Included in this system is the administration of Pell Grants, work-study programs and subsidized loans. The Department awards more than \$120 billion a year in grants, work-study funds, and low-interest loans to approximately 13 million students. Much of this funding is sent directly to colleges and universities, including public colleges and universities in the Plaintiff States. If Program Participation Renewals are not processed in a timely manner, it could impact the ability of institutions to operate and most of their student to attend the institution by functionally eliminating the availability of financial aid.

79. The Office of Federal Student Aid develops the *Free Application for Federal Student Aid* (FAFSA) form and processes, with vendors, more than 17.6 million FAFSA forms each year. The deadline for applicants to submit their FAFSA forms is June 30, 2025, although many students submit their FAFSA forms earlier, as their decision about whether they can afford to attend college and, if so, which college, is necessarily dependent on learning what financial aid they qualify for. If FAFSA forms are not processed on time, this will mean that many students may seek to delay their decisions about *which* college to attend, and many students will decide to *postpone* attending college, for a year or indefinitely.

80. While the Department distributes this funding to institutions of higher education, it also ensures that the institutions receiving Title IV funding are financially responsible. The

Secretary of Education determines the standard of financial responsibility and enforces it as required under the HEA. When something happens that could affect an institution's financial responsibility, the institution is required to notify the Department within 21 days. If such notifications are no longer monitored by the Department, institutions that continue to receive Title IV funding could engage in wasteful or unnecessary spending without repercussion.

81. Under the HEA, the Department enforces the requirement that institutions of higher education provide counseling to new students as well as graduating students with information about debt management and repayment. If the Department ceased enforcement of these programs, it would become substantially more difficult to ensure that institutions provide this counseling. Accordingly, students could lose the opportunity to make informed decisions about their student loan debt, or could even become unwitting victims of predatory lending.

82. The Department's responsibilities are not just financial. The Department manages large-scale data collection and enforcement which would not be possible on a state-by-state basis. Such data are described in various Congressional Acts and often implicate campus safety. Collecting this vital data across states, and therefore monitoring nationwide trends, would be infeasible for individual states to perform and would thereby go unenforced.

83. For instance, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act") also requires colleges and universities to disclose, via an annual report, certain crimes that occur in certain places if they are reported to certain people. *See* 20 U.S.C. § 1092; 34 CFR 668.46. If the Department no longer processed the notice and reports made under this and other statutes, colleges and universities would lose a valuable partner in supporting their compliance with these reporting requirements and in interpreting and responding to the

information gathered, which in turn would impede the ability of colleges and universities to keep their campus safe.

84. Similarly, the Department enforces reporting and compliance of campus safety with regard to drug and alcohol use under the Drug Free Schools and Communities Act and the HEA. These statutes require institutions of higher education to maintain policies surrounding illegal drug and alcohol use, and to determine the number of drug- and alcohol-related violations and fatalities associated with the institution. The Department collects this information from institutions and ensures compliance. Were the Department to cease enforcement of these Acts, institutions would no longer need to monitor and report this data, impacting campus safety.

85. The Violence Against Women Act requires the Secretary of Education to nationally survey reports of sexual and domestic violence or harassment across institutes of higher education. The Secretary of Education is required to report the data biennially, which institutions receiving federal funding must in turn publish (at a campus level) on their websites. This allows current or prospective students to make informed decisions regarding their place of education. Were the Department to cease collection of this information, not only would campus safety be affected by the lack of enforcement, but the Secretary of Education would be in violation of the Violence Against Women Act.

86. The Family Educational Rights and Privacy Act (FERPA) is enforced by the Department. It requires that institutions of higher education allow students to inspect their records, and that institutions obtain written request before sharing such records with external personnel. Lack of enforcement of FERPA places students' data security and private records at risk.

87. The Department's Office of Postsecondary Education is responsible for formulating federal postsecondary education policy and administering programs to support of increased access to quality postsecondary education. 20 U.S.C. § 3415.

88. The Department is also responsible for vital aspects of higher education accreditation. The accreditation of institutions of higher education is a joint process between the educational institutions, states, the Department, and third-party accreditation authorities. Accreditation ensures that educational institutions meet certain standards for quality and assures students that a degree from that institution has and will continue to have value in the workplace. The Department is responsible for reviewing the accreditation standards of agencies that review programs and institutions of higher education. While some accrediting agencies work without Department of Education recognition, these agencies need not conform to any standards of quality or integrity. Without Department-recognized accreditation, institutions of higher education may engage in profit-seeking behaviors without relating any educational benefits to students. Many unaccredited institutions are profit-hungry "diploma mills," which lack external quality control or educational standards and whose diplomas are therefore meaningless to the job market and worthless to graduates.

The Department's Programs Supporting Vocational Education and Rehabilitation.

89. The Department of Education provides both vocational education and vocational rehabilitation services to help individuals gain skills for employment and support those with disabilities in finding and maintaining jobs.

90. The Department's Office of Vocational and Adult Education oversees programs that assist adults with obtaining a high school diploma or the equivalent and support them in their pursuit of postsecondary, career, or technical education.

91. The Department's Office of Career, Technical, and Adult Education (OCTAE) administers and coordinates programs related to career and technical education, adult education and literacy, and community colleges for advancing workforce development. 20 U.S.C. § 3416.

92. OCTAE's Division of Academic and Technical Education (DATE) is responsible for helping adult students acquire academic and technical skills to be prepared for high-skill, high-wage, or high-demand occupations.

93. DATE administers formula and discretionary grant programs under the Carl D. Perkins Career and Technical Education Act (Perkins V), 20 U.S.C. §§ 2301–2414, which is the primary source of federal funding for career and technical education. DATE also provides assistance to states to improve program quality, implementation, and accountability, and establish national initiatives that help states implement rigorous career and vocational education programs.

94. DATE also administers the Perkins Collaborative Resource Network, which provides resources and tools for state directors and state staff who administer career and technical education programs.

95. OCTAE's Division of Adult Education and Literacy (DAEL) administers adult education and literacy programs that help adults acquire the basic skills they need including reading, writing, math, English language proficiency, and problem-solving. The Office of Correctional Education, which coordinates efforts to support educational opportunities in correctional settings, is also located in DAEL.

96. DAEL administers formula grant programs to adults under the Adult Education and Family Literacy Act (AEFLA) and Title II of the Workforce Innovation and Opportunity Act. 29 U.S.C. §§ 3271–3333; 29 U.S.C. §§ 3101–3361. These programs provide assistance to states to

improve program quality, accountability, and capacity, and establish national leadership activities to enhance the quality of adult education.

97. OCTAE provides national leadership to strengthen the role of community colleges in expanding access to postsecondary education for youth and adults and advancing workforce development.

98. OCTAE's community college initiatives are designed to build public support for community colleges as centers of innovation and providers of excellent education and training that are affordable and accessible to all Americans, facilitate the dissemination of timely and actionable guidance on community college educations for teachers, administrators, students, parents, and employers, and promote the development of strategies that support students in the completion of their postsecondary certification and degree programs.

99. The Department of Education also provides critical vocational rehabilitation services and funding for individuals with disabilities through its Rehabilitation Services Administration (RSA), a component of the Department's Office of Special Education and Rehabilitative Services (OSERS). 29 U.S.C. § 702. RSA provides leadership and resources to assist state and other agencies in providing vocational rehabilitation and other services to individuals with disabilities to maximize their employment, independence, and integration into the community and the competitive labor market.

100. The Rehabilitation Services Administration funds and administers many programs, including disability employment programs, an independent living program, technical assistance centers, training programs, and disability innovation fund programs.

101. Two disability employment programs—the State Vocational Rehabilitation Services Program and the State Supported Employment Services Program—provide formula grants to states to provide employment services for individuals with disabilities.

102. The State Vocational Rehabilitation Services Program is authorized by the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by Title IV of the Workforce Innovation and Opportunity Act. This program provides grants to assist states in operating statewide vocational rehabilitation programs, each of which is an integral part of a statewide workforce development system.

103. The State Supported Employment Services Program is authorized by Title VI of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by Title IV of the Workforce Innovation and Opportunity Act. This program provides grants to assist states in developing and implementing collaborative programs with appropriate entities to provide supported employment services for individuals with the most significant disabilities, including youth with the most significant disabilities, who require supported employment services following the achievement of a supported employment outcome.

104. Supported employment grant funds are used to supplement funds provided under the State Vocational Rehabilitation Services Program to provide supported employment services. Program funds may be used to provide supported employment services, once an individual has been placed in supported employment, for up to 24 months and to supplement other vocational rehabilitation services necessary to help individuals with the most significant disabilities find work in the integrated labor market.

105. The Rehabilitation Services Administration also provides Independent Living Services for Older Individuals Who Are Blind formula grants to states under Title VII, Chapter II

of the Rehabilitation Act of 1973, as amended by Title IV of the Workforce Innovation and Opportunity Act, to support services for individuals age 55 or older whose severe visual impairment makes competitive employment difficult to obtain but for whom independent living goals are feasible.

106. The Rehabilitation Services Administration further provides critical technical assistance, training programs, and disability innovation fund programs to states supported through discretionary grants.

107. Certain technical assistance centers provide training and technical assistance to states and state agencies including those that ensure: that transition-age youth with disabilities receive high-quality education services, state agencies are trained to provide adequate vocational rehabilitation services to individuals who are blind, the increase in number and quality of employment outcomes for individuals with disabilities.

108. The Rehabilitation Services Administration also provides training programs and assistance to states. For example, it administers training programs to help fund undergraduate and graduate programs in the field of rehabilitation and training programs for the use of braille for personnel providing vocational rehabilitation services or education services to youth and adults who are blind. They also allow new and innovative training programs to improve methods of training rehabilitation personnel for more effective delivery of rehabilitation services.

109. The Rehabilitation Services Administration also provides funds through Disability Innovation Fund Programs (“Disability Innovation Fund”) to state agencies to conduct innovative activities aimed at improving outcomes for individuals with disabilities. For example, these funds allow evidence-based practices for individuals with disabilities to advance in high-demand and high-quality careers, foster partnerships among agencies, evaluate new or substantially improved

model strategies to transition youth and adults with disabilities to competitive integrated employment, and increase the opportunity for Subminimum Wage to Competitive Integrated Employment program participants to obtain competitive integrated employment.

The Department's Administration of Impact Aid.

110. Because school districts rely heavily on local property taxes for funding, property tax exemptions on federal land create funding shortages for neighboring school districts. The Impact Aid program, signed into law by President Harry Truman in 1950 (Pub. L. 815 and Pub. L. 874), is a critical method of ensuring the financial survival of local school districts whose revenue is decreased due to the presence of non-taxable federal land. School districts that are near, or serve students from, military bases, federal lands, federal low-rent housing facilities, and tribal communities lose local revenue because of the presence of these nontaxable federal activities. While these school districts typically continue to receive funding from their states, Impact Aid funding partially reimburses school districts for this loss of locally-derived revenue.

111. The Department is the primary agency responsible for administering Impact Aid payments to local school districts. *See* ESEA, Title VII, 20 U.S.C. § 7701–7714, 34 C.F.R. § 222. Every year, each school district seeking Impact Aid must submit an application to the Department. Typically this is January 31, though late application deadlines can extend to April 1 with payment of a penalty. The Department reviews the applications and processes payments based on congressional appropriations each fiscal year and allocates funding in multiple installments until all available funds are distributed.

112. Many school districts within the Plaintiff States are heavily dependent on the Department's effective funding distribution and administration of Impact Aid due to the large amount of nontaxable federal property within their boundaries, as the amount of Impact Aid

received by each school district is based on the number of affected students who live on federal property or whose parents work in federal facilities. School districts within Plaintiff States receive hundreds of millions of dollars annually in Impact Aid funding for construction, special education, maintenance, and operations.

113. The Impact Aid Program is the only K–12 Federal education program that is not forward funded. Any delay in either appropriations or administration has an immediate impact on Impact Aid-recipient school districts’ ability to fund day-to-day operations, instructional expenditures, utility payments or payroll.

B. The President’s Directive to Dismantle the Department of Education and the Secretary of Education’s Elimination of Nearly Half of the Department’s Workforce.

114. President Trump has publicly described his intention to dismantle the Department of Education. That goal has been plainly and repeatedly stated: President Trump called the Department of Education “a big con job” and declared that he would “like to close it immediately.” *See, e.g.,* Michael C. Bender, *Trump Is Said to Be Preparing Order That Aims to Eliminate Education Dept.*, *The New York Times* (Mar. 6, 2025), <https://www.nytimes.com/2025/03/06/us/politics/trump-education-department-executive-order.html>. He also stated that he would like the newly installed Secretary of Education, Linda McMahon, to put herself “out of a job.” Zachary B. Wolf, *Trump and Musk are moving to smother these three pieces of the government*, CNN (Feb. 5, 2025) (“I told Linda, ‘Linda, I hope you do a great job in putting yourself out of a job.’ I want her to put herself out of a job – Education Department.”).

115. Secretary McMahon has indicated that she plans to heed this call and break down the Department of Education from within. She affirmed that “President Trump believes that the

bureaucracy in Washington should be abolished so that we can return education to the states, where it belongs,” and that she “wholeheartedly support[s] and agree[s] with this mission.” Cochran, *McMahon*, cited *supra* ¶ 5. On March 3, 2025, Secretary McMahon asked employees to join her in “perform[ing] one final, unforgettable public service to future generations of students” by dismantling the Department of Education. *Secretary McMahon: Our Department’s Final Mission*, U.S. Department of Education (Mar. 3, 2025), <https://perma.cc/F7BT-MQ3D>.

116. On March 6, 2025, news outlets reported that the White House had drafted an executive order calling on the Secretary of Education to “take all necessary steps to facilitate the closure of the Department of Education (DOE) and return authority over education to the States and local communities, the maximum extent allowed by law.”

117. On March 11, 2025, five days after reports of the draft executive order calling for the Department’s dismantling, the U.S. Department of Education announced that its workforce is being cut virtually in half. The Department described a massive reduction in force (RIF)—as part of its “final mission”—that affects “[a]ll divisions within the Department.” *U.S. Department of Education Initiates Reduction in Force*, Press Release (Mar. 11, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-initiates-reduction-force>.

118. Based on figures provided by the Department, the RIF displaces approximately 1,378 employees, all of whom “will be placed on administrative leave beginning Friday, March 21st.” The total reduction in force to the Department of Education is “roughly” 1,950 people: the approximately 1,378 employees subject to the RIF, the 259 employees that accepted the so-called “Fork in the Road” offer (referred to in the press release as the “Deferred Resignation Program”), and the 313 employees that accepted a “Voluntary Separation Incentive Payment.” The press

release states that “[a]fter today’s actions, the Department’s workforce will total roughly 2,183 workers,” an approximately 50% cut from the 4,133 workers the Department of Education had “[w]hen President Trump was inaugurated.”

119. On March 11, 2025, Secretary McMahon stated, during an interview with Laura Ingraham of Fox News, that the workforce reductions were the first steps in dismantling the Department of Education:

Ingraham: Now, is this the first step on the road to a total shutdown?

McMahon: Yes, actually it is, because that was the President’s mandate. His directive to me, clearly, is to shut down the Department of Education, which we know we’ll have to work with Congress, you know, to get that accomplished. But what we did today was to take the first step of eliminating what I think is bureaucratic bloat.

See Fox News Channel, <https://www.foxnews.com/video/6369901522112> (televised interview).

120. On information and belief, the RIF devastated important segments of the Department of Education, rendering the agency unable to perform its core functions.

121. On information and belief, almost the entire staff of the Institute of Education Sciences has been eliminated.

122. On information and belief, the majority of staff in the Office for Civil Rights have been eliminated or otherwise removed. The Office for Civil Rights, created by Congress and codified at 20 U.S.C. § 3413, enforces federal civil rights laws in schools and other recipients of Department of Education funding, and directs, coordinates, and recommends policy for activities that are designed to administer the provisions of legislation and Departmental policy prohibiting discrimination on the basis of race, color, national origin, sex, handicap, or age. Regional offices of the Office for Civil Rights in Boston, San Francisco, Cleveland, New York, Chicago, Dallas, and Philadelphia have been eliminated and closed, with employees terminated in each of those offices.

123. The cuts to the Office for Civil Rights will have deep impacts on the Department of Education's ability to carry out its vital work. Given that the RIF heavily impacted investigative staff, on information and belief the cuts will force remaining investigators to nearly double their caseloads, severely limiting meaningful investigation of discrimination in schools.

124. On information and belief, the Office of General Counsel has also been gutted, with many divisions eliminated and approximately three-quarters of OGC's staff terminated. One such eliminated division, the Ethics Division, is responsible for counseling current and past Department employees on ethics matters. On information and belief, the Office of General Counsel advised offices and units across the Department and its effective gutting will negatively impact the Department's ability to perform statutory functions.

125. On information and belief, all OGC attorneys specializing in K-12 grants, IDEA grants, and equity grants have been terminated. The RIF has also resulted in the termination of most OGC attorneys focused on privacy issues.

126. On information and belief, the RIF has had a material impact on the Office of Special Education and Rehabilitation Services, which serves as the principal adviser to the Secretary on Departmental matters related to special education and rehabilitative services. *See* 20 U.S.C. § 3417. In particular, the RIF may hamstring OSERS activities related to policy, program and strategic planning, regulations, evaluation, and grant activities.

127. On information and belief, the RIF has also effectively eliminated the Office of Elementary and Secondary Education's State and Grantee Relations Team, which partners with stakeholders and connects them to the resources and relationships they need to support and educate students nationally.

128. On information and belief, the RIF has also seriously impacted the Department of Education's FSA. FSA directs, coordinates, and recommends policies for programs that are designed to provide financial assistance to eligible students enrolled in postsecondary educational institutions. This assistance includes grants, loans, and work-study assistance to nearly 12.9 million students through approximately 6,100 postsecondary institutions.

129. Upon information and belief, given the impending challenges of students facing renewed payments following the pandemic, the Department employed contractors to help borrowers weather the resumed payments. Even prior to the RIF, it was reported on March 7, that "the agency hasn't been able to provide any communication to schools, servicers, or borrowers about how to navigate the changes that are coming." <https://edition.cnn.com/2025/03/07/politics/student-loans-education-trump>. "And many staffers with institutionalized knowledge about the aid programs have been fired or left." *Id.*

130. In a public LinkedIn post, the Executive Director of the newly formed Office of Loan Portfolio Management at Federal Student Aid wrote:

When I accepted the position two months ago, I dove in, putting together a strategy for tackling the challenges that I knew would come with managing a group of 200 dedicated public servants and shepherding 43M borrowers back into our complex repayment environment after a long payment pause and on-ramp. But now, I have lost many of those 200 staff, with more to come. I spend my days justifying our existence, our dignity, and our mission. I try to keep the work going in spite of the impossible environment we find ourselves in. I'm afraid of what the coming days, weeks, months, years will bring not just for me and the Department, but for the borrowers we serve. I've dedicated my career to the work of supporting college affordability and a student aid system that supports our most vulnerable, and it is heartbreaking to see that dissolving before my eyes. I'm not sure what the future will bring, but as always, I'm here to fight, to work for the mission, to do the right thing.

<https://www.linkedin.com/feed/update/urn:li:activity:7299489353838350337>.

131. On information and belief, within FSA, the RIF has resulted in the termination of many of the Department's employees in the School Eligibility and Oversight Services Group,

which is responsible for administering a program of eligibility, certification, financial analysis, and oversight of schools participating in Federal Student Aid programs. In order to receive Federal Student Aid funds, schools must remain compliant with Title IV requirements and submit to audits which confirm compliance. Department employees responsible for Title IV oversight ensure compliance, process auditing results, and release Title IV funding timely.

132. On information and belief, the RIF has effectively eliminated FSA's Vendor Oversight Division, which oversees and assists federal student loan servicers. The Vendor Oversight Division is responsible for ensuring that loan servicers fulfill their contracts while meeting Department requirements. When such requirements are not met, it is responsible for enforcing corrective action. For example, when the Higher Education Loan Authority of the State of Missouri (MOHELA) failed to comply with its contractual requirements after the return to repayment in August 2023, including mismanaging borrower accounts, the Department imposed a corrective action plan on MOHELA, which the Vendor Oversight Division is responsible for overseeing and defending. The Vendor Oversight Division also plays a key role in verifying compliance with the requirements of the Public Service Loan Forgiveness (PSLF) program and the Income-Based Repayment plan before instructing federal loan servicers to discharge a student's debt under these programs.

133. On information and belief, the RIF has eliminated key staff members in FSA's Product Management Group, including those responsible for the online income-driven repayment application, Direct Loan Consolidation application, and PSLF Help Tool, which enables borrowers to certify their qualifying employment for the PSLF Program.

134. In sum, on information and belief, the RIF has so severely impaired the Department of Education that it can no longer function, and cannot comply with its statutory requirements.

C. The Incapacitation of the Department of Education Will Cause Grave Harm to the States and Their Residents.

135. The effective gutting of the Department of Education will result in a wide range of devastating harms for Plaintiff States and their residents that could be neither prevented nor mitigated.

136. The Directive and RIF will result in the loss of or delays in Department funding and supports impacting nearly every aspect of K–12 education in the Plaintiff States because there will be such a significant reduction in staff. These impacts will include teacher shortages from the loss in salary funding, which in turn will result in increased class sizes. The impacts will also include a loss of professional development and salaries for special education teachers, paraprofessionals, reading specialists, physical therapists, speech therapists, and social workers, which in turn will result in lost educational opportunities for students that cannot be recovered or remedied. Without Department of Education financial support, states will lose critical services from special education students and students with IEPs. States would lose funding for assistive technology for students with disabilities, and funding for transportation to help children receive the services and programming they need. The dismantling of the Department will also result in the termination of afterschool programs.

137. Regardless of what alternative resources are put in the place of the Department of Education, the process of the Department's dismantling will create and has created chaos, disruption, uncertainty, delays and confusion for Plaintiff States and their residents. States anticipating federal fund disbursements do not know whether staff will be employed and able to be contacted regarding those disbursements. Students at state universities do not know whether their federal student aid packages will be timely processed and made available before the Fall 2025 semester begins.

138. For instance, on March 12, 2025, the day after the RIF was announced, the Department’s website for administering the distribution of federal funds (referred to as the “G6” system) became unavailable. G6 was the Department system used for managing federal funds, and allowed schools to request payments, adjust drawdowns, and return cash to the Department for many Title IV programs. On March 12, the website for the G6 system stated: “G6.ed.gov will no longer exist, G5.gov will be the correct URL. To access G5, external users should enter their G5 email ID and their G5 email password.”

139. When certain users then attempted to then access the G5.gov system for the distribution of federal funds, the G5 website announced:

ALERT: Due to severe staffing restraints, you can expect delays in connecting to a live help desk agent for assistance with G5. We recommend sending an email to obssed@servicenowservices.com with a summary of your issue or question. The next available agent during normal business hours will respond to your email in the order it was received.

140. On March 12, 2025, a user of the G5 system from the Massachusetts Department of Elementary and Secondary Education attempted to access the G5 system in order to process a request for anticipated disbursements of federal funds, but was unable to access the G5 system for hours. The user was told that the G5 system was experiencing a “system glitch.”

141. The harms from the dismantling of the Department go beyond systems breakdowns and unresponsive administrators.

142. On information and belief, the dismantling of the Department has more than decimated the Office for Civil Rights (OCR). Without a functioning OCR, school districts in Plaintiff States may be emboldened to restrict access to quality education and ignore complaints of discrimination or hate against students based on race, gender identity, disability status, religion, and immigration status. Students with current complaints will likely see no meaningful resolution,

with cases backlogged due to the shortage of employees to resolve them. Students facing discrimination, sexual harassment, or sexual assault will lose a critical avenue to report their case.

143. On information and belief, the dismantling of the Department will result in higher costs to attend institutions of higher education. Not only will federal funding for Pell grants, work-study programs and subsidized loans be at risk, but so too will the Department's administration of those programs, without which they cannot operate even if they were fully funded. Without these federal programs supporting students of higher education, the cost of pursuing higher education will increase and fewer students will have the opportunity to attend college. For many state university systems, disruption to or loss of Pell grants would be an existential threat, especially to their mission to serve first generation college students.

144. On information and belief, the gutting of the Office of General Counsel that has resulted from the dismantling of the Department will have impacts throughout the Department's statutory and non-statutory functions. Without the now-eliminated Ethics Division, current Department employees are now deprived of the counseling regarding ethics matters that govern all manner of agency actions affecting Plaintiff States' participation in Department programs. The termination of all OGC attorneys specializing in K-12 grants, IDEA grants, and equity grants will necessarily impede the Department's ability to award and administer those grants to Plaintiff States.

145. On information and belief, the RIF's effective elimination of the Office of Elementary and Secondary Education's State and Grantee Relations Team signifies the Plaintiff States' loss of a critical partner in identifying and developing the resources and relationships needed to support and educate students.

146. On information and belief, the RIF's impacts on the implementation of the Federal Student Aid program will be monumental. By terminating many of the Department's employees in the School Eligibility and Oversight Services Group, the Department has lost the tool responsible for administering a program of eligibility, certification, financial analysis, and oversight of schools participating in Federal Student Aid programs. Moreover, with the effective elimination of FSA's Vendor Oversight Division, which oversees and assists federal student loan servicers, Plaintiff States and their students lose tools to help ensure that loan servicers comply with their contractual requirements.

147. On information and belief, in addition to these disruptions of the administration of Federal Student Aid generally is the disruption that will come to the administration of FAFSA applications specifically. With the destruction of these multiple aspects of the FSA program at the Department, the Department is deprived of the administrative systems necessary to administer and process the millions of FAFSA applications the Department receives. Indeed, the dismantling of the Department comes just as the college admissions and decisionmaking process is at its peak, with the FAFSA application deadline merely two and a half months from the RIF. The President's Directive and the Agency Defendants' implementation of it has resulted in mass uncertainty regarding whether and how FAFSA applications will be processed, and will result in delays and obstructions in the immediate future.

148. On information and belief, without the Vendor Oversight Division's verification of compliance with the requirements of the Public Service Loan Forgiveness program and the Income-Based Repayment plan, Plaintiff States and their educational institutions are deprived of a system by which loan servicers receive instructions regarding the discharge of student debt under FSA programs.

CAUSES OF ACTION

Count I

Violation of the Separation of Powers Doctrine – Usurping Legislative Authority (Against All Defendants)

149. The States reallege and incorporate by reference the allegations set forth in the preceding paragraphs.

150. Article I, Section 1 of the United States Constitution enumerates that: “[a]ll legislative Powers herein granted shall be vested in . . . Congress.” U.S. Const. Art. I, Sec. 1.

151. “The Framers viewed the legislative power as a special threat to individual liberty, so they divided that power to ensure that ‘differences of opinion’ and the ‘jarrings of parties’ would ‘promote deliberation and circumspection’ and ‘check excesses in the majority.’” *Seila Law LLC*, 591 U.S. at 223 (quoting *The Federalist* No. 70, at 475 (A. Hamilton) and No. 51, at 350).

152. Thus “‘important subjects . . . must be entirely regulated by the legislature itself,’ even if Congress may leave the Executive ‘to act under such general provisions to fill up the details.’” *West Virginia v. EPA*, 597 U.S. 697, 737 (2022) (Gorsuch, J., concurring) (quoting *Wayman v. Southard*, 10 Wheat. 1, 42–43, 6 L.Ed. 253 (1825)).

153. The separation of powers doctrine thus represents a central tenet of our Constitution. *See, e.g., Trump v. United States*, 603 U.S. 593, 637–38 (2024); *Seila Law LLC*, 591 U.S. at 227.

154. Consistent with these principles, the Executive’s powers are limited to those specifically conferred by the Constitution and federal statutes, and do not include any undefined residual or inherent power.

155. Any instance where the President, by Executive Order or otherwise, directs an agency to take an action that runs afoul of a statute or the legislative intent of Congress, violates the Separation of Powers doctrine.

156. Any instance where the President, by Executive Order or otherwise, directs that an agency authorized by Congress to perform statutory duties cease operations, effectively repeals the statutes that authorize that agency and thus violates the Separation of Powers doctrine.

157. Here, where Congress has created the Department of Education, the Executive and his agencies cannot incapacitate it, absent Congressional action that directs them to do so. The Actions challenged herein thus violate Constitutional and statutory mandates, contravene Congressional intent, and are unlawful.

158. This court is authorized to enjoin any action by the Executive and his agencies that “is unauthorized by statute, exceeds the scope of constitutional authority, or is pursuant to unconstitutional enactment.” *Youngstown Sheet & Tube Co. v. Sawyer*, 103 F. Supp. 569, 576 (D.D.C. 1952), *aff’d*, 343 U.S. 579.

159. Pursuant to 28 U.S.C. § 2201, the States are also entitled to a declaration that the President’s Directive and the Department of Education’s implementation of the Directive violates the constitutional separation of powers doctrine, and impermissibly arrogates to the executive power that is reserved to Congress.

Count II
Violation of the Separation of Powers – Take Care Clause
(Against All Defendants)

160. The States reallege and incorporate by reference the allegations set forth in the preceding paragraphs.

161. The Take Care Clause provides that the executive must “take Care that the Laws be faithfully executed” U.S. Const. Art. II, Sec. 3; *UARG v. EPA*, 573 U.S. 302, 327 (2014) (“Under our system of government, Congress makes the laws and the President . . . faithfully executes them” (quotation and citation omitted)).

162. The Executive violates the Take Care Clause where it declines to execute or otherwise undermines statutes enacted by Congress and signed into law or duly promulgated regulations implementing such statutes. *See In re United Mine Workers of Am. Int'l Union*, 190 F.3d 545, 551 (D.C. Cir. 1999) (“the President is without authority to set aside congressional legislation by executive order”); *Kendall v. United States*, 37 U.S. 524, 613 (1838) (rejecting argument that by charging the President with faithful execution of the laws, the Take Care clause “implies a power to forbid their execution”).

163. By issuing the Directive to dismantle an agency authorized by Congress, the President has failed to faithfully execute the laws enacted by Congress in violation of the Take Care Clause.

164. This court is authorized to enjoin any action by the Executive and his agencies that “is unauthorized by statute, exceeds the scope of constitutional authority, or is pursuant to unconstitutional enactment.” *Youngstown Sheet & Tube Co.*, 103 F. Supp. at 576, *aff'd*, 343 U.S. 579.

165. Pursuant to 28 U.S.C. § 2201, the States are also entitled to a declaration that the Directive and the Department of Education’s implementation violates the constitutional separation of powers doctrine, and impermissibly arrogates to the executive power that is reserved to Congress.

Count III
Ultra Vires – Conduct Outside the Scope of
Statutory Authority Conferred on the Executive
(Against All Defendants)

166. The States reallege and incorporate by reference the allegations set forth in the preceding paragraphs.

167. Neither the President nor an agency can take any action that exceeds the scope of their constitutional and/or statutory authority.

168. Federal courts possess the power in equity to grant injunctive relief “with respect to violations of federal law by federal officials.” *Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 326–27 (2015). Indeed, the Supreme Court has repeatedly allowed equitable relief against federal officials who act “beyond th[e] limitations” imposed by federal statute. *Larson v. Domestic & Foreign Com. Corp.*, 337 U.S. 682, 689 (1949).

169. Defendants’ conduct in issuing the Directive and the Department of Education’s implementation of it is contrary to law and outside of Defendants’ authority.

170. Pursuant to 28 U.S.C. § 2201, Plaintiff States are entitled to a declaration that the Directive and the Department of Education’s implementation of it is contrary to law and outside of Defendants’ authority.

171. Plaintiff States are further entitled to a preliminary and permanent injunction preventing Agency Defendants from implementing the Directive.

Count IV
Violation of the Administrative Procedure Act – Contrary to Law
(Against Agency Defendants)

172. Plaintiff States incorporate by reference the allegations contained in the preceding paragraphs.

173. Agency Defendants are “agenc[ies]” under the APA. 5 U.S.C. § 551(1).

174. Under the APA, a court must “hold unlawful and set aside agency action, findings, and conclusions found to be . . . contrary to constitutional right, power, privilege, or immunity,” or “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C. § 706(2)(B)–(C).

175. Congress enacted the APA “as a check upon administrators whose zeal might otherwise have carried them to excesses not contemplated in legislation creating their offices.” *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 391 (2024) (quoting *U.S. v. Morton Salt*, 338 U.S. 632, 644 (1950)). In *Loper Bright*, the Supreme Court clarified that historical principles of “respect” did not equate to deference, and that “Section 706 makes clear that agency interpretations of statutes—like agency interpretations of the Constitution—are *not* entitled to deference.” *Id.* at 392 (emphasis in original). Rather, it “remains the responsibility of the court to decide whether the law means what the agency says.” *Id.* (quoting *Perez v. Mortg. Bankers Ass’n*, 575 U.S. 92, 109 (2015) (Scalia, J., concurring in judgment)).

176. An agency may not take any action that exceeds the scope of its constitutional or statutory authority.

177. No constitutional or statutory authority authorizes the Department of Education to refrain from fulfilling its statutory duties, or to violate federal law.

178. An agency likewise may not violate its own regulations. When a federal agency promulgates “[r]egulations with the force and effect of law,” those regulations “supplement the bare bones” of federal statutes. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 265 (1954). “It is an abecedarian principle of administrative law that agencies must comply with their own regulations.” *Manguriu v. Lynch*, 794 F.3d 119, 122 (1st Cir. 2015) (citation omitted). An agency’s action may be set aside pursuant to the APA if the action violates the agency’s own

procedures, particularly if that error prejudices the interest of a person before the agency. *See Wilson v. Comm’r of Soc. Sec.*, 378 F.3d 541, 545–46 (6th Cir. 2004); *see also Town of Weymouth, Mass. v. Mass. Dep’t of Env’t Prot.*, 961 F.3d 34, 47 (1st Cir. 2020), *on reh’g*, 973 F.3d 143 (1st Cir. 2020) (“[A]n agency action may be set aside as arbitrary and capricious if the agency fails to ‘comply with its own regulations.’” (quoting *Nat’l Envtl. Dev. Ass’n’s Clean Air Project v. EPA*, 752 F.3d 999, 1009 (D.C. Cir. 2014))).

179. The Agency Defendants lack authority to implement the Directive as it calls for actions that are not authorized by statute, and are in direct contravention of statutory authority governing the creation and operation of the Department of Education. The Agency Defendants also lack authority to use a RIF to override the limitations on their own power to dismantle statutorily-mandated agency functions. These agency actions are unauthorized, unprecedented, and not entitled to deference by this Court.

180. In enacting the Directive, the Agency Defendants have acted contrary to the applicable regulations governing the administration of Department functions.

181. Pursuant to 5 U.S.C. § 706 and 28 U.S.C. § 2201, Plaintiff States are entitled to a declaration that the Agency Defendants lack legal authority to implement the Directive, contrary to congressional directive and intent, and have, in so doing, acted contrary to law, outside of statutory authority, and in violation of the APA.

182. Plaintiff States are also entitled to vacatur of the Department of Education’s implementation of the Directive, and a preliminary and permanent injunction preventing the Agency Defendants from implementing the Directive.

Count V
Violation of the Administrative Procedure Act –
Arbitrary & Capricious and an Abuse of Discretion
(Against Agency Defendants)

183. Plaintiff States incorporate by reference the allegations contained in the preceding paragraphs.

184. Defendants include “agenc[ies]” under the APA 5 U.S.C. § 551(1).

185. The APA requires that a court “hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

186. An agency action is arbitrary or capricious where it is not “reasonable and reasonably explained.” *FCC v. Prometheus Radio Project*, 592 U.S. 414, 423 (2021). An agency must provide “a satisfactory explanation for its action[,] including a rational connection between the facts found and the choice made.” *Motor Vehicle Mfrs. Ass’n of the U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (internal quotation marks omitted).

187. That “reasoned explanation requirement of administrative law . . . is meant to ensure that agencies offer genuine justifications for important decisions, reasons that can be scrutinized by courts and the interested public.” *Dep’t of Commerce v. New York*, 588 U.S. 752, 785 (2019). Agencies may not rely on explanations that are “contrived” or “incongruent with what the record reveals about the agency’s priorities and decisionmaking process.” *Id.*

188. An action is also arbitrary and capricious if the agency “failed to consider . . . important aspect[s] of the problem” before it. *Dep’t of Homeland Sec. v. Regents of the Univ. of Calif.*, 591 U.S. 1, 25 (2020) (quoting *Motor Vehicle Mfrs.*, 463 U.S. at 43).

189. The Department’s mass RIF is arbitrary and capricious because the Department provided no reasoned basis or explanation for its mass RIF.

190. The Department’s RIF is arbitrary and capricious because the Agency Defendants failed to consider the consequences of their actions.

191. The Department’s RIF is arbitrary and capricious because the Department’s stated reasons for the RIF—to promote “efficiency” and “accountability”—are pretext for the President and Secretary McMahon’s stated goal of dismantling the Department from within.

192. The Department’s RIF is arbitrary and capricious because the Agency Defendants’ actions impede their ability to perform the Department’s functions, both those that are required by statute and those that are not.

193. Pursuant to 5 U.S.C. § 706 and 28 U.S.C. § 2201, Plaintiff States are entitled to a declaration that the Agency Defendants’ actions implementing the Directive violate the APA because they are arbitrary and capricious.

194. Plaintiff States are also entitled to vacatur of the Agency Defendants’ implementation of the Directive pursuant to 5 U.S.C. § 706, and a preliminary and permanent injunction preventing Agency Defendants from implementing the Directive.

195. Under the APA, a court must “hold unlawful and set aside agency action, findings, and conclusions found to be . . . contrary to constitutional right, power, privilege, or immunity,” or “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C. § 706(2)(B)–(C).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff States pray that this Court:

- i. Issue a judicial declaration that President Trump’s Directive to dismantle the Department of Education, and the Department of Education’s implementation of the Directive are unlawful because they violate the United States Constitution and the Administrative Procedure Act;

- ii. Pursuant to 5 U.S.C. § 706, vacate Agency Defendants' actions implementing President Trump's Directive to dismantle the Department of Education;
- iii. Preliminarily and permanently enjoin the Agency Defendants from implementing President Trump's Directive to dismantle the Department of Education, including through ordering a reduction in force;
- iv. Award the Plaintiff States their reasonable fees, costs, and expenses, including attorneys' fees, pursuant to 28 U.S.C. § 2412; and
- v. Grant other such relief as this Court may deem proper.

Dated: March 13, 2025

Respectfully submitted,

ANDREA JOY CAMPBELL

Attorney General for the Commonwealth
of Massachusetts

By: /s/ Katherine Dirks

Katherine Dirks (BBO No. 673674)
Chief State Trial Counsel
Yael Shavit (BBO No. 695333)
Chief, Consumer Protection Division
Elizabeth Carnes-Flynn (BBO No. 687708)
Nathaniel Hyman (BBO No. 698506)
Assistant Attorneys General
1 Ashburton Pl.
Boston, MA 02108
(617) 963-2277
katherine.dirks@mass.gov
yael.shavit@mass.gov
elizabeth.carnes-flynn@mass.gov
nathaniel.j.hyman@mass.gov

ANNE E. LOPEZ

Attorney General for the State of Hawai‘i

By: /s/ Kaliko ‘onālani D. Fernandes

David D. Day*
Special Assistant to the Attorney General
Kaliko ‘onālani D. Fernandes*
Solicitor General
Ewan C. Rayner*
Deputy Solicitor General
425 Queen Street
Honolulu, HI 96813
(808) 586-1360
david.d.day@hawaii.gov
kaliko.d.fernandes@hawaii.gov
ewan.rayner@hawaii.gov

LETITIA JAMES

Attorney General for the State of New York

By: /s/ Rabia Muqaddam

Rabia Muqaddam*
Special Counsel for Federal Initiatives
Molly Thomas-Jensen*
Gina Bull*
Special Counsel
28 Liberty St.
New York, NY 10005
(929) 638-0447
rabia.muqaddam@ag.ny.gov
molly.thomas-jensen@ag.ny.gov
gina.bull@ag.ny.gov

ROB BONTA

Attorney General for the State of California

By: /s/ Lucia Choi

Lucia Choi*
Deputy Attorney General
Michael L. Newman*
Senior Assistant Attorney General
Srividya Panchalam*
James E. Stanley*
Supervising Deputy Attorneys General
Natasha A. Reyes*
Deputy Attorney General
California Attorney General’s Office
300 South Spring Street
Los Angeles, CA 90013
(213) 269-6364
Lucia.Choi@doj.ca.gov
Michael.Newman@doj.ca.gov
Srividya.Panchalam@doj.ca.gov
James.Stanley@doj.ca.gov
Natasha.Reyes@doj.ca.gov

PHIL WEISER

Attorney General for the State of Colorado

By: /s/ David Moskowitz

David Moskowitz*

Deputy Solicitor General

1300 Broadway, #10

Denver, CO 80203

(720) 508-6000

David.Moskowitz@coag.gov

KRISTIN K. MAYES

Attorney General for the State of Arizona

By: /s/ Hayleigh S. Crawford

Hayleigh S. Crawford*

Deputy Solicitor General

2005 North Central Avenue

Phoenix, AZ 85004

(602) 542-3333

Hayleigh.Crawford@azag.gov

ACL@azag.gov

KATHLEEN JENNINGS

Attorney General for the State of Delaware

By: /s/ Ian R. Liston

Ian R. Liston*

Director of Impact Litigation

Vanessa L. Kassab*

Deputy Attorney General

Delaware Department of Justice

820 N. French Street

Wilmington, DE 19801

(302) 683-8899

ian.liston@delaware.gov

WILLIAM TONG

Attorney General for the State of Connecticut

By: /s/ Patrick Ring

Patrick Ring*

Assistant Attorney General

165 Capitol Avenue

Hartford, CT 06106

(860) 808 5020

Patrick.ring@ct.gov

BRIAN L. SCHWALB

Attorney General for the District of
Columbia

By: /s/ Andrew Mendrala

Andrew Mendrala*

Assistant Attorney General

Public Advocacy Division

Office of the Attorney General for the
District of Columbia

400 Sixth Street, NW

Washington, D.C. 20001

(202) 724-9726

Andrew.Mendrala@dc.gov

KWAME RAOUL

Attorney General for the State of Illinois

By: /s/ Karyn L. Bass Ehler

Karyn L. Bass Ehler*

Assistant Chief Deputy Attorney General

Katharine P. Roberts*

Assistant Attorney General

Office of the Illinois Attorney General

115 S. LaSalle St.

Chicago, IL 60603

(312) 814-4985

karyn.bassehler@ilag.gov

katharine.roberts@ilag.gov

AARON M. FREY

Attorney General for the State of
Maine

By: /s/ Sean D. Magenis

Sean D. Magenis*
Assistant Attorney General
Office of the Attorney General
6 State House Station
Augusta, ME 04333-0006
(207) 626-8800
sean.d.magenis@maine.gov

DANA NESSEL

Attorney General for the People of
Michigan

By: /s/ Neil Giovanatti

Neil Giovanatti*
Kathleen Halloran*
Assistant Attorneys General
Michigan Department of Attorney General
525 W. Ottawa
Lansing, MI 48909
(517) 335-7603
GiovanattiN@michigan.gov
HalloranK1@michigan.gov

AARON D. FORD

Attorney General for the State of Nevada

By: /s/ Heidi Parry Stern

Heidi Parry Stern*
Solicitor General
Office of the Nevada Attorney
General
1 State of Nevada Way, Ste. 100
Las Vegas, NV 89119
HStern@ag.nv.gov

ANTHONY G. BROWN

Attorney General for the State of Maryland

By: /s/ Keith M. Jamieson*

Keith M. Jamieson*
Assistant Attorney General
Office of the Attorney General
200 Saint Paul Place, 20th Floor
Baltimore, MD 21202
(410) 576-6960
kjamieson@oag.state.md.us

KEITH ELLISON

Attorney General for the State of Minnesota

By: /s/ Liz Kramer

Liz Kramer*
Solicitor General
445 Minnesota Street, Suite 1400
St. Paul, MN, 55101
(651) 757-1010
Liz.Kramer@ag.state.mn.us

MATTHEW J. PLATKIN

Attorney General for the State of New Jersey

By: /s/ Jessica L. Palmer

Jessica L. Palmer*
Deputy Attorney General
25 Market Street
Trenton, NJ 08625-0093
(609) 696-4607
Jessica.Palmer@law.njoag.gov

DAN RAYFIELD

Attorney General for the State of Oregon

By: /s/ Eleanor H. Chin

Eleanor H. Chin*

Senior Assistant Attorney General

100 SW Market Street

Portland, OR 97201

(971) 673-1880

elleleanor.chin@doj.oregon.gov

PETER F. NERONHA

Attorney General for the State of Rhode Island

By: /s/ Kathryn T. Gradowski

Kathryn T. Gradowski*

Special Assistant Attorney General

150 South Main Street

Providence, RI 02903

(401) 274-4400, Ext. 2810

kgradowski@riag.ri.gov

CHARITY R. CLARK

Attorney General for the State of Vermont

By: /s/ Jonathan T. Rose

Jonathan T. Rose*

Solicitor General

109 State Street

Montpelier, VT 05609

(802) 793-1646

Jonathan.rose@vermont.gov

NICHOLAS W. BROWN

Attorney General for the State of Washington

By: /s/ Spencer W. Coates

Spencer W. Coates*

Assistant Attorney General

Cristina Sepe*

Deputy Solicitor General

Office of the Washington State Attorney General

800 Fifth Avenue, Suite 2000

Seattle, WA 98104

(206) 464-7744

spencer.coates@atg.wa.gov

cristina.sepe@atg.wa.gov

JOSHUA L. KAUL

Attorney General for the State of Wisconsin

By: /s/ Charlotte Gibson

Charlotte Gibson*

Assistant Attorney General

Wisconsin Department of Justice

Post Office Box 7857

Madison, WI 53707-7857

(608) 957-5218

gibsoncj@doj.state.wi.us

**Pro Hac Vice* Applications Forthcoming

LIVE NOW

The WHITE HOUSE

PRESIDENTIAL ACTIONS

Improving Education Outcomes by Empowering Parents, States, and Communities

Executive Orders

March 20, 2025

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to enable parents, teachers, and communities to best ensure student success, it is hereby ordered:

Section 1. Purpose and Policy. Our Nation's bright future relies on empowered families, engaged communities, and excellent educational opportunities for every child.

Unfortunately, the experiment of controlling American education through Federal programs and dollars — and the unaccountable bureaucracy those programs and dollars support — has plainly failed our children, our teachers, and our families.

Taxpayers spent around \$200 billion at the Federal level on schools during the COVID-19 pandemic, on top of the more than \$60 billion they spend annually on Federal school funding. This money is largely distributed by one of the newest Cabinet agencies, the Department of Education, which has existed for less than one fifth of our Nation's history. The Congress created the Department of Education in 1979 at the urging of President Jimmy Carter, who received a first-ever Presidential endorsement from the country's largest teachers' union shortly after pledging to the union his support for a separate Department of Education. Since then, the Department of Education has entrenched the education bureaucracy and sought to convince America that Federal control over education is beneficial. While the Department of Education does not educate anyone, it maintains a public relations office that includes over 80 staffers at a cost of more than \$10 million

per year.

Closing the Department of Education would provide children and their families the opportunity to escape a system that is failing them. Today, American reading and math scores are near historical lows. This year's National Assessment of Educational Progress showed that 70 percent of 8th graders were below proficient in reading, and 72 percent were below proficient in math. The Federal education bureaucracy is not working.

Closure of the Department of Education would drastically improve program implementation in higher education. The Department of Education currently manages a student loan debt portfolio of more than \$1.6 trillion. This means the Federal student aid program is roughly the size of one of the Nation's largest banks, Wells Fargo. But although Wells Fargo has more than 200,000 employees, the Department of Education has fewer than 1,500 in its Office of Federal Student Aid. The Department of Education is not a bank, and it must return bank functions to an entity equipped to serve America's students.

Ultimately, the Department of Education's main functions can, and should, be returned to the States.

Sec. 2. Closing the Department of Education and Returning Authority to the States. (a) The Secretary of Education shall, to the maximum extent appropriate and permitted by law, take all necessary steps to facilitate the closure of the Department of Education and return authority over education to the States and local communities while ensuring the effective and uninterrupted delivery of services, programs, and benefits on which Americans rely. (b) Consistent with the Department of Education's authorities, the Secretary of Education shall ensure that the allocation of any Federal Department of Education funds is subject to rigorous compliance with Federal law and Administration policy, including the requirement that any program or activity receiving Federal assistance terminate illegal discrimination obscured under the label "diversity, equity, and inclusion" or similar terms and programs promoting gender ideology.

Sec. 3. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department or agency, or the head thereof; or
- (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE,
March 20, 2025.

NEWS

ADMINISTRATION

ISSUES

CONTACT

VISIT

GALLERY



THE WHITE HOUSE

1600 Pennsylvania Ave NW
Washington, DC 20500

WH.GOV

Copyright

Privacy

Style Guide

U.S. Department of Education

[HOME](#) / [ABOUT US](#) / [NEWSROOM](#) / [SPEECHES](#)

SPEECH

Secretary McMahon: Our Department's Final Mission

MARCH 3, 2025

By: [Secretary Linda McMahon](#)

When I took the oath of office as Secretary of Education, I accepted responsibility for overseeing the U.S. Department of Education and those who work here. But more importantly, I took responsibility for supporting over 100 million American children and college students who are counting on their education to create opportunity and prepare them for a rewarding career.

I want to do right by both.

As you are all aware, President Trump nominated me to take the lead on one of his most momentous campaign promises to families. My vision is aligned with the President's: to send education back to the states and empower all parents to choose an excellent education for their children. As a mother and grandmother, I know there is nobody more qualified than a parent to make educational decisions for their children. I also started my career studying to be a teacher, and as a Connecticut Board of Education member and college trustee, I have long held that teaching is the most noble of professions. As a businesswoman, I know the power of education to prepare workers for fulfilling careers.

American education can be the greatest in the world. It ought not to be corrupted by political ideologies, special interests, and unjust discrimination. Parents, teachers, and students alike deserve better.

After President Trump's inauguration last month, he steadily signed a slate of executive orders to keep his promises: combatting critical race theory, DEI, gender ideology, discrimination in admissions, promoting school choice for every child, and restoring patriotic education and civics. He has also been focused on eliminating waste, red tape, and harmful programs in the federal government. The Department of Education's role in this new era of accountability is to restore the rightful role of state oversight in education and to end the overreach from Washington.

This restoration will profoundly impact staff, budgets, and agency operations here at the Department. In coming months, we will partner with Congress and other federal agencies to determine the best path forward to fulfill the expectations of the President and the American people. We will eliminate unnecessary bureaucracy so that our colleges, K-12 schools, students, and teachers can innovate and thrive.

This review of our programs is long overdue. The Department of Education is not working as intended. Since its establishment in 1980, taxpayers have entrusted the department with over \$1 trillion, yet student outcomes have consistently languished. Millions of young Americans are trapped in failing schools, subjected to radical anti-American ideology, or saddled with college debt for a degree that has not provided a meaningful return on their investment. Teachers are leaving the profession in droves after just a few years—and citing red tape as one of their primary reasons.

The reality of our education system is stark, and the American people have elected President Trump to make significant changes in Washington. Our job is to respect the will of the American people and the President they elected, who has tasked us with accomplishing the elimination of bureaucratic bloat here at the Department of Education—a momentous final mission—quickly

and responsibly.

As I've learned many times throughout my career, disruption leads to innovation and gets results. We must start thinking about our final mission at the department as an overhaul—a last chance to restore the culture of liberty and excellence that made American education great. Changing the status quo can be daunting. But every staff member of this Department should be enthusiastic about any change that will benefit students.

True change does not happen overnight—especially the historic overhaul of a federal agency. Over the coming months, as we work hard to carry out the President's directives, we will focus on a positive vision for what American education can be.

These are our convictions:

1. Parents are the primary decision makers in their children's education.
2. Taxpayer-funded education should refocus on meaningful learning in math, reading, science, and history—not divisive DEI programs and gender ideology.
3. Postsecondary education should be a path to a well-paying career aligned with workforce needs.

Removing red tape and bureaucratic barriers will empower parents to make the best educational choices for their children. An effective transfer of educational oversight to the states will mean more autonomy for local communities. Teachers, too, will benefit from less micromanagement in the classroom—enabling them to get back to basics.

I hope each of you will embrace this vision going forward and use these convictions as a guide for conscientious and pragmatic action. The elimination of bureaucracy should free us, not limit us, in our pursuit of these goals. I want to invite all employees to join us in this historic final mission on behalf of all students, with the same dedication and excellence that you have brought to your careers as public servants.

This is our opportunity to perform one final, unforgettable public service to future generations of students. I hope you will join me in ensuring that when our final mission is complete, we will all be able to say that we left American education freer, stronger, and with more hope for the future.

Sincerely,

Linda McMahon
Secretary of Education

CONTACT

Press Office | (202) 401-1576 | press@ed.gov |
Office of Communications and Outreach (OCO)

Office of Communications and Outreach (OCO)

Page Last Reviewed: March 4, 2025

Pay for College

[Fill out the FAFSA](#)

[529 Plans](#)

[Loan Forgiveness](#)

[1098 Tax Forms](#)

Educational Resources

- 504 Plans
- FERPA
- IEPs (Individualized Education Program)

Teaching Resources

- Become a Teacher
- Professional Resources
- School Safety and Security
- Teaching Abroad

File a Report

- Report Fraud, Waste, or Abuse
- Report a Civil Rights Violation
- Student Privacy Complaint Forms

About Us

- Contact Us
- ED Offices
- Overview of ED
- Frequently Asked Questions (FAQs)
- Jobs at ED

News

- Press Releases
- Homeroom Blog
- Subscriptions

Site Notices and Privacy Policies

- Accessibility Support

ED Archive

U.S. Department of Education



ES

www.ed.gov**An official website of the Department of Education**[About Dept of Education](#)[Accessibility Support](#)[No FEAR Act data](#)[Office of the Inspector General](#)[Performance reports](#)[FOIA](#)[Privacy Policy](#)[ED Archive](#)Looking for U.S. government information and services? [Visit USA.gov](#)

U.S. Department of Education

[HOME](#) / [ABOUT US](#) / [NEWSROOM](#) / [PRESS RELEASES](#)

PRESS RELEASE

U.S. Department of Education Initiates Reduction in Force

MARCH 11, 2025

As part of the Department of Education's final mission, the Department today initiated a reduction in force (RIF) impacting nearly 50% of the Department's workforce. Impacted Department staff will be placed on administrative leave beginning Friday, March 21st.

"Today's reduction in force reflects the Department of Education's commitment to efficiency, accountability, and ensuring that resources are directed where they matter most: to students, parents, and teachers," said **Secretary of Education Linda McMahon**. "I appreciate the work of the dedicated public servants and their contributions to the Department. This is a significant step toward restoring the greatness of the United States education system."

The Department of Education will continue to deliver on all statutory programs that fall under the agency's purview, including formula funding, student loans, Pell Grants, funding for special needs students, and competitive grantmaking.

All divisions within the Department are impacted by the reduction, with some divisions requiring significant reorganization to better serve students, parents, educators, and taxpayers.

Background

When President Trump was inaugurated, the Department's workforce stood at 4,133 workers. After today's actions, the Department's workforce will total roughly

Resp. App. 64

2,183 workers. Included in the reduction in force are nearly 600 employees who accepted voluntary resignation opportunities and retirement over the last seven weeks, including:

- 259 employees accepted the [Deferred Resignation Program](#)
- 313 employees accepted the [Voluntary Separation Incentive Payment](#)

Remaining employees impacted by the reduction in force will be placed on administrative leave beginning next Friday, March 21. Pursuant to regulatory requirements and the Department's collective bargaining agreement, all impacted employees will receive full pay and benefits until June 9th, as well as substantial severance pay or retirement benefits based upon their length of service.

CONTACT

Press Office | press@ed.gov | (202) 401-1576 | Office of Communications and Outreach (OCO)

Office of Communications and Outreach (OCO)

Page Last Reviewed: March 11, 2025

Pay for College

[Fill out the FAFSA](#)

[529 Plans](#)

[Loan Forgiveness](#)

[1098 Tax Forms](#)

Educational Resources

[504 Plans](#)

[FERPA](#)

[IEPs \(Individualized Education Program\)](#)

Teaching Resources

[Become a Teacher](#)

[Professional Resources](#)

[School Safety and Security](#)

[Teaching Abroad](#)

File a Report

[Report Fraud, Waste, or Abuse](#)

[Report a Civil Rights Violation](#)

[Student Privacy Complaint Forms](#)

About Us

[Contact Us](#)

[ED Offices](#)

[Overview of ED](#)

[Frequently Asked Questions \(FAQs\)](#)

[Jobs at ED](#)

News

[Press Releases](#)

[Homeroom Blog](#)

[Subscriptions](#)

Site Notices and Privacy Policies

[Accessibility Support](#)

ED Archive

U.S. Department of Education

www.ed.gov**An official website of the Department of Education**[About Dept of Education](#)[Accessibility Support](#)[No FEAR Act data](#)[Office of the Inspector General](#)[Performance reports](#)[FOIA](#)[Privacy Policy](#)[ED Archive](#)

Looking for U.S. government information and services? [Visit USA.gov](https://www.usa.gov)

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF NEW YORK; COMMONWEALTH OF MASSACHUSETTS; STATE OF HAWAI‘I; STATE OF CALIFORNIA; STATE OF ARIZONA; STATE OF COLORADO; STATE OF CONNECTICUT; STATE OF DELAWARE; THE DISTRICT OF COLUMBIA; STATE OF ILLINOIS; STATE OF MAINE; STATE OF MARYLAND; ATTORNEY GENERAL DANA NESSEL FOR THE PEOPLE OF MICHIGAN; STATE OF MINNESOTA; STATE OF NEVADA; STATE OF NEW JERSEY; STATE OF OREGON; STATE OF RHODE ISLAND; STATE OF VERMONT; STATE OF WASHINGTON; and STATE OF WISCONSIN;

Plaintiffs,

v.

LINDA McMAHON, in her official capacity as Secretary of Education; U.S. DEPARTMENT OF EDUCATION; and DONALD J. TRUMP, in his official capacity as President of the United States;

Defendants.

Case No. 25-cv-10601 (MJJ)

DECLARATION OF DENISE BARTON

I, Denise Barton, declare as follows:

1. I am a resident of the Commonwealth of Massachusetts. I am over the age of 18. I have been an attorney since 1994 and am licensed to practice in the Commonwealth of Massachusetts. If called as a witness, I could and would testify competently to the matters set forth below.
2. I am currently employed by the University of Massachusetts, in its Office of the General Counsel, as its Chief Deputy General Counsel.

3. As Chief Deputy General Counsel for the University of Massachusetts, I have personal knowledge of the matters set forth below or have knowledge of the matters based on my review of information and records provided to me by University of Massachusetts employees and believe that information to be true.
4. The University of Massachusetts includes its five campuses (the University of Massachusetts Amherst, the University of Massachusetts Boston, the University of Massachusetts Chan Medical School, the University of Massachusetts Dartmouth, and the University of Massachusetts Lowell), as well as the University of Massachusetts Office of the President. See M.G.L. ch. 75. The University of Massachusetts maintains business records in the ordinary course of University of Massachusetts business which include, *inter alia*, records concerning the University of Massachusetts intersections with the Department of Education (“Department”).
5. On March 11, the Department announced through a press release that it is reducing its staff by 50%. *U.S. Department of Education Initiates Reduction in Force*, Press Release, Department of Education (Mar. 11, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-initiates-reduction-force> (“March 11 Press Release”).
6. On March 20, 2025, the President of the United States issued an Executive Order entitled *Improving Education Outcomes by Empowering Parents, States and Communities* (“Executive Order”) which, in sum, directs the Secretary of Education to close the Department.
7. The closure of the Department incapacitates key, statutorily-mandated functions of the Department, and is causing and will continued to cause significant and irreparable harm to the University of Massachusetts, the students it serves, and the Commonwealth

workforce to which it and its students significantly contribute. In the face of the abolishment of the Department, the University of Massachusetts must assess difficult choices including layoffs, furloughs, program closures, and in extreme cases, shutdowns. The decimation of the Department staffing further compounds these challenges by reducing oversight, technical support, and processing capacity.

8. Stable, timely federal student aid funding is not merely a budgetary consideration—it is essential infrastructure that supports educational access, institutional stability, and economic opportunity. Any policy decisions regarding federal education funding must carefully weigh these profound impacts against potential short-term fiscal savings. Laying waste to federal student aid, whether through delays or decreases, represents a significant threat and patent irreparable harm to the future of higher education and the students it serves. Protecting and strengthening this vital resource must remain a national priority to ensure that higher education continues to serve as an engine of social mobility and economic development.
9. The Department manages the federal student loan system through its Office of Federal Student Aid (“FSA”), which handles loan disbursement, servicing and borrower assistance. 20 U.S.C. § 1018. Included in this system is the administration of Pell Grants, work-study programs and subsidized loans.
10. The federal student loan programs administered by the Department under Title IV of the Higher Education Act of 1965, as amended, are central components of the financial aid provided to students at the University of Massachusetts, providing critical assistance and expanding access to higher education to students who could not otherwise afford to pursue a degree.

11. The Department awards more than \$120 billion a year in grants, work-study funds, and low-interest loans to approximately 13 million students. Much of this funding is sent directly to colleges and universities, including the University of Massachusetts. If Program Participation Renewals are not processed in a timely manner, it will impact the ability of the University of Massachusetts to operate and will prevent many of its students from attending by functionally eliminating the availability of financial aid.
12. The Department's FSA develops the *Free Application for Federal Student Aid* ("FAFSA") form and processes. The deadline for University of Massachusetts' applicants to submit their FAFSA forms is June 30, 2025, although many students submit their FAFSA forms earlier, as their decision about whether they can afford to attend the University of Massachusetts is necessarily dependent on learning for what financial aid they qualify. The Department's closure will negatively impact the FAFSA process, harming the University of Massachusetts and its applicants.
13. The Department's FSA also directs, coordinates, and recommends policies for programs that are designed to provide financial assistance to eligible students enrolled at the University of Massachusetts. This assistance includes grants, loans, and work-study assistance to University of Massachusetts students.
14. The Department's closure will hobble, at best, the FSA's School Eligibility and Oversight Services Group ("Oversight Group"), which is responsible for administering the Department's program of eligibility, certification, financial analysis, and oversight of schools, like the University of Massachusetts, participating in Federal Student Aid programs. In order for the University of Massachusetts to receive FSA funds, the

Oversight Group must assess compliance, process auditing results, and then release Title IV funding timely to the University of Massachusetts.

15. The Department's ostensible solution to this existential issue appears to be its recently announced transfer of its multi-billion dollar loan portfolio to the Small Business Administration ("SBA"), which just last week terminated over 40% of its own work force. This will cause a major systemic change in the administration of federal student aid, placing the student loan system at risk of irreparable harm.
16. The SBA's mission, function, and expertise is markedly different from the Department. The SBA, on the one hand, is primarily tasked with supporting small businesses via loans, loan guarantees, and advisory programs. Its processes revolve around business underwriting standards, job creation goals, and risk assessment tied to small-business growth. The Department, on the other hand, is (was) dedicated to expanding educational opportunity, protecting students (including through consumer-protection standards), and providing funding for higher education in a way that provides both institutional accountability with broad student access.
17. Administering student loans requires specialized policies around educational access, borrower protections, loan forgiveness or income-based repayment, and other initiatives. These typically differ greatly from business-loan norms. The SBA has no discernible expertise with enforcing rules that are informed by things such as accreditation standards and Title IV requirements that align with the educational environment. Shifting loan administration to the SBA will likely dilute the focus on educational access, borrower protections, and campus accountability measures that guide federal student lending programs. The SBA would need to build new capacity to manage the unique elements of

student lending (i.e. eligibility rules, forgiveness programs, compliance) which will very likely introduce short-term confusion and slow the processing of loans, especially where it just publicly announced the termination of over 40% of its staff.

18. There are also significant concerns about SBA's traditionally business-focused approach to borrower protections and repayment options. Specific impacts in this regard will likely include:

- a. The potential elimination or restructuring of income-driven repayment and forgiveness.
- b. Higher default risks that may occur without appropriate income-driven repayment plans. The result could be more borrowers struggling to afford payments, leading to higher delinquency or default rates.
- c. Uncertainty would be likely for existing borrowers. Individuals already enrolled in income-driven repayment or loan-forgiveness programs might experience administrative hurdles or see changes to program rules.
- d. Students would be at risk of fewer borrower protections and less flexible repayment plans and less likely to seek to borrow the funds necessary to pursue a college education.
- e. Likelihood of a decrease in loan access, particularly if underwriting or lending terms change, which would be particularly harmful for financially disadvantaged students.
- f. The administrative disruption will likely be deleterious if existing programs are not transitioned smoothly.

- g. Likely resultant enrollment and revenue challenges if loans become harder to get or if they carry higher interest rates.
 - h. New policies and procedures will likely undermine organizational efficacy and may require new or different staffing in universities.
 - i. New rules and policies may not align with existing accreditation standards.
19. Regardless of what alternative resources are put in the place of the Department, whether it is the workforce-diminished SBA or another entity, the process of the Department's dismantling is creating disruption, uncertainty, delays and confusion for the University of Massachusetts and the students it serves.
20. For example, the University of Massachusetts' Boston campus ("UMass Boston") and the students it serves will be severely impacted by the Department's closure. UMass Boston's student population includes more than 60% first generation (first in their family to attend college), and nearly 50% of the undergraduate population receives a Pell Grant annually. Each year, approximately 70% of UMass Boston undergraduates file a FAFSA. Last year, UMass Boston processed more than 11,000 FAFSAs. UMass Boston promotes a May 1 FAFSA priority filing deadline to encourage students to complete the process in a timely manner so students can have a sound financial plan in place before they begin each academic year. Last year's rollout of a new Simplified FAFSA, demonstrated the harmful impact that technical glitches and delays associated with completing the FAFSA have on student's enrolling in college. UMass Boston's overall FAFSA filing rate was down significantly, a trend that was observed nationally. This ultimately impacted UMass Boston's first-year student enrollment, which was down almost 10% compared to the prior year. Other University of Massachusetts campuses experienced likewise. The

Department's shutdown will exponentially increase that harmful impact. The data collected on the FAFSA is used to calculate and award state and institutional aid, so any delay in processing a FAFSA will impact funding availability and students' ability to attend UMass Boston.

- a. UMass Boston has 6,124 students who are Pell Grant recipients, who this year receive approximately \$34,128,795 in Pell Grant funding.
- b. UMass Boston has 1,488 students who are Federal Supplemental Educational Opportunity Grant ("FSEOG") recipients, who this year receive approximately \$1,061,246 in FSEOG funding.
- c. UMass Boston has 5,007 who utilize unsubsidized Federal Loans, who this year receive approximately \$19,665,157 in unsubsidized Federal Loan funding.
- d. UMass Boston has 451 students who participate in the Federal Work Study program, who this year receive approximately \$1,754,410 in Federal Work Study funding.

21. The University of Massachusetts' Lowell campus ("UMass Lowell") and the students it serves will also be severely impacted by the Department's closure. At UMass Lowell approximately 42% of all students—54% of undergraduates and 14% of graduate students—rely on federal financial aid to pursue their education. Notably, about 27% of students receive federal Pell Grants, underscoring the critical role this support plays in making higher education accessible. A shutdown of the Department will have serious consequences. For example, critical programs like Pell Grants and Direct Student Loans could be delayed or frozen altogether, placing significant financial strain on those who depend on this funding to continue their education. Additionally, disruptions to Federal

Work-Study programs would impact students who rely on those wages for both academic and day-to-day living expenses. Currently, 219 UMass Lowell students hold work study positions on campus and 29 UMass Lowell students hold community work-study positions. These positions are to the UMass Lowell community in terms of providing customer service, student support and other important roles on campus. In short, a shutdown will jeopardize access to higher education for many of our students—particularly those who are most vulnerable.

22. The following tables provide data concerning the composition of UMass Lowell’s student population and its reliance on the Department’s processes for the need-based and non-need based financial aid that enables them to obtain a UMass Lowell education.

Need-Based Federal Programs	2023-2024	# Recipients	2024-2025	# Recipients
Pell Grant	\$20,398,609	3,894	\$25,390,572	4,471
Federal Subsidized Loans	\$16,307,914	4,723	\$16,036,651	4,271
SEOG	\$698,600	911	\$578,049	742
Federal Work Study ¹	\$703,437	255	\$692,774	235
<i>Total</i>	\$38,108,560	9,783	\$42,698,046	9,719
<i>Unduplicated # of Recipients</i>		5,887		5,848

Non-Need Federal Programs	2023 - 2024	# Recipients	2024 - 2025	# Recipients
Federal Direct Parent PLUS	\$7,826,116	525	\$8,442,405	521
Federal Direct Graduate PLUS	\$389,029	41	\$468,565	38
Federal Direct Loan (unsubsidized)	\$36,349,864	6,850	\$35,481,066	6,513
TEACH Grant	\$1,886	1	\$4,715	2

Nurse Faculty Loan Program	\$68,329	6	\$36,463	3
<i>Total</i>	\$44,635,224	7,423	\$44,433,214	7,077
<i>Unduplicated # of Recipients</i>		6,882		6,552

FY 24 Actual	Total Students	# Fed Aid	% Fed Aid	# 1st Gen	% 1st Gen	# Pell	% Pell
Undergraduate	14,497	7,787	54%	4,291	30%	3,894	27%
Graduate	5,921	850	14%	--	--	--	--
<i>Total</i>	20,418	8,637	42%	4,291	30%	3,894	27%

FY 25 (Est.)	Total Students	# Fed Aid	% Fed Aid	# 1st Gen	% 1st Gen	# Pell	% Pell
Undergraduate	14,462	7,781	54%	4,452	31%	4,471	31%
Graduate	5,757	826	14%	--	--	--	--
<i>Total</i>	20,219	8,607	43%	4,452	31%	4,471	31%

23. In 2025, the students from Massachusetts, as well as those from other states, who attend the University of Massachusetts Dartmouth (“UMass Dartmouth”) rely on the Department for the loans and financial aid that makes it possible for them to attend college.

Program	In State Student Count	Out-of-State Student Count	Total Student Count	Total Dollar Amount
Federal Direct Loan Subsidized	2,330	327	2,657	\$10,579,505
Federal Work Study	579	89	668	\$774,053
Federal Pell Grant	2,239	254	2,493	\$13,892,231
Federal SEOG	8	195	203	\$236,059
Total	2,869	375	3,244	\$25,481,848

24. Likewise, in 2024, UMass Dartmouth students also relied on the Department's financial assistance programs to obtain a college education.

Description	In State Student Count	Out-of-State Student Count	Total Student Count	Total Dollar Amount
Federal Direct Loan Subsidized	2,463	387	2,850	\$10,932,700
Federal Work-Study	576	103	679	\$1,005,395
Federal Other Need Based	50	10	60	\$36,000
Federal Pell Grant	1,912	270	2,182	\$11,525,931
Federal SEOG	605	94	699	\$226,066
Total	2,903	428	3,331	\$23,726,092

25. In the 2024-2025 academic year, 5,877 students at the University of Massachusetts Amherst (“UMass Amherst”) received money from the federal Pell Grant program. The total amount awarded to those UMass Amherst students was \$33,129,755, for an average award of \$5,637. During that same period, 4,200 of those students also received \$1,884,000 in federal Supplemental Educational Opportunity Grants (SEOG). The average SEOG received was \$449.
26. The number of UMass Amherst students who have benefitted from federal work study this academic year has been 4,411, and the total amount awarded to date is \$9,853,875. In sum, the total amount of federal aid distributed this year to UMass Amherst students from these three programs is just under \$45 million.
27. To date, 7,097 UMass Amherst students have also benefitted from the Federal Subsidized Direct Loan program. The total amount borrowed under that program by UMass Amherst students currently stands at \$28,642,343.
28. The income level of those UMass Amherst students receiving the Pell Grants is well below that of the overall distribution of income in the Commonwealth. According to the Census Bureau, the median household income in Massachusetts is \$99,858. In contrast, the median family income for those receiving Pell Grants is less than half of that at \$38,905. The Pell amount received by UMass Amherst students ranges from a low of \$146 per year to the Pell maximum of \$7,396. However, the distribution of Pell funds for UMass Amherst student recipients weighs heavily toward the upper end, with 63 percent of them receiving the full amount of \$7,396 and 75 percent receiving at least \$5,000 a year. If these UMass Amherst students were to lose that amount of money each year,

very few would be able to continue their education. Any disruption in the distribution of funds would lead to similar results.

29. First-generation students make up a significantly larger proportion of the UMass Amherst student Pell recipients than they do for the student population overall. With Pell, 47 percent of the recipients are first-generation, but first-generation students represent only 20 percent of the UMass Amherst student population. The UMass Amherst Upward Bound program is a year-round college preparatory program for first-generation and/or low-income high school students. Nearly 100% of those students receive the federal Pell Grant, many of whom receive the maximum \$7,395. Eighty percent of participants for this school year are both first-generation and low-income students. Based on data from prior years, program participants are, on average, overwhelmingly low-income (95%) and first-generation (96.66%). Without federal financial aid, the impact of the work of Upward Bound would be greatly reduced: The program has a six-year college graduation rate of 82% with the Pell Grant and other financial aid in place. Few of the participants would be able to attend a four-year institution without the Pell Grant. Regardless of the support and services provided, the application of federal funds makes a material change in students' realities and widens the opportunities available to them. What might be an "affordable" cost or a "reasonable" amount of loans for other families is insurmountable to the population served by Upward Bound.
30. Federal financial aid bridges the gap for UMass Amherst students between a college-going future and an alternative one. UMass Amherst already provides \$55 million a year in need-based aid, so having to backfill the amount of federal money that could be lost would be a daunting challenge. Any significant reduction in operating revenue would

result in a reduction of services. The bulk of the services provided by UMass Amherst are student focused. A reduction in those services would likely lead to an even further decrease in the number of students enrolled. Even students who could afford to enroll might not, fearing that they would no longer get the high-quality UMass Amherst experience and education they have come to expect. Loss of operating revenue would also likely result in academic programs and services being cut, as well as faculty and staff layoffs.

31. A loss in funding would also likely reduce the ability to provide UMass Amherst students with work-study and other employment opportunities. Student employees are vital to the functioning of UMass Amherst's support services. Over 400 Resident Assistants and Peer Mentors staff the 52 residential facilities, playing crucial roles in community development, student learning, and policy enforcement. At Recreation and Wellbeing, more than 300 student staff support various operations, from facility management to peer education on nutrition, stress, sleep, and movement. These roles not only keep operations running but also provide essential financial support to students, helping them stay in school and graduate.

32. The University of Massachusetts Chan Medical School (“UMass Chan Medical School”) has graduate programs only and, therefore, does not have student recipients of Pell Grants. In the 2024-2025 academic year, UMass Chan Medical School has 675 students who receive a total of \$31,547,118 from the Federal Direct Loan program. Of that total number of loan recipients in the 2024-2025 academic year, all 675 students receive Federal Direct Unsubsidized Loans for a total of \$22,104,379. And of that total number

of loan recipients (675) in the 2024-2025 academic year, 324 students receive Federal Direct Grad PLUS Loans for a total of \$9,442,739.

33. The cessation and/or compromised functionality of the Department's student loan services further irreparably harms the students of institutions, like UMass Chan Medical School, who have been severely and irreparably impacted by the failure of other federal agencies including, but not limited to, the National Institutes of Health ("NIH") to honor not only their funding obligations but the federal courts orders concerning them. These unlawful actions by federal agencies such as NIH, which are the subject of pending litigation, have forced many institutions, including UMass Chan Medical School, to freeze institutional financial aid, meaning UMass Chan Medical School cannot make up for the Department's cessation and/or interruption to its student loan services by offering students institutional financial aid.
34. Since the March 11, 2025 announcement of its impending closure, the University of Massachusetts has observed numerous harmful impacts including, but not limited to, the following:
 - a. A significant disruption of FAFSA completion for students and families.
 - b. FAFSA Call Center Customer Service Support has significantly declined.
 - c. Department Regional Offices that oversee the Program Participation Agreement ("PPA"), including statutory requirements outlined by the Higher Education Act ("HEA"), have been closed. These Department offices were already dealing with a backlog of changes due to implementing the new PPA system in the Department's Common Origination and Disbursement system ("COD").

- d. There has been an increase in rejected Institutional Student Information Records (“ISIR”) due to a lack of systematic support from the Department. The resolution timeline for these rejections is quite significant, which delays the processing of aid for University of Massachusetts’ students.
 - e. Uncertainty about the Department’s future, including what services will continue to be supported, has caused an increase in phone calls from students and parents to University of Massachusetts’ financial aid and other offices regarding the availability of aid and whether or not the FAFSA should be completed.
 - f. Uncertainty regarding loan and repayment options hinders current and future loan borrowing conversations.
 - g. There are significant staff concerns about the level of funding and support for federally-funded bridge programs.
35. The Department’s closure and the potential loss of federal funding through the Department will have far-reaching and devastating effects on various educational initiatives and support systems which will impact University of Massachusetts students in significant ways including, but not limited to, the following:
- a. There would be a significant impact on the Massachusetts Inclusive Concurrent Enrollment Initiative (“MAICEI”), a program that relies heavily on state budget funding. This initiative is crucial for students with intellectual disabilities and autism, as state law mandates their inclusion in state colleges and universities. Without federal support, the MAICEI program would face severe financial strain, jeopardizing its ability to provide necessary services and accommodations.

- b. Federal financial aid is a lifeline for many University of Massachusetts students with disabilities, and its loss would greatly hinder their ability to access higher education. For example, diagnostic documentation is a critical component of the legally required review process for accommodations. Students who cannot obtain this documentation through their school system must rely on healthcare and insurance, which often do not cover the necessary testing. This financial burden would disproportionately affect students who acquire disabilities later in life or need testing for learning disabilities, making it difficult for them to access the accommodations they need.
- c. Additionally, the elimination of federal work-study funds would reduce job opportunities for University of Massachusetts student workers, forcing educational institutions, such as the University of Massachusetts to hire non-work-study students for essential positions such as exam proctors and classroom access assistants. This shift would increase budgetary pressures and limit the ability to support students effectively. Work study positions at the University of Massachusetts allow for another point of contact with student affairs professionals ensuring students don't fall through the cracks and can get connected to services and support. Many students with work study maintain the need to work multiple jobs to sustain access to basic needs and ease financial burden to family members at home.
- d. The impact on Social Security benefits would further exacerbate these challenges. Many University of Massachusetts students with significant mobility or medical disabilities rely on Supplemental Security Income ("SSI") and MassHealth for

personal care assistance. The loss of these benefits would prevent these students from enrolling in college, as they would have to rely on family members for personal care. This situation would disproportionately impact family caregivers, particularly mothers, who often bear the brunt of these responsibilities.

Consequently, students who are parents of children with disabilities would face additional challenges, including reduced time for study, increased costs, and extensive care duties. Students who receive financial aid are at greater risk of experiencing challenges accessing basic needs like housing and food security, mental health, and healthcare outside of the school environment. Without aid these students may fall through cracks and experience diminished outcomes.

- e. Low-income University of Massachusetts students rely on the university structure, including curricular and cocurricular opportunities, to provide connection, services, mentoring and job coaching for work readiness. This university structure maintains protective, developmental, and support services to prepare them to become independent and productive contributing members of society. In addition to education, students on financial aid access an entire system of services that society would need to provide through alternate means, burdening the existing underfunded human service sector.
- f. Student Parent Programs is dedicated to supporting undergraduate and graduate students at the University of Massachusetts who are caring for dependent children by providing wraparound services that support their educational goals. These services include, but are not limited to, managing the CCAMPIS grant which provides childcare subsidies to students, managing campus-based childcare

subsidies, connecting students to campus and community basic needs resources such as SNAP, WIC, housing subsidies, utilities subsidies, health care programs, etc.), hosting parenting workshops, support groups, and study lounges. During the fall 2024 semester, SPP awarded \$131,587.39 in childcare subsidies to undergraduate and graduate students representing 49.84% of the applicants need (\$264,040.25). In Fall 2024, 72% of undergraduate and 27% of graduate students who received childcare subsidies were single parents and 61% of undergraduate and 30% of graduate students had a household income that was less or equal to 100% of the 2024 federal poverty guidelines.

- g. In summary, the loss of federal funding through the Department will cause irreparable harm to educational initiatives and student support systems. It will create significant financial barriers for students with disabilities, reduce job opportunities, and place undue burdens on family caregivers. The ripple effects of this funding loss will undermine efforts to create an inclusive and supportive educational environment, ultimately hindering the academic and socio-economic future of countless students.

36. The Department's responsibilities are not just financial. The Department manages large-scale data collection and enforcement which would not be possible on a state-by-state basis. Such data are described in various Congressional Acts and often implicate campus safety. Collecting this vital data across states, and therefore monitoring nationwide trends, would be infeasible for individual states to perform and would thereby go unenforced.

37. For example, the University of Massachusetts relies on the Department for information concerning important congressional acts, such as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), for information concerning local and national trends that can be helpful in securing campus safety, understanding trends, and assessing violence prevention and reporting mechanisms. Timely, accurate, and complete access to data and guidance from the Department is essential to the university’s ability to comply with federal regulations, sustain accreditation, operate effectively, and promote student success. Delays, gaps, or losses in federally managed data compromise compliance with critical laws such as the Clery Act, the Drug-Free Schools and Communities Act, the Violence Against Women Act (“VAWA”), and the Family Educational Rights and Privacy Act (“FERPA”). For example, delayed access to crime data can result in incomplete or inaccurate Annual Security Reports and hinder the University of Massachusetts’s ability to issue timely safety alerts, posing a direct risk to campus safety and resulting in non-compliance or fines.
38. Similarly, inaccurate or outdated substance use disorder data may undermine program evaluation and reporting efforts required by the Drug-Free Schools and Communities Act, jeopardizing federal funding. Under VAWA, lack of access to current definitions or national trends can lead to inconsistent training, policy implementation, and response protocols, increasing legal liability. FERPA compliance may also be compromised by delayed updates to privacy guidance, potentially leading to improper handling of student records in areas such as emergency data sharing, research, or parental access.

39. Collectively, these disruptions elevate institutional risk and weaken the university's ability to maintain current, effective, and legally sound practices. The impact extends directly to accreditation at both the institutional and program levels. Accrediting bodies depend on federally verified data—such as retention and graduation rates, financial aid distribution, and other performance metrics—to assess institutional effectiveness, regulatory adherence, and continuous improvement. Federal data is used to place institutional performance in context. Accreditors compare an institution's outcomes to those of peer institutions to evaluate whether it meets or exceeds national norms or regional expectations. Missing or delayed data can slow down self-study preparation, complicate accreditation reviews, and result in negative findings or delayed reaffirmation. At the program level, specialized accreditors in disciplines such as education, business, and healthcare rely on data to evaluate licensure pass rates, job placement outcomes, demographic equity, and compliance with federal standards. Data gaps may jeopardize programmatic accreditation, limiting students' access to licensure pathways or eligibility for federal aid. Without consistent, high-quality data, the university's ability to demonstrate accountability, transparency, and educational quality is significantly compromised.
40. In addition to compliance and accreditation, gaps in Department-managed data disrupt institutional business operations by weakening the university's ability to benchmark against national standards. Federal datasets serve as essential reference points for assessing performance in areas such as enrollment trends, financial aid distribution, student outcomes, and compliance effectiveness. Without access to these benchmarks, the university cannot accurately evaluate its position relative to peer institutions, identify

operational gaps or opportunities, or make informed, data-driven decisions about program development, resource allocation, and long-term strategy. This lack of comparative insight limits institutional accountability and diminishes competitiveness in an increasingly data-informed higher education environment.

41. Finally, student recruitment, retention, and success are closely tied to the availability of federal data. Prospective students and families use tools like IPEDS and the College Scorecard to assess graduation rates, affordability, and student outcomes when comparing institutions. Inaccurate or missing data in these public-facing platforms can harm the university's credibility and reduce its appeal to applicants. Internally, national benchmarks are vital for identifying at-risk student populations, assessing the effectiveness of support services, and guiding investment in student success initiatives. Without timely and complete federal data, the university's ability to proactively support students—from enrollment through graduation—is severely limited, weakening both retention strategies and overall student outcomes.

42. In addition, the closure or reduction in staffing at the Department's Institute of Education Sciences ("IES") will have negative impacts on the University of Massachusetts, as many programs and departments at the University of Massachusetts work closely with and depend upon IES. For example, UMass Boston's College of Education and Human Development ("CEHD") is its most productive research unit and receives significant Department and IES funding.

43. UMass Amherst also has several projects underway, funded by the Department's IES, in its College of Education, each with specific objectives and funding arrangements. These include two current training grants, as well as one grant and two subcontracts funded

through IES. All of these projects have been impacted by current layoffs/RIF cuts in the Department, including the firing of the program officers who supported these projects beginning in the proposal phase and who request and review annual reports for active projects.

- a. The Next Generation of Culturally Responsive Leaders for the Administration of Special Education (“NextGen”) project is an OSEP funded training grant for doctoral students interested in Special Education Administration and School Psychology. The aim is to cultivate culturally responsive leaders in special education. With a total funding of over \$1.2 million, the project has successfully engaged five fellows through each year of the project (five 10-hour/week graduate assistants currently) and contributes highly qualified professionals to local school districts . NextGen is set to conclude by September 30, 2026.
- b. In collaboration with Arizona State University, UMass Amherst is working on another OSEP training program for doctoral trainees in Special Education. Their training grant is titled Preparing Leaders in Education, Disability, and Juvenile Justice (“PLEDJJ”). The PLEDJJ consortium will empower special education teachers to enter future positions to teach, conduct transdisciplinary research, prepare special education professionals, and advance knowledge in the field while learning from experts at UMass Amherst and Arizona State University. This project has received over \$1.1 million in funding and currently supports three doctoral student fellows.
- c. UMass Amherst also has another IES-funded project titled *Adult Skill Assessment Project: Actionable Assessments for Adult Learners* (“ASAP”) with over \$3

million in total funding. This project, which aims to enhance adult learning assessments, is projected to run until August 31, 2026. The mission of this project is to discover and document the assessment needs in adult education and workforce development, and to meet these needs by creating and supporting online banks of literacy and numeracy tasks to serve the assessment needs of adult learners, adult educators, employers, and researchers. In this project, the research team, composed of national leaders in the assessment and validation of academic outcomes, technology, and adult literacy, will develop digital, personalized assessments that leverage technology to increase access, effectiveness, and meaningful learning opportunities for adult learners. ASAP will result in digitally distributable online banks of assessment tasks in literacy, numeracy, and the intersection of these two domains; to serve the assessment needs of adult learners, adult educators, career counselors, and employers. ASAP assessments will be available on practically any digital device anywhere at any time, using brief assessment modules that can be taken in isolation or systematically pieced together to form larger assessments tailored to specific assessment goals. ASAP is one of six projects that is part of the [CREATE Adult Skills Network](#) -- a national initiative to build knowledge about using technology to support teaching and learning funded by IES.

- d. UMass Amherst also has current subcontracts funded by IES. An example of one, is a project in collaboration with the University of South Florida and is titled *Efficacy of a Selective Intervention to Improve Middle School Students' Subjective Well-Being*. This project received over \$1.3 million in funding and is in its final

year. This project has successfully implemented a positive psychology intervention across 15 schools in Florida and Massachusetts and includes almost 1,000 middle-school students, their caregivers, and teachers across four years of intervention implementation and evaluation. The goal is to promote well-being, mental health outcomes, and academic achievement among middle school students. The project is set to conclude by June 30, 2026 and is awaiting year five funds for dissemination activities next year.

- e. Another example is UMass Amherst's Para-to-Teacher Program for Early Childhood Education Licensure in Massachusetts. This para-to-teacher training initiative, funded by the Department's Teacher Quality Partnership ("TQP") program, has secured over \$2.3 million and is in its second year, with plans to continue until September 30, 2027. This project is in partnership with Holyoke and Springfield Public School districts and is working to address teacher shortage areas in early childhood education through the development of high quality and accessible teacher training programs through blended online and in person training components. This funding aims to develop 35 new teachers for these school districts, and to develop an ongoing model for training paraprofessionals working in schools to become licensed teachers. The Department terminated this project in February 2025 and, through federal court proceedings, a preliminary injunction has been entered ordering the Department to continue that important project.

44. The closure and/or reduction in IES staffing will likely harm the University of Massachusetts in the following ways:

- a. Slower grant award and administration processes.
- b. Delayed funding decisions because of fewer IES reviewers and program officers available to process grant applications, leading to longer wait times for award announcements and potential gaps in funding.
- c. Extended grant negotiations concerning project scopes, budgets, and timelines, delaying project launches and key milestones.
- d. Reduced technical assistance and guidance.
- e. Proposal development will be negatively impacted as IES program officers often offer clarifications on Requests for Applications (“RFA”) and feedback during the application process. With fewer staff, the University of Massachusetts will likely not receive timely support or guidance.
- f. Compliance and reporting will be negatively impacted, as grantees rely on IES for help interpreting program rules and reporting requirements. A smaller IES workforce will hamper the Department’s responsiveness, making it harder to meet deadlines and/or navigate complex federal regulations.
- g. There will be less capacity for data collection and dissemination because national data sets for IES agencies, such as the National Center for Education Statistics (“NCES”) (which produces major data collections such as IPEDS, NAEP) will likely delay data releases and/or limit the depth of available data, impacting our ability to conduct timely, data-driven studies.
- h. Research infrastructure will be weakened. Large-scale studies funded by IES often generate new methodologies, tools, or databases that benefit the broader

research community. Reduced staff will likely mean fewer such initiatives and less cutting-edge data infrastructure available to the University of Massachusetts.

- i. Weakened policy and practice feedback will result from the Department's inability to conduct program evaluations. With its current staffing, IES supports rigorous program evaluations that often inform higher-education and K–12 policies. With fewer staff to oversee evaluations or disseminate findings, the University of Massachusetts will likely be hampered in aligning research agendas with national education-policy priorities.
- j. Limited Implementation Support: If the IES staff who translate research findings into practical guidance for schools and institutions are cut, campus administrators and faculty may have fewer federal resources to lean on when adapting programs for local needs.
- k. The University of Massachusetts will likely experience a decrease in research opportunities and new funding competitions as a reduced and/or eliminated IES workforce is likely to result in fewer or scaled-back solicitations for new research which will reduce the volume and scope of projects.
- l. Reduced innovation and collaboration will result as many IES-funded projects are collaborative, multi-institution efforts. IES staff shortages will likely deter and/or delay partnerships that rely on federal coordination, slowing innovation across the field.
- m. Reduction/elimination of IES staff will cause the University of Massachusetts to incur increased administrative burdens and attendant costs. When IES personnel are less available for troubleshooting or streamlined processes, the administrative

burden concerning grants will shift to the University of Massachusetts' grants offices to ensure compliance and keep projects on track. University of Massachusetts faculty will need to devote resources to navigating federal requirements, rather than on designing and implementing research.

45. The delays, at best, and complete cessation, at worst, of the Department's functionality including, but not limited to, its processing of federal student aid funding, grant provision and support, and its compilation of Congressionally-required information, have far-reaching and irreversible consequences. Students lose educational opportunities, with low-income and first-generation students and their families bearing the heaviest burden. These looming existential threats will lead to program closures, layoffs, and institutional shutdowns. The broader higher education ecosystem will lose capacity to fulfill its mission of expanding opportunity. Campus communities will become less of a contributor, and may cease contributing entirely, to the critical functions that drive the economic engines that have built and sustain the Commonwealth and this country.

I declare under penalty of perjury under the laws of the United States that, to the best of my knowledge, the foregoing is true and correct.

Executed on March 24, 2025, at Westborough, Massachusetts.

/s/ Denise Barton
Denise Barton

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

LINDA McMAHON, *et al.*,

Defendants.

C.A. No. 1:25-cv-10601

DECLARATION

DECLARATION OF DR. JOHN B. KING, JR.

I, Dr. John B. King, Jr., declare as follows:

1. I am a resident of the State of New York. I am over the age of 18 and have personal knowledge of all the facts stated herein. If called as a witness, I could and would testify competently to the matters set forth below.

2. I am the Chancellor of the State University of New York (SUNY), a position I have held since January 2023. As Chancellor, I lead the nation's largest comprehensive system of public higher education, which is made up of 64 colleges and universities and includes four academic health centers, five hospitals, four medical schools, two dental schools, a law school, the country's oldest school of maritime, and the state's only college of optometry. In this capacity, I establish and monitor SUNY's strategic direction; develop, lead, and oversee SUNY's strategic initiatives; and implement SUNY Board of Trustees policies.

3. I previously served as the 10th United States Secretary of Education. I held that position at the United States Department of Education (the "Department") from January 1, 2016 through January 20, 2017 (first as Acting Secretary and, following confirmation by the United States

Senate, as Secretary), after serving from January 2015 to December 2015 as the Department's Delegated Deputy Secretary.

4. As the United States Secretary of Education, I had a specific understanding of the operational and personnel needs for fulfilling the Department's statutory authority and goals. I have carried this understanding into my current role at SUNY.

5. As the Chancellor of SUNY, I have personal knowledge of the matters set forth below or have knowledge of the matters based on my review of information and records gathered by my staff.

6. I submit this declaration in connection with Plaintiff States' Motion for a Preliminary Injunction. The Department announced that it would be reducing its workforce by 50% and that this was only the "first step" to a "total shutdown" of the Department. *U.S. Department of Education Initiates Reduction in Force*, Press Release, Department of Education (Mar. 11, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-initiates-reduction-force> ("March 11 Press Release"). This unprecedented Reduction in Force has either devastated or effectively dismantled vital Department offices tasked with statutory mandates, including the Office of Federal Student Aid ("FSA"), the Office for Civil Rights ("OCR"), the Office of Postsecondary Education, the Institute of Education Sciences (including the National Center for Education Statistics (NCES)), and the Office of General Counsel.

7. I am providing this declaration because SUNY's vast economic impact on New York State and the transformational upward mobility for students made possible by the excellence of SUNY's academic programs rely heavily on the Department fulfilling its obligations as required by law. Given my experience as the United States Secretary of Education, I am in a position to state emphatically that the Department simply cannot meet its obligations to administer the programs described herein if the Defendants carry out the plan set forth in the March 11 Press Release.

8. SUNY is the largest comprehensive system of public higher education in the United States. SUNY is an integral part of the New York economy and any interruption in the educational services that SUNY provides would have a direct and deleterious effect on New York's economy. This effect would be both immediate – in terms of direct economic impact for SUNY institutions and the communities that rely on those institutions – as well as long term, in terms of the weakened ability of SUNY to educate and train the next generation of students. The Department's inability to fulfill its statutory financial aid responsibilities, in particular, would represent a staggering failure and an existential threat to the success of our students.

9. SUNY campuses are economic engines of the communities they are privileged to serve. In the 2020-21 academic year, SUNY had a total economic impact of \$31 billion. If SUNY were a private company, it would rank among the top 10 employers in New York State. In addition to its direct employment of New Yorkers, SUNY indirectly supports 85,415 jobs through the economic activity of our students and campuses in the communities that they serve. For example, in Central New York, SUNY represents 10.9% of total regional economic output; in the Southern Tier, SUNY contributes 10.5% of total regional economic output; and on Long Island, SUNY is responsible for more than \$8.5 billion in economic output, or 4.1% of the regional total. Rockefeller Institute of Government, *The Economic Impact of the State University of New York (AY 2020)*, <https://rockinst.org/wp-content/uploads/2024/02/SUNY-Economic-Report-AY2020.pdf>

10. SUNY is composed of 64 institutions, including research universities, academic medical centers, liberal arts colleges, community colleges, and colleges of agriculture and technology. SUNY's credit-bearing programs and courses, workforce development programs, and continuing education and community outreach programs have a total of nearly 1.1 million annual enrollments.

11. SUNY's 64 campuses are geographically distributed widely across New York State, including 18 campuses located in rural areas. More than 95 percent of all New Yorkers live within 30 miles of a SUNY campus.

12. An estimated one in three New Yorkers with a college degree are graduates of SUNY colleges and universities. As a result, SUNY plays a unique and vital role in preparing New York State's workforce, supporting the success of employers in a vast range of industries and providing a pathway for students of all ages – from recent high school graduates to individuals who have been in the workforce for decades – to pursue their chosen career path, to fill critical positions, and to improve the economic security of themselves and their families.

13. For example, SUNY Maritime is one of only seven maritime academies in the entire United State and prepares students for careers in the global shipping industry. SUNY's College of Agriculture and Technology at Cobleskill is home to a 200-cow dairy facility and the Northeast's largest cold-water fish hatchery. SUNY's health care education and workforce programs produce one-third of New York State's nursing graduates, one-third of its Doctors of Medicine (MDs), and all new optometrists. Onondaga Community College was selected as an education partner for Micron, which is building the largest semiconductor fabrication facility in the history of the United States.

14. These and other programs across SUNY's campuses play an important part in economic and social mobility. New Yorkers with either an associate's degree or bachelor's degree have consistently lower unemployment rates and higher median weekly earnings than New Yorkers without a degree (Current Population Survey via New York State Department of Labor). SUNY campuses make it possible for students and families to achieve an enormous return on their investment in a college degree. This return can be seen empirically by comparing the median earnings in the 10 years after a student enrolls at an institution to the average net price of the institution: for example, +\$274,000 at Farmingdale State College, +\$252,000 at Binghamton University, and +\$245,000 at

SUNY Polytechnic Institute (Georgetown University Center on Education and the Workforce analysis of data from the U.S. Department of Education, College Scorecard). Notably, even this valuable information for families considering the economic advantages of college would not be possible without the Department's data collection and reporting, including through NCES.

15. There is a place at SUNY for every New Yorker, and SUNY's total enrollment has increased in each of the last two years. This represents the first time in 15 years that SUNY has experienced back-to-back enrollment increases in every SUNY sector.

16. Under Title IV of the Higher Education Act of 1965, as amended, the Department's Office of Federal Student Aid (FSA) administers Pell Grants, work-study programs, subsidized loans, and handles loan disbursement, servicing and borrower assistance for SUNY students and prospective students.

17. New Yorkers receive approximately \$1.9 billion in Pell grants annually, including \$633 million for 112,000 SUNY students. In Fall 2024, nearly half (49.7 percent) of first-time SUNY undergraduate students were recipients of Pell grants. SUNY's four pre-eminent University Centers (the University at Albany, Binghamton University, University at Buffalo, and Stony Brook University) together enroll twice as many Pell recipients as the entire Ivy League combined. Pell grant recipients represent 55.2 percent of undergraduate students at SUNY Canton, 63.5 percent of undergraduate students at SUNY Morrisville, and 67.4 percent of students at Herkimer Community College.

18. The FSA also develops the Free Application for Federal Student Aid (FAFSA) form, maintains the technology required for students to submit their FAFSA, processes students' FAFSA submissions, and transmits FAFSA data to college campuses for use in generating current and prospective students' financial aid packages. Completing the FAFSA is essential not only for Pell grant eligibility but also for determining eligibility for New York State-based financial aid programs,

including the New York State Tuition Assistance Program (TAP) and Excelsior Scholarship. More than 100,000 SUNY students rely on TAP and Excelsior, which together provide approximately \$340 million in financial aid to SUNY students.

19. Families in New York State rely on the FAFSA to be able to afford college, and the state is consistently ranked among the top 10 for FAFSA completion. Current high school seniors are in the midst of the FAFSA submission process right now, and a fully functioning FAFSA is essential to their families' ability to make college acceptance decisions for the fall. Of particular concern is the threat of technical problems with the FAFSA processes that FSA is responsible for overseeing. Under New York State's Universal FAFSA law, all high school seniors are expected to complete the FAFSA (or applicable alternative). However, as of March 14, 2025, only 99,267 New York State high school seniors have completed the FAFSA, representing 46.7 percent of this year's grade 12 cohort. The Reduction in Force announced by the Department will hinder significantly the ability of the remaining students to complete the process. It has been reported that "more than 300 people" were "cut from Federal Student Aid — two dozen of them from Federal Student Aid's technology division," including "the entire team responsible for systems supporting the FAFSA form." Collin Binkley & Jocelyn Gecker, *Federal student loan site down Wednesday, a day after layoffs gutted Education Department*, Associated Press (March 13, 2025), [Student loans website down after Education Department layoffs | AP News](#).

20. Intentionally putting the FAFSA system at risk is educational malpractice: it will cause immediate, and needless, injuries for New York families and students, as well as for SUNY. Even under the staffing level prior to the Reduction in Force, past federal FAFSA delays and technical problems have led to uncertainty for hardworking families and fewer SUNY students receiving financial aid; reducing staff levels will make delays and technical problems more frequent and longer-lasting – harming SUNY students and prospective students far more significantly. In fact, in order to

help SUNY respond to last year's federal FAFSA delays, the Department facilitated a grant of \$500,000 that funded student and family FAFSA completion assistance, campus staffing enhancements to process financial aid packages, and extensive community outreach. This year, via email on February 19, 2025, the Department terminated that FAFSA support grant program, stating that "the Department decided a second round of funding is no longer needed since students and families are not experiencing high levels of technical difficulties and customer service issues." Yet the Department's StudentAid.gov website experienced outages for several hours on March 13, 2025, the day after the Reduction in Force was implemented. Fifty-two percent of in-state SUNY undergraduate students have their tuition fully covered through a combination of State, Federal, and institutional financial aid. As a result, 42 percent of SUNY students graduate with no debt, and those who do graduate with loans owe far less than the national average. There is no replacement for this financial aid, and without it many of our students would simply be unable to complete their degrees.

21. I now understand that President Trump has ordered the immediate transfer of student loan functions to the Small Business Administration, which itself just announced a 40% reduction in force. I cannot imagine how this transfer could occur without severely compounding the problems just discussed, as the SBA lacks any appropriate subject matter expertise.

22. Since its founding, the Department has provided statutorily required civil rights oversight and enforcement that protects the educational rights of every American. This fundamental responsibility helps ensure a pipeline of college-ready students by addressing and preventing civil rights violations that keep K-12 students from accessing high-quality educational experiences. For example, SUNY currently serves more than 30,000 students who identify as having a disability. Disability-related discrimination complaints were the second most common type of complaint handled by the Department's Office for Civil Rights (OCR) in fiscal year 2023, and OCR's enforcement made it possible for students with disabilities to receive the K-12 services and supports

to which they were entitled, contributing to successful high school graduation and college matriculation.

23. In addition, SUNY is committed to ensuring that every campus is safe and inclusive, and OCR plays a critical role in these efforts. A student will not choose to attend (or remain at) an institution where they do not feel like a valued member of the campus community. OCR enforces several Federal civil rights laws, including Title VI, Title IX, Section 504, the Age Discrimination Act, and certain aspects of Title II of the Americans with Disabilities Act. OCR not only engages in investigation and enforcement activities, but it also provides critical guidance materials to effectuate compliance across all institutions of higher education. For example, to combat antisemitism and other forms of discrimination and harassment, SUNY has taken extensive steps to fulfill its responsibilities under Title VI of the Civil Rights Act of 1964. These steps include mandatory Title VI training for all SUNY faculty and staff; requiring that campuses complete Title VI checklists before relevant events; and promulgating guidance with expectations for how students can submit and campuses will receive Title VI complaints, demonstrate that complaints are taken seriously and investigated fully, and provide appropriate information to complainants and other interested stakeholders. These efforts by SUNY would not have been possible without the direct and ongoing guidance from OCR. However, OCR's New York Region Office has been entirely eliminated as a result of the Department's Reduction in Force. In areas including Title VI and Title IX, a prompt and efficient OCR complaint and resolution process is essential to SUNY campuses' ability to demonstrate that they are fulfilling their responsibilities under applicable federal civil rights law. The New York Regional Office was one of seven out of twelve that were entirely closed down. Collin Binkley, Education Department layoffs gut its civil rights office, leaving discrimination cases in limbo, Associated Press (March 12, 2025), <https://apnews.com/article/trump-education-department-layoffs-civil-rights-8cbf463cce765f497c10d688ab4d51e1>. A loss of 240 staff members, as was reported by

the Associated Press, combined with the loss of the regional offices, will make it impossible for OCR to meet its statutory obligations. *Id.*

24. The Department further manages large-scale data collection and enforcement from institutions of higher education across the country. For example, the Department keeps records of campus safety incidents and disclosures under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. The Clery Compliance Group within the FSA is responsible for enforcement of this Act. It requires institutions of higher education to be transparent about crime reporting on their campuses with the Department and to post Annual Security Reports on their public facing websites for its campus community and prospective students to review. The Violence Against Women Act (VAWA) amendments to the Clery Act further require reporting on incidents of sexual assault, dating violence, domestic violence, and stalking as well as incidents of hate crime related to gender identity and national origin. Without sufficient enforcement staff, the accuracy of such reporting will be unreliable at best. Further, in December 2024, Congress passed amendments to this Act (the Stop Campus Hazing Act) to include hazing reporting, with compliance on collecting statistics commencing January 1, 2025. Without appropriate staffing, there is a high degree of possibility that no regulations will be promulgated around this new law, nor will there be any guidance from the Department on the implementation of this law, which would be within their purview. This would, again, cause the Department not to fulfill its mission and purpose.

25. The Department's OCR is also responsible for providing guidance and technical assistance on Title IX, which is crucial for campuses, including SUNY. SUNY is at a critical juncture of compliance with the recent court decision that invalidated the Title IX regulations promulgated in 2024 in their entirety, along with all institutions across the country, and lack of guidance and information from OCR causes harm for all institutions attempting to comply with an immediate

switch back to the previous regulations promulgated in 2020. The Reduction in Force further harms efforts to achieve nationwide compliance on federal civil rights laws, including Title IX.

26. Additionally, FSA is principally responsible for compliance with the Higher Education Act, and its components. Reducing its workforce in the manner that has been done will effectively make higher education inaccessible for many, if not most, SUNY students if student loans are delayed in administration. Delay of release of Title IV funding to institutions that has been authorized will cause significant harm to SUNY, and the students attempting to attend a SUNY institution.

27. The Department is also responsible for compliance with the Drug Free Schools and Community Act, and removing critical resources will cause the Department to not fulfill its oversight duties as outlined in 34 C.F.R. Part 86.

28. In addition, the Department's Student Privacy Policy Office (SPPO) is responsible for the administration and enforcement of the Family Educational Rights and Privacy Act (FERPA). The SPPO also provides SUNY and other colleges with technical assistance on various privacy issues. The SPPO's Privacy Technical Assistance Center (PTAC) provides resources related to privacy, confidentiality, and data security, including training, webinars, and technical assistance. In a rapidly changing data environment and amid accelerating advances in artificial intelligence, SUNY relies upon guidance and resources from the Department's SPPO to ensure that student data is adequately protected. Any disruption or delay in these functions will undermine student and family confidence in data collection, security, and use, harming SUNY's ability to fulfill its educational mission.

29. The Department's Office of Postsecondary Education ("OPE") is responsible for formulating federal postsecondary education policy and administering programs to support of increased access to quality postsecondary education. SUNY campuses are currently implementing approximately 150 unique grants overseen by OPE, and the Department's monitoring and technical

support are important to the successful completion of grant-funded activity, transparent reporting on campus and student outcomes, and appropriate stewardship of the public funds involved.

30. Accurate and timely data are essential to student success and institutional accountability, and the Department's National Center for Education Statistics is the gold standard for data collection and integrity. In particular, the Integrated Postsecondary Education Data System (IPEDS) – which conducts statutorily required data collection – plays a critical role across all aspects of higher education, from accreditation to financial aid administration to research that improves student outcomes and program efficiency. The National Center for Education Statistics, including the IPEDS team, was reportedly completely eliminated as part of the Reduction in Force. Benjamin Siegel, *Education Department cuts agency that compiles 'Nation's Report Card' and measures student performance*, ABC News (March 12, 2025), <https://abcnews.go.com/Politics/education-department-cuts-agency-compiles-nations-report-card/story?id=119735831>.

31. SUNY relies on this data for many purposes. The most common is for benchmarking – at the national level, at the sector (Carnegie classification) level, and for campus-specific current and aspirational peer groups. Similarly, the data is used for understanding nationwide and regional trends in higher education (e.g., enrollment overall, at different campus levels, at different award levels; retention and graduation rate trends; etc.). These snapshot benchmarking and trend analyses provide critical context in regard to how SUNY is performing, and require the Department's IPEDS functionality. Absent these measurements, SUNY will be unable to make any comparison as to its performance and thus will be less able to fulfill its goal of continued improvement in order to provide its students with the best education possible.

32. The College Scorecard and College Navigator, both of which utilize data collected via IPEDS, also play a critical role in informing prospective students and families about their colleges and academic areas of interest, thereby helping prospective SUNY students and families make

informed decisions on college-related enrollment decisions. In addition, these tools are used for external reporting, providing consistency in how colleges across the nation are represented. The College Scorecard is also utilized in Return on Investment (ROI) analyses that are made publicly available, which help colleges examine their ROIs in a larger context. SUNY relies on these tools to disseminate reliable information about our affordability and value, and our campuses would be at a significant enrollment disadvantage without this data. This is an especially important consideration for public higher education institutions like SUNY, which do not have the marketing resources of private institutions.

33. In addition, to participate in Title IV student loan programs, SUNY colleges participate in the Middle States Commission on Higher Education (MSCHE) accreditation process, whose data portions of the report are based on IPEDS data, again providing for consistent and standardized metrics.

34. In addition, the Department's oversight of predatory for-profit colleges and universities provides an essential protection not only for students who would be subject to their fraudulent practices, but also to SUNY and other public and private higher education institutions that rely on students and families being able to make informed decisions about college cost and outcomes using accurate information. According to the National Bureau of Economic Research, a non-partisan research organization, students who choose to attend for-profit schools as opposed to similarly selective public schools borrow more money to attend, default on their student loans at a higher rate, and have a lower likelihood of employment post-graduation than at public higher education counterparts. National Bureau of Economic Research, *The Effects of For-Profit Colleges on Student Outcomes and Debt* (November 26, 2018), <https://www.nber.org/digest/dec18/effects-profit-colleges-student-outcomes-and-debt>. Such disparities exist despite the Department's historical

oversight. Abandonment of that critical responsibility by the Department due to a lack of staffing will only serve to exacerbate that situation and lead to higher student debt and lower expected outcomes.

35. In sum, I can state unequivocally that the Department's planned Reduction of Force would prevent the execution of its statutorily mandated mission and functions. Secretary McMahon sent education stakeholders a letter on March 14, stating that statutorily mandated services will not be disrupted. Given my experience both as Secretary of the Department and now at SUNY, I can attest, as described extensively above, this cannot be true. I directly oversaw all of the offices impacted by the Reduction in Force, and each of the federal workers in the eliminated lines reported up to me. The impact of the Reduction in Force on the New York state economy and SUNY and the students and communities who rely on SUNY would be immediate and disastrous both in economic terms and in the ability of one of the nation's premier public higher education systems to continue to provide a highly affordable, excellent education to residents of New York State.

36. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on March 24, 2025, at Albany, New York.

/s/ John B. King Jr.

JOHN B. KING JR., J.D., ED.D.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

LINDA McMAHON, *et al.*,

Defendants.

C.A. No. 1:25-cv-10601

DECLARATION

**AMENDED DECLARATION OF DEPUTY COMMISSIONER
DREW ECHELSON, Ed.D.**

I, Drew Echelson, declare:

1. I am over the age of 18 and have personal knowledge of all the facts stated herein or have knowledge of the matters based on my review of information and records gathered by my staff. If called as a witness, I could and would testify competently to the matters set forth below.

2. I am one of two Deputy Commissioners at the Rhode Island Department of Elementary and Secondary Education (RIDE), a position I have held since 2024. As Deputy Commissioner, I have oversight of the Division of System Transformation. This Division is composed of the Office of School and District Improvement, which includes federal Title programs and the Consolidated Resource Plan (CRP); the Office of Data and Technology Services, which includes federal data collections and reporting; and the Office of Finance and Accounting, which includes federal grant management, audit, and monitoring. Prior to holding this position at RIDE, I served in a number of senior roles in the Boston Public Schools including Chief of Schools and Accountability, Deputy Superintendent of Academics and Interim Superintendent of Schools.

I've earned a Doctorate in Education (Ed.D.) and multiple advanced degrees from Harvard University.

3. I submit this declaration in connection with the announcement by the Department of Education ("the Department") on March 11, 2025, that it would be reducing its staff by 50% and that this was only the "first step" to a "total shutdown" of the Department. *U.S. Department of Education Initiates Reduction in Force*, Press Release, Department of Education (Mar. 11, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-initiates-reduction-force> ("March 11 Press Release").

4. RIDE is a department and the operating arm of the Rhode Island Council on Elementary and Secondary Education, which has been authorized by the Legislature "[t]o adopt standards and require enforcement and to exercise general supervision over all elementary and secondary public and nonpublic education in the state." R.I. Gen. Laws § 16-60-4(a)(2).

5. There are some sixty-six (66) public local education agencies (LEAs) in the State, which include thirty-two (32) traditional school districts (serving single municipalities), four (4) regional school districts (serving multiple municipalities), four (4) state-operated schools (serving students statewide), one (1) regional collaborative LEA and twenty-three (23) charter schools.

6. There are approximately three hundred and six (306) public elementary and secondary schools in the State serving over 130,000 students.

7. Given my experience, I do not think that the U.S. Department of Education can meet its obligations to administer the programs described below on behalf of RIDE.

Department of Education Funding Programs

8. RIDE receives funding through nineteen separate grants from the Department of Education, totaling \$231,597,530 in allocated funds. Grant-making through the Department of

Education plays a critical role in RIDE's ability to support the well-being and academic success of students across Rhode Island, and RIDE's ability to oversee and administer state education programs is intertwined with the efficient administration of federal funding.

9. Any delays, interruptions, or reductions in funding as a result of the pending reduction in force at the Department of Education are likely to have a debilitating impact on the quality of education in Rhode Island, for the reasons given below.

Title I Funding / Formula Funding under the ESEA

10. RIDE receives funding through twelve formula grant programs, which include continuing grants that are allocated based on formulas authorized by statute or regulation. These programs include \$156 million in federal funding authorized through September 2025, as well as \$4 million authorized through September 2026.

11. RIDE receives formula funding totaling \$61,608,283 under Title I of the Elementary and Secondary Education Act (ESEA) to support schools with high-poverty populations. This is a formula grant that was awarded in July 2023 and is set to expire in September 2025.

12. The purpose of Title I is "to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging State academic achievement standards and state academic assessments." 20 U.S.C. § 1001(2).

13. Rhode Island has 177 schools that receive Title I funding, serving 66,767 students as of the end of the 2023-2024 academic year.

14. RIDE also receives formula funding under Title II Part A (Teacher Quality), Title III Part A (Language Acquisition), Title IV Part A (Student Support and Academic Enrichment),

Title IV Part B (21st Century Community Learning Center Grants), and Title VI Part A (Grants for State Assessments) of the ESEA as amended, totaling over \$60 million in active federal grants. These funds are administered through the Office of Elementary and Secondary Education Services.

15. These grants are allocated to state education agencies which then subgrant directly to eligible entities. For example, local education agencies, i.e., schools and districts, receive Title II Part A supplemental formula funding to support effective instruction and improve the quality of teachers, principals, and other school leaders. Schools and districts receive Title IV Part A formula grants to provide all students with access to a well-rounded education, improve school conditions for student learning, and improve the use of technology to support student digital literacy. Title IV Part B provides funding for high-quality after-school and summer learning programs that provide academic support, enrichment, and family engagement services to students to complement and support learning that happens during the school day.

16. Any delays, interruptions, or reductions in funding as a result of a reduction of force in the Office of Elementary and Secondary Education Services or the Department generally will have a direct impact on the quality of education for students across Rhode Island. Funding delays or interruptions will compromise the ability of LEAs to ensure that their students are minimally proficient on State academic assessments, will hobble the capacity of LEAs to support, develop, and train qualified teachers, and will have an immediate and detrimental effect on the quality of education in Rhode Island. Interruptions or delays in the administration of Title I funding, specifically, will be strongly felt, as over half of Rhode Island schools currently receive this funding.

17. Any reductions, delays, or interruptions in funding due to the pending reduction in force may also impact funding available for RIDE as a State Education Agency (SEA) for federal

program administration and the enactment of state level activities. Significant delays, interruptions, or reductions in funding would dramatically hamper RIDE's capacity to successfully administer these programs in alignment with federal requirements and dilute RIDE capacity to enact programs and initiatives with funds set aside for state level activities.

Formula Funding under the IDEA for Students with Disabilities

18. RIDE also receives funding under the Individuals with Disabilities Education Act (IDEA) to support special education and support for students with disabilities, including \$54.6 million under IDEA Part 300 Part B for the education of homeless children and youth, preschool students, and special education services. These formula grants were awarded in July 2023 and are set to expire in September 2025.

19. The purpose of IDEA is to provide all children with disabilities with “a free appropriate public education that emphasizes special education and related services designed to meet their unique needs,” 20 U.S.C. § 1400(d)(1)(A). IDEA is designed: to assist states in implementing a “system of early intervention services for infants and toddlers with disabilities;” “to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities;” and “to assess, and ensure the effectiveness of, efforts to educate children with disabilities.” *Id.* § 1400(d)(2)-(4).

20. There were 26,379 children with individualized education programs in Rhode Island under the Individuals with Disabilities Education Act (IDEA) as of the close of the 2023-2024 school year. Additionally, there were 8,356 students with 505 plans during this same period.

21. The Rhode Island Department of Elementary and Secondary Education administers the IDEA. In this role, RIDE as the SEA must implement all requirements of the Act and provide written assurance annually of compliance with the Act and the Regulations governing special

education in applying for the IDEA grant funds. RIDE relies on federal funding to carry out its statutory mandate, and the efficient administration of these funds is critical to ensuring that RIDE can carry out its functions as required by law.

22. Delays, interruptions, or reduction in funding resulting from a significant reduction in force at the Department will hobble RIDE's ability to perform its statutory functions under the IDEA. To the extent that such delays compromise the provision of early intervention services, special education services, assessments, and staffing, it will have an immediate and detrimental effect on children with disabilities in Rhode Island.

23. Improper administration of the requirements under IDEA would compromise the rights of children with disabilities to receive a free and appropriate public education in the least restrictive environment. This is a central tenet of the law and a fundamental requirement which the State is obligated to fulfill.

24. Reductions in force to the Office of General Counsel at the U.S. Department of Education will likely delay program evaluation of Rhode Island's Annual Performance Report and approval of the State's IDEA Part B funding application for FFY25. The FFY25 application process has just begun, and actual submission will occur on May 21, 2025.

Formula Funding for Adult Education / Technical Education

25. RIDE additionally receives \$9,588,904 in formula funding under the Adult Education and Family Literacy Act and the Carl T. Perkins Career and Technical Education Act. These grants were awarded in July 2023 and are set to expire in September 2025.

26. The Carl D. Perkins Career and Technical Education (CTE) Act provides federal funding to strengthen CTE programs by aligning K-12 and postsecondary education to workforce needs by increasing student access to high-wage, high-skill career programming. Adult education

funds support programs that help adults develop essential skills in literacy, numeracy, English language proficiency, workforce readiness, and citizenship. These funds improve employability, economic self-sufficiency, and access to further education, particularly for historically underserved populations.

27. During the 23-24 school year, 20,671 students were enrolled in at least one CTE class representing 47% of high school students statewide. During the same time period, Rhode Island's adult education programs served 6,321 adult learners.

28. Delays, interruptions, or reduction in funding resulting from a significant reduction in force at the Department will likely impact the impact and efficacy of CTE programs in Rhode Island and will compromise RIDE's ability to meet its obligations under the Act.

29. Proper administration of Carl D. Perkins CTE and Adult Education and Family Literacy Act (AEFLA) ensures that Rhode Island's K-12 students and adult learners graduate high school and enter the workforce with the skills needed to contribute to the economy. The effective administration of these programs supports all learners, especially historically underserved learners, and ensures that they receive education and training on career opportunities aligned with industry needs or Rhode Island's employers.

30. Carl D. Perkins CTE and Adult Education and Family Literacy Act funding are vital to the success of Rhode Island's Career and Technical Education and Adult Education Programs. If there are changes to Perkins, Rhode Island's 324 career and technical education programs will lose access to the largest allocation of money to support career and technical education in Rhode Island. This may result in communities needing to close RIDE-approved CTE programs that prepare students for high-skill high-growth careers. Similarly, any delay or interruptions in the disbursement of funds under the Adult Education and Family Literacy Act may

result in the closure of RIDE approved adult education programs. These shifts will decrease the career readiness of Rhode Island's graduates and will reduce the number of adult learners seeking to earn a high school equivalency credential through the completion of a GED or HiSet examination.

Targeted Funding: Improving Literacy Instruction and Strengthening Rhode Island's Right to Read Act

31. In addition to formula funding, RIDE receives substantial support from the Department in the form of targeted grants totaling \$70,446,742.

32. For instance, in October 2024 RIDE was awarded \$40 million in Comprehensive Literacy State Development (CLSD) to improve literacy outcomes for Rhode Island students from birth through age 12. This is a targeted grant that was awarded in October 2024 and expires in September 2029.

33. This funding is critical to our Agency's efforts to develop an academic infrastructure to improve literacy instruction across the state. Delay, interruption, or reduction in funds due to staffing cuts at the Department of Education will further inhibit our actions to successfully respond to Rhode Island's Right to Read Act, which was passed in July 2019 and requires educators to be aware of and proficient in the Science of Reading and Structured Literacy and local educational agencies (LEAs) to provide professional development in empirically-based reading instruction.

34. Proper administration ensures the distribution of funds in accordance with federal law. It is imperative that these funds be administered in a timely manner to ensure that the students prioritized in the grant program are served. Loss or interruption of these funds as a result of a reduction in force at the Department of Education will have a direct impact on the state's ability

to address LEA literacy needs. This is the largest source of federal funding available in RI for literacy education and support to LEAs for literacy. RIDE is in the process of awarding subgrantees. Any delay or disruption of the funding due to staffing cuts at the Department will cause delays in this first year of implementation. In this first year of implementation of the CLSD grant, subgrantees would be hiring coaches to support literacy instruction. A delay in funds will impact subgrantees' ability to hire coaches at the start of the school year. In addition, professional learning to train coaches prior to the start of the school year will also be delayed.

Targeted Funding: School-Based Mental Health, Longitudinal Data Systems, Infrastructure, and Other Key Areas of Support

35. In addition to these funding sources, RIDE currently receives \$30,446,742 in targeted funding to support school-based mental health services, computer science education, longitudinal data systems, training on scientifically based literacy instruction, and infrastructure improvements.

36. RIDE received two five-year school-based mental health services grants focused on recruitment and retention of school based mental health providers including school counselors, school social workers and school psychologists. The first grant is 10/1/2020-9/30/2025 and the second is from 10/1/2022-9/30/2027. Proper administration of these funds is important to meet the goals and objectives of the grant, including performance measures approved by the United States Congress as part of the allocation of those funds for this purpose.

37. Delays in funding would jeopardize current capacity building efforts to support the behavioral health needs of youth at both the state and LEA level.

38. The funds are time limited. Any delay or interruption in funding due to staffing cuts may cause RIDE to lose staffing capacity to support the field and would limit its ability to retain high-quality counselors, social workers, and psychologists for these programs.

Other Resources Provided by the Department of Education

39. In addition to grantmaking, the Department provides irreplaceable services in the areas of data collection and civil rights enforcement.

40. The projected cuts to the Institute of Education Sciences (IES) and the Office of Civil Rights (OCR) are anticipated to substantially limit RIDE's ability to comply with various contractual and statutory mandates and will significantly burden its day-to-day operations.

The National Assessment of Educational Progress i.e. the "Nation's Report Card"

41. The Department's Institute of Education Sciences (IES) includes the National Center for Education Statistics (NCES), which is the federal statistical agency responsible for collecting, analyzing, and reporting data on the condition of U.S. education.

42. NCES administers the National Assessment of Educational Progress (NAEP), better known as the "Nation's Report Card," which is the largest nationally representative and continuing assessment of what American students know across subject areas.

43. The NAEP is the gold standard from which RIDE anchors its standards and evaluates academic progress. RIDE relies on the NAEP to effectively set rigorous academic standards and hold schools accountable for results aligned with those standards.

44. A reduction in force that eliminates all or most of the staff at IES / NCES will functionally eliminate the NAEP and will make it nearly impossible for RIDE to evaluate its performance against other states in math, reading, and other subjects.

RIDE's Administration of its Statewide Longitudinal Data System Grant

45. The elimination of all or most of the staff at IES / NCES will additionally hamper RIDE's administration of the Rhode Island Longitudinal Data System (RILDS) grant, which is critical to building the data warehousing and analytical infrastructure to connect and evaluate student outcomes from multiple data sources across Rhode Island state government including health, academic, postsecondary, and workforce data sets. This grant is funded through NCES, and the elimination of all or most of the staff at NCES would obliterate a critical piece of infrastructure that RIDE relies upon to evaluate student outcomes in Rhode Island.

46. Without the infrastructure to sustain our longitudinal data system, RIDE will be unable to perform key research and analysis functions required to integrate education and workforce data elements and collections to improve our understanding of Rhode Island college and career pathways. RIDE will further be unable to share data with districts, schools, families, students, researchers, and policymakers with the goals of informing decisions about college and career pathways.

47. The RILDS connects data across sectors and over time to support research aligned with the State's priorities; inform policymaking and program evaluation; and improve the well-being of all Rhode Islanders. The RILDS connects three decades of previously siloed education, employment, and health data using a custom-built machine learning algorithm to ensure accurate person-level matches. The system currently links identified data across sectors and over time, creating a de-identified, individual-level dataset for 3,567,606 persons from 206 datasets. The RILDS covers data on:

- people born in Rhode Island;
- people learning and studying in Rhode Island;

- people working in Rhode Island; and
- people receiving services related to education, employment, health and social services in Rhode Island.

48. RIDE depends on RILDS' capacity to support accomplishment of agency priorities, including data collection, federal reporting, and research. In the past three years, RIDE has used the RILDS to:

- evaluate the state's computer science education programs;
- assess districts' compliance with Rhode Island's Basic Education Program and determine the incremental cost to meet the requirements;
- benchmark and measure progress against the local community foundation's 10-year plan for improving education in Rhode Island;
- report adult education participants' employment outcomes;
- provide an overview of arts education in Rhode Island schools;
- link original records from the College Board's Advanced Placement tests to the state-assigned student identifier;
- assess the outcomes of early college opportunities; and
- identify patterns in student access to rigorous college and career ready coursework.

49. The elimination of all or most of the staff at IES / NCES and any associated delays, interruptions, or reductions in funding will likely have a debilitating effect on RIDE's ability to comply with the terms of this grant and carry out the critical functions of this program.

Requirement to Utilize Evidence-Based Strategies

50. Under federal law, RIDE is required to utilize evidence-based strategies when making academic policy decisions. Research provided by NCES is critical to informing RIDE's

decision-making, and RIDE will be unable to comply with its statutory obligations without the research capacity and longitudinal system that NCES supports.

51. In particular, the March 11 reduction in force will likely impact the EdFacts reporting system, which will diminish RIDE's ability to evaluate K-12 indicators and data sets (including enrollment, demographics, and funding) with other states.

52. This will further hamper RIDE's ability to make data-informed decisions and effectively meet its federal and state obligations.

Shuttering of Boston OCR: Likely Impact on Civil Rights Enforcement

53. The Office of Civil Rights (OCR) investigates and enforces federal civil rights laws in schools and other recipients of ED funding.

54. The effective closure of this office through the elimination of all or most of the staff, as well as the closure of the regional field office in Boston (Boston OCR), will have a debilitating impact on day-to-day operations of the RIDE Legal Department.

55. Rhode Island does not have a separate regional field office and relies on Boston OCR to investigate complaints.

56. RIDE's Office of Student, Community, and Academic Supports (OSCAS), which handles the processing of special education due process complaints and investigations into special education state complaints, does not have jurisdiction over investigations into disability related discrimination complaints, which typically are forwarded to OCR for handling.

57. OCR retains jurisdiction over the enforcement of certain federal regulations, such as FERPA, and thus complaints asserting a FERPA violation are forwarded to OCR for handling.

58. If OCR is shut down or is otherwise unable to carry out its statutorily-mandated functions due to staff cuts, presumably its authority and responsibilities in the educational context would fall to RIDE and other state agencies.

59. As a practical matter, this would require a doubling or tripling of the RIDE Legal workforce. RIDE would not only need to hire additional attorneys, but also investigators, each of whom would need specialized training and expertise in this area.

60. Current RIDE attorneys would also need further training to ensure proper disposition of complaints that have historically handled OCR.

61. The handling of such additional complaints would further increase RIDE's legal workload, as these matters are likely to be appealed to state and/or federal courts which would require outside private counsel or another neutral RIDE attorney. This could tie up RIDE's very small legal office should multiple attorneys be needed to handle different stages of the same dispute.

Executed April 23, 2025, at Providence, Rhode Island.

A handwritten signature in black ink, appearing to read "Drew M. Echelson", with a stylized flourish at the end.

DREW ECHELSON, ED.D.
Deputy Commissioner

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

LINDA McMAHON, *et al.*,

Defendants.

C.A. No. 1:25-cv-10601-MJJ

DECLARATION OF THOMAS J. KELLY

I, Thomas J. Kelly, declare as follows:

1. I am a resident of the State of Washington. I am over the age of 18 and have personal knowledge of all the facts stated herein, except to those matters stated upon information and belief; as to those matters, I believe them to be true. If called as a witness, I could and would testify competently to the matters set forth below.

2. I am currently employed by the Washington Office of Superintendent of Public Instruction (OSPI) as the Chief Financial Officer, and have been for the last eight years.

3. OSPI is responsible for the supervision of public K-12 education in Washington State. We have supervisory authority over 295 public school districts, 16 public charter schools, and 7 state-tribal education compact schools. Washington K-12 schools serve over 1,147,000 students in over 2,400 schools. 45.3% of students are identified as low income, qualifying for free and reduced-priced school meals; 11.7% of students are identified as English-language learners; and 14.4% identified as students with disabilities receiving special education services.

4. OSPI allocates funding and provides tools, resources, and technical assistance to school districts and families across Washington State. This includes students younger than five years old, such as Transition to Kindergarten (TK) students, as well as preschool students who are impacted by Individuals with Disabilities Act (IDEA) federal funding.

5. As the Chief Financial Officer, I oversee the Financial Resources department of

OSPI, which provides vital information, fiscal services and policy support that OSPI needs to serve the children of Washington State. Financial Resources plays a central role in budget planning, policy development, and fiscal administration for OSPI. My job duties include overseeing OSPI's school apportionment division, capital division, student transportation division, internal financial services office, and the audit resolution team.

6. As Chief Financial Officer for OSPI, I have knowledge of how OSPI receives funding from both the state and federal governments and how those funds are used and distributed in providing public education.

7. I am aware of the massive Reduction in Force (RIF) issued by the Department of Education (DOE) on or about March 11, 2025. It is my understanding that Department employees who were affected by this RIF were notified of their termination on March 11 or 12, currently have limited access to their departmental resources and will be placed on administrative leave starting March 21, 2025.

8. These actions would likely have a devastating effect on the K-12 public education system for the State of Washington, its operations, and its residents.

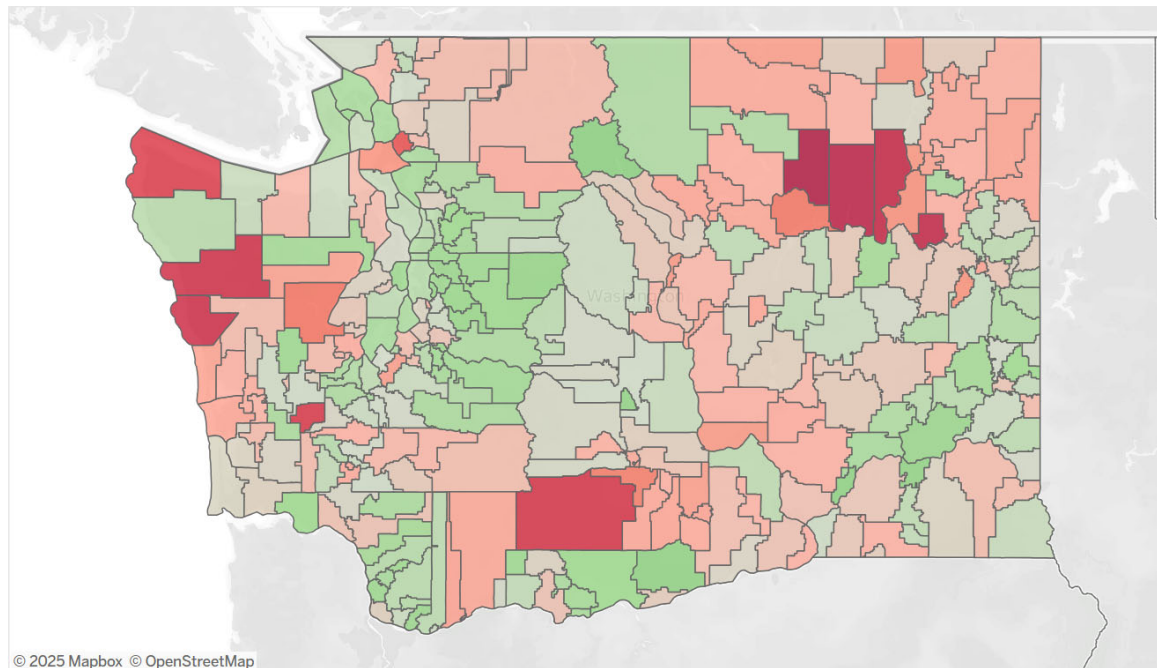
9. OSPI regularly reports its State Expenditure of Federal Awards (SEFA). The SEFA report includes all federal funds that Washington State receives in a given fiscal year.

10. For the most recent 2023–2024 school year (FY2024), running from September 1, 2023, to August 31, 2024, school districts received over \$1.4 billion in federal funding. This comprised approximately 7% of school district revenue for that school year. In the next approximately 20 months (through September 30, 2026), Washington State is scheduled to receive access to approximately \$750 million under our current federal grants. These funds include Title I Basic and IDEA-B, 611 Special Education disbursements.

11. The federal funding data displayed below shows federal funding as a percentage of total K–12 funding in the 2023–24 school year, with one-time federal emergency relief funds (Elementary and Secondary School Emergency Relief funds, American Rescue Plan funds, etc.) removed. School districts shown in green receive federal funds below the statewide average of

6.95%, while those shown in red receive federal funds above the statewide average. The areas in red reflect the school districts (largely rural school districts) where federal funding, mostly administered by the Department of Education, is 34-44% of the school district's entire budget:

% Federal Funding by School District (2023-24)
One-Time Federal Emergency Relief Funds Removed



% Federal Funding

0.00% 44.12%

Statewide Average: 6.95%

Districts shown in green receive federal funds below the statewide average.

Districts shown in red receive federal funds above the statewide average.

Published: 3/7/25

Contact for Questions:

Sammi Payne, Management Analyst
 Sammi.Payne@k12.wa.us



Washington Office of Superintendent of
PUBLIC INSTRUCTION

12. School districts in Washington report to OSPI federal aid claimed through over 70 distinct funding streams. These programs serve some of our most vulnerable students. If funding streams administered by the DOE are delayed or eliminated, it puts a number of programs at risk.

13. *National School Lunch Program:* The USDA administered nearly \$361 million to Washington in FY2024 SEFA. This revenue reimburses school districts for student meals served under a variety of school meals programs offered through the federal government. Public school districts, private schools, residential childcare institutions, and charter schools participate in school

meal programs.¹

Funds are awarded to OSPI and then paid to the district based on the rate of eligible reimbursable meals served as reported to OSPI. Payments are made monthly based on claims made in the prior month. Because of the substantial amounts of money at issue, any delay in the monthly processing of these funds will put OSPI, and subsequently the schools, in precarious financial positions. While these funds are not administered by DOE, Washington has seen the immediate cancellation of USDA administered funds without warning. This raises concern for funding streams that are administered by DOE given the significance of the RIFs within the department.

14. *Title I Education Grants:* The DOE administered over \$310 million in FY2024 SEFA. Title I funds provide instructional help to children whose academic performance is below standard, based on a formula that targets funding to schools and districts with higher percentages of students experiencing poverty.²

Title I funds are awarded to Washington, and then proportionally paid to districts per federal guidance. In some, but not all years, the DOE reviews those allocations to make sure OSPI's model complies with the federal rules. Getting an accurate count is vitally important, especially in years where there are changes in census data and reconciling changes annually because of population changes. Given the broad scope of the RIF, the DOE's future availability for review assistance is seriously jeopardized.

15. *Special Education Grants:* The DOE administered over \$275 million in FY2024 SEFA. This program serves to meet the excess costs of providing special education and related services to children with disabilities, including support and direct services, technical assistance and personnel preparation, assisting schools in providing positive behavioral interventions and supports, and improving the use of assistive technology in the classroom.³ Special education funds

¹ <https://ospi.k12.wa.us/policy-funding/child-nutrition/school-meals/national-school-lunch-program>.

² <https://ofm.wa.gov/budget/agency-activities-and-performance/agency-activities/350#:~:text=The%20state%20Learning%20Assistance%20Program,learning%20needs%20in%20the%20district>.

³ <https://www.ed.gov/grants-and-programs/formula-grants/formula-grants-special-populations/special-education-grants-to-states>.

are given based on a formula approved by Congress. Washington determines how much can be retained for state administrative purposes, and the remainder is distributed to districts on a dollar per student basis determined at the state level. OSPI is deeply concerned that the administration of these programs will be heavily impacted by the staffing cuts in the DOE's Office of Special Education and Rehabilitative Services (OSERS), which is charged with the DOE's administration of these funds. Because special education is a component of basic education in Washington, federal funding lapses will likely fall on Washington to backfill with state funding, which, as noted below, is difficult to come by given Washington's current budget deficit.

16. *Impact Aid:* Washington school districts reported receiving over \$120 million in Impact Aid payments from the Department of Education FY2024 SEFA. This program reimburses school districts for the loss of local tax revenue due to the presence of the Federal Government, such as military bases or tribal lands, of which there many in Washington (such as Joint Base Lewis-McChord and NAS Whidbey Island). Impact Aid is distributed directly to school districts by the DOE without state involvement. However, loss of Impact Aid will inevitably, and massively, burden Washington and its schools if it is forced to backfill the hundreds of millions of dollars that should have been awarded to federally-affected school districts within the state. OSPI currently does not perform calculations regarding the allocation of these funds nor does it administer a grant claims process, but would have to do so if this funding is in any way delayed, leading to an immense resource strain for our staff.

17. *Title III Migrant and English Language Acquisition:* Washington school districts reported receiving over \$20 million in funding for migrant students and English learners from the Department of Education. The allocation is based on our reported migrant and English learner identification. Approximately 14% of our students identify in one of these two student populations. Washington state has the third largest migrant student population in the United States and tracks and supports migrant students and their families all over the state. Washington is well regarded for our migrant and English learner data that annually is reported to the DOE. Both the funding and the reported data remain concerns as the dismantling of the DOE continues.

18. *Head Start*: Washington school districts reported receiving over \$16 million in Impact Aid payments from the Department of Education FY2024 SEFA. This program provides instructional programs for children ages 3 and 4 and, in some locations, pregnant women and children birth to age 3. This program is administered not by OSPI, but by Washington's Department for Children, Youth, and Families (DCYF). This funding is critical for many students in their early stages of learning and disruption of the federal funding streams would wreak havoc for those children, their parents, and the schools that depend on them.

19. *Vocational Education*: Also referred to as Perkins funds, are awarded by the DOE to Washington's Workforce Board. OSPI receives half of the award and then calculates each district's portion thereof. The district portion is based on a per student amount that complies with federal law and can change annually based on the total eligible student count. Washington school districts reported receiving over \$11 million in vocational education payments from the Department of Education FY2024 SEFA. OSPI is reliant on DOE for technical assistance, accountability and reporting requirements. DOE has only two employees left after the RIFs in the Office of Career, Technical and Adult Education.

20. *OCR*: While not a direct funding source for Washington schools, OSPI is also deeply concerned about the effect of the DOE's RIF on the operation of the DOE - Office for Civil Rights (OCR). OSPI is aware of a significant number of investigations in Washington that are currently in OCR's backlog. If OCR's ability to process these cases is further diminished, the responsibility for ensuring compliance with civil rights laws, disability rights laws, and appropriate accommodations for students with special needs will fall on already-overburdened state resources, especially the Equity and Civil Rights Office (ECR) at OSPI. Moreover, given what we understand to be deep cuts to the OCR and its personnel (including the elimination of every office on the West Coast except Seattle, the termination of nearly half its staff, and the current prohibition on investigators making outside communications), we are increasingly concerned that OCR's inability to investigate and pursue claims of disability or other types of discrimination will inevitably create a mammoth of additional responsibility for already-strained state resources to

ensure the safety of Washington's students.

21. *Education Statistics*: Although it does not come in the form of direct funding, OSPI is also deeply concerned by what appears to be a wholesale dismantling of the DOE's Institute of Education Sciences and National Center for Education Statistics. OSPI regularly relies on information produced by these offices to inform its own efforts at serving its student population. For instance, the NCES's National Assessment of Educational Progress (NAEP), which is the country's only assessment of student achievement where comparisons can be drawn between states and long-term trends can be observed, takes place every two years and includes a statistically representative sample of students across the country. Because OSPI can only collect data from within Washington, it is heavily reliant on the data reported by the NAEP to ascertain how its students compare to those in other states. OSPI also relies on this data to better direct its resources to students in need. Curtailing or cutting the staff that performs these analyses not only shift more data-gathering functions to OSPI, but places OSPI at a significant informational disadvantage in serving Washington students.

22. Overall, OSPI continues to be concerned that funding will be delayed or denied given the broad elimination of personnel and departments at the DOE that are critical for timely processing and administration of federal funds intended for Washington schools and residents. These fears are not theoretical, as OSPI has already experienced significant delays in receiving funding and services from the federal government that OSPI normally relies on. For example, the recent cancellation of the Local Foods to Schools program has led to real impact. The cancellation is effective 60 days after March 7, 2025, and as a result all funding for the program in SY 2025–26 are cancelled. The total impact of this program's cancellation is in excess of \$11.4 million dollars and will result in fewer local, nutritious foods being included in students school lunches. Further, the abrupt nature of the cancellation, without forenotice to the state, has required OSPI to expend additional resources for purposes of communication and understanding with districts and other partners.

23. This threat to our schools' funding comes at a precarious time for Washington. Our

state is one of several states facing a budget shortfall. Washington is facing a forecasted budget deficit of more than \$12 billion over the next four years. Moreover, several public-school districts are already under financial oversight from OSPI, a process that occurs when a school district is unable to produce a balanced budget and must request assistance from OSPI to come into financial compliance, and to that end must agree to meet certain financial benchmarks.⁴

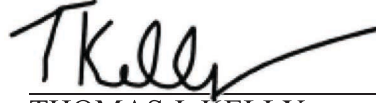
24. Any difficulty in receiving these hundreds of millions of dollars in federal funding, even temporarily, would interfere with critical state education programs, impact delivery of services to Washington K-12 students, negatively impact already challenging school district budgets, significantly worsen Washington's budget shortfall, and make it nearly impossible for state agencies to prioritize budgeting needs. Washington school districts are already experiencing several budget challenges related to declining student enrollment, inflation, and lapsing of the one-time federal pandemic funds. Washington state has more districts currently managing budgets that reflect negative fund balances than ever before, as well as many that have a significant lack of resources. Instability at the federal level specific to the DOE reduction in force is creating significant challenges to budgeting and staffing for the 2025–26 school year. This has a real impact on the staff and students of the K-12 system given that most federal funding is used to employ staff to provide specific services to students.

25. If federal funds continue to be withheld or even delayed temporarily, the State of Washington and Washington public schools simply do not have funds to cover all of these critical programs that are currently funded through federal dollars. And Washington most certainly does not have the funds to backfill federal dollars while continuing to pay for all of the many state-funded programs on which its youngest residents rely. Thus, loss (even temporary loss) of these federal funds would necessarily entail cuts—likely drastic cuts—to the education services provided by the Washington K-12 public school system, which includes OSPI and local education agencies.

⁴ See Washington Administrative Code (WAC) 392-123-060.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 18, 2025, at Olympia, Washington.

A handwritten signature in black ink, appearing to read 'TKelly', with a long horizontal stroke extending to the right.

THOMAS J. KELLY
Chief Financial Officer
Washington Office of Superintendent of
Public Instruction

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

LINDA McMAHON, *et al.*,

Defendants.

C.A. No. 1:25-cv-10601-MJJ

DECLARATION OF DR. JOYCE LOVEDAY

Pursuant to 28 U.S.C. § 1746, I, Dr. Joyce Loveday, declare as follows:

1. I am a resident of the State of Washington. I am over the age of 18 and have personal knowledge of all the facts stated herein. If called as a witness, I could and would testify competently to the matters set forth below.

2. I am the President of Clover Park Technical College (Clover Park), a technical college based in Lakewood, WA. I have held this position since 2016. As President, I have ultimate oversight of most of Clover Park's operations, including our efforts to achieve necessary accreditations from the U.S. Department of Education to our Program Participation Agreements (PPA). Prior to holding this position, I served in the Clover Park college community for over a decade (since 2002) as Dean for Business and Computer Technology, Assistant to the President, Associate VP for Instruction, and VP for Student Learning.

3. As the President of Clover Park, I have personal knowledge of the matters set forth below or have knowledge of the matters based on my review of information and records gathered by my staff.

4. I submit this declaration in connection with the announcement by the U.S. Department of Education (the Department) on March 11, 2025, that it would be reducing its staff by 50% and that this was only the "first step" to a "total shutdown" of the Department. *U.S. Department of Education Initiates Reduction in Force*, Press Release, Department of Education

(Mar. 11, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-initiates-reduction-force> (“March 11 Press Release”).

5. Clover Park currently has two campuses: our main campus in Lakewood, WA, and our aviation-focused South Hill campus just south of Puyallup, WA. As a technical college, Clover Park offers certificates, associate degrees and bachelor’s degrees focused on preparing people with the skills and knowledge to excel in fields such as aerospace, advanced manufacturing, health sciences, technology, transportation and trades. We currently enroll over 5,000 students (over 3,000 FTEs), with a median age of 28. Almost half of our students receive need-based financial assistance, typically in the form of student loans.

6. Last year, in order to better serve our student population and the needs of our community, Clover Park decided to invest in the opening of an additional technical training site on the East side of Tacoma, WA, to expand educational access to a part of our community experiencing greater unemployment and poverty than other parts of our county. We plan to offer training in the high-wage fields of HVAC, construction, electrician, and plumbing. Clover Park has already secured a lease at this site and did so in anticipation of its expanded program offerings to East Tacoma residents.

7. After receiving approval to offer classes at the new site from the State Board of Community and Technical Colleges and the Northwest Commission on Colleges and Universities, Clover Park’s Financial Aid Director electronically submitted a request to the Department of Education on December 6, 2024, to update our institution’s Program Participation Agreement (PPA) to add this additional training site in Tacoma. To be Title IV-eligible, this additional campus must be approved by the Department, meaning that until such approval is received, students at that site cannot be awarded federal financial aid to cover the costs associated with their education. Practically speaking, because so many of our students rely on federal financial aid, without this update of our PPA we are not likely to be able to continue operation of this new facility.

8. Because the training programs themselves are established programs already approved for financial aid, we anticipated that approval to provide the training at a new site would

be fairly quick, as it had been in the past. Our last application submitted prior to the new administration took 6.5 weeks to be reviewed and approved. Unfortunately, that has not been the case here. At this point our current request has been sitting with no review or response for 14 weeks.

9. On March 13, 2025, concerned about the status of our application and needing to make plans for our students for the upcoming school year, our Director of Student Aid and Scholarships sent an email to FSA Case Teams (CaseTeams@ed.gov), the Department's email address that recently has been used by the Department to respond to eligibility questions. We also copied Rachel Oglesby, who we understood was the Chief of Staff for the Department, in the hope of getting support or direction for how to proceed with our outstanding request:

From: Boon, Celva <Celva.Boon@cptc.edu>
Sent: Thursday, March 13, 2025 2:31 PM
To: FSA Case Teams <CaseTeams@ed.gov>
Cc: Oglesby, Rachel <Rachel.Oglesby@ed.gov>
Subject: Status of Eligibility application

Some people who received this message don't often get email from celva.boon@cptc.edu. [Learn why this is important](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I submitted an update to my institutions PPA to add an additional location on 12/6 but have not heard back. The case number is 00229486. Is there anything that you can tell me about the status?

Celva L. Boon

Director-Student Aid & Scholarships

10. Instead of any substantive response, within one hour we received a one sentence email from James Bergeron, the Department's recently-appointed Deputy Under Secretary, asking who told us to send our status inquiry to "FSACases and cc Rachel":

From: Bergeron, James <James.Bergeron@ed.gov>
 Sent: Thursday, March 13, 2025 11:56 AM
 To: Boon, Celva <Celva.Boon@cptc.edu>
 Subject: Fwd: Status of Eligibility application

You don't often get email from james.bergeron@ed.gov. [Learn why this is important](#)

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hey Celva, who told you guys to email FSACases and cc Rachel ?

11. We received no further communication from the Department related to our request. Our hopes for any additional action on our application are low, given the continued lack of substantive response, and the reported massive cuts in the Department's Office of Federal Student Aid, including the near-complete dismantling of the School Eligibility and Oversight Service Group (SEOSG), which is responsible for administering program eligibility, certification, financial analysis and oversight of schools participating in Title IV programs.¹

12. Without approval from the Department in the near future, we will be unable to effectively operate our training site for the upcoming school year. Currently, for spring quarter, only 9 students (funded through sources other than Financial Aid) are enrolled for the courses at the East Tacoma location. Our budget and operations forecast planned for fifty (50) students in order to make this facility financially viable, but because of the Department's inaction we have not been able to enroll interested students who depend on federal financial aid awards to support educational costs. The loss of tuition for Spring quarter 2025 so far is approximately \$60,000 (\$1,500 x 40 students). Our projected college enrollments for summer and fall 2025 were 60 for summer and 100 for fall. Without the ability to offer financial aid to students at this site, I conservatively anticipate our tuition loss would be \$60,000 again for summer (\$1500 x 40 students) and \$105,000 for fall (\$1500 x 70 students). We are also incurring annual leasing costs

¹https://www.duanemorris.com/alerts/bracing_impact_how_colleges_universities_can_navigate_us_department_educations_0325.html.

of \$240,000. Combined with costs associated with getting the training site up and running (signage, renovations for handicap accessibility, minor space changes, and instruction equipment), these expenses could quickly escalate to nearly a half a million dollars by the fall quarter if the Department's inaction on our application continues.

13. Clover Park cannot afford this continued financial imposition. If our application is not approved in the coming weeks, we will likely have to cancel our Tacoma lease, potentially terminate associated staffing positions, and end program offerings at our Tacoma location. The greatest loss, however, will be to the low- and middle-income community members on Tacoma's Eastside with limited access to employment training for high-wage fields.

Executed on March 17, 2025, at Lakewood, Washington.



DR. JOYCE LOVEDAY
President
Clover Park Technical College

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

LINDA McMAHON, *et al.*,

Defendants.

C.A. No. 1:25-cv-10601

DECLARATION

DECLARATION OF ARNE DUNCAN

I, Arne Duncan, declare as follows:

1. I am a resident of the State of Illinois. I am over the age of 18 and have personal knowledge of all the facts stated herein. If called as a witness, I could and would testify competently to the matters set forth below.

2. I served as the United States Secretary of Education from January 21, 2009 through January 1, 2016. During that time, I worked extensively on all aspects of the United States education system, from pre-kindergarten through higher education. I assisted in securing congressional support for increased investments in education, including funding for additional teacher jobs; increases in Pell grants; reform efforts such as Race to the Top and Investing in Innovation; and interventions in low-performing schools. I oversaw interventions to avoid teacher layoffs and fund expanded early learning programs. Under my leadership, the Department invested billions of dollars to transform struggling schools. I also worked to advance initiatives related to college access and affordability, including by securing increases in the Pell grant program and enhancements in student loan income-based repayment programs.

3. Prior to becoming Secretary of Education, I served as the Chief Executive Officer of the Chicago Public Schools from June 2001 through December 2008. During my tenure, I advanced critical initiatives to improve services for students, including opening more than 100 new schools; expanding after-school and summer learning programs; closing down underperforming schools; increasing early childhood and college access; dramatically boosting the caliber of teachers; and building public-private partnerships around a variety of education initiatives. During my tenure, the districts saw significant increases in student performance on national and state tests, increasing graduation rates and the numbers of students taking Advanced Placement courses, and recruitment efforts for bringing top teaching talent into the city's classrooms.

4. As a former Secretary of Education, I have personal knowledge of the matters set forth below. This includes, among others, a unique and specific understanding of both the extensive statutory mandates that the Department of Education (“the Department”) oversees and implements as well as the operational and personnel needs that are necessary to fulfill them.

5. I submit this declaration in connection with the announcement by the Department on March 11, 2025 that it would be reducing its staff by around 50% (“reduction in force”) and that this was only the “first step” to a “total shutdown” of the Department, *U.S. Department of Education Initiates Reduction in Force*, Press Release, Department of Education (Mar. 11, 2025), <https://www.ed.gov/about/news/press-release/us-department-of-education-initiates-reduction-force> (“March 11 Press Release”), and the subsequent executive order signed by President Trump on March 20, 2025, titled “Improving Education Outcomes by Empowering Parents, States, and Communities” (the “Executive Order”) which orders the Secretary of Education to “take all necessary steps to facilitate the closure of the Department of Education and return authority over

education to the States and local communities while ensuring the effective and uninterrupted delivery of services, programs, and benefits on which Americans rely.”

6. Every Cabinet Secretary must swear to defend our Constitution and our democracy “from all enemies, domestic and foreign.” To me, fealty to this oath required maximizing the Department’s specialized expertise and resources to ensure that every American had access to the best possible educational opportunities. From a national security perspective, the best defense is a strong military. A strong education is the best offense. The United States of America has a strong offense, in large part because of the Department’s work. It is not an exaggeration to say that every American who has attended a school in America – at any level – has benefited from the Department’s work.

7. The Department has three overarching functions: equity, excellence, and innovation. During my tenure, the Department accomplished historic feats to support these functions, directly increasing America’s competitiveness in the global economy. For example, more than 30 states increased their investment in early childhood education. Nearly every state in America raised standards for teaching and learning, and high school graduation rate reached an all-time high. The Department’s work helped millions more families afford college, and more Americans graduated from college than ever before.

8. A significant portion of the Department’s work is determined by federal statutory mandates. Several vital Department offices are tasked with statutory mandates, including the Office of Federal Student Aid (“FSA”), the Office for Civil Rights (“OCR”), the Office of Postsecondary Education, the Institute of Education Sciences (including the National Center for Education Statistics), and the Office of General Counsel. Having led the Department of the

Education for seven years (the second longest tenure of any Secretary of Education), I know the minimum personnel necessary to comply with these statutory mandates.

9. Put simply, the Department cannot meet its statutory obligations at the levels of staffing proposed by the Defendants; and the result of this nearly 50% reduction in Department staff will be catastrophic for the American people and its students. Even before the reduction in force, and in spite of its extraordinary mission, the Department already had the smallest staff of the 15 Cabinet agencies, even though its discretionary budget alone is the third largest in the federal government.

10. FSA, for example, administers trillions of dollars in grant money that benefit millions of students; they cannot fulfill their legal duties with the proposed reduction in force. The American public will bear the brunt of this disastrous decision as loans will be delayed, time sensitive questions from the States will remain unanswered, and innocent Americans will have their educational dreams delayed or denied.

11. The risk of noncompliance with federal mandates due to the dismantling of the Department is extremely high. Splitting the Department's statutory mandate between other agencies will create a nightmare for state and local governments. In my opinion, the Department's level of expertise and efficiency cannot be duplicated by another federal agency or the States because they do not have the requisite skills and training to handle the Department's many specialized functions.

12. The Department has been in existence in some form since 1867. During the intervening 158 years, the Department has been steadfast in supporting the American people through the toughest of times – from overseeing the original land grant colleges under President Lincoln to the administration of the GI Bill (which sent 8 million WWII heroes to school) to

providing loans to students during the Cold War to keep America competitive with the former Soviet Union. The Department has evolved to serve America's most critical educational needs and with the appropriate staff it will continue to do so.

13. When Congress first created the Department as a cabinet-level agency in 1979 with bipartisan support, it declared the following purposes:

- a. to strengthen the Federal commitment to ensuring access to equal educational opportunity for every individual;
- b. to supplement and complement the efforts of States, the local school systems and other instrumentalities of the States, the private sector, public and private educational institutions, public and private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education;
- c. to encourage the increased involvement of the public, parents, and students in Federal education programs;
- d. to promote improvements in the quality and usefulness of education through federally supported research, evaluation, and sharing of information;
- e. to improve the coordination of Federal education programs;
- f. to improve the management and efficiency of Federal education activities, especially with respect to the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds;

- g. and to increase the accountability of Federal education programs to the President, the Congress and the public. (Section 102, Public Law 96-88).

14. The legislative history dating back to the creation of the Department makes clear that these goals were paramount, and that the majority of legislators from all political parties understood that a stand-alone Department of Education was in our national interest.

- a. Rep. Thomas P. O'Neill (D-Mass): "I think we should take education out of HEW and give the priority it requires as an independent Cabinet office. Educational needs must be placed under one management, a single management responsive to the school districts at home, responsive to the parents and to the Congress. I believe that is what is needed to correct the faults and problems of education which I have seen along the line. We must be ever mindful in this day and age, that the greatest asset to America has been its educational system and the development of its young people. Let us not let that development falter. Let us improve upon it, and let us get back to the standards of educational excellence of which this Nation is capable. We need a special Department of Education. We are doing it in the best interests of ourselves, of our children, and of our Nation's educational future." 125 Cong. Rec. 26535 (1979) (statement of Rep. Thomas P. O'Neill).
- b. Rep. Thomas A. Daschle (D-SD): "I truly believe that an education department with an effective administrator could resolve these organizational problems by simply placing them within the jurisdiction of a separate office. In effect, the Secretary would be accountable for these

programs. Presently, education officials are submerged by layers of bureaucrats and consequently immune to public scrutiny. In addition to these reasons there is a third reason that I feel needs to be mentioned. This is probably the most important one as well, at least to thousands of skeptical State and local school administrators and the like who feel that with this new Department, they will suffer a corresponding loss of influence on how the multitude of Federal programs are administered. On the contrary, I feel that there will result better understanding and responsiveness for local initiatives and concerns. This will be so because of the fact these people will now have a direct line to a Cabinet-level contract with the Federal Government.” 125 Cong. Rec. 10349 (1979) (statement of Rep. Thomas A. Daschle).

- c. Sen. Charles H. Percy (R-Ill): “The operation of the Department, from the top on through to the middle levels, simply does not provide for adequate time to education. Certainly if there were a Cabinet-level official whose responsibility it would be to focus attention on the educational needs of the future citizens of this country, I think we, as a country and a Government, would place greater priority upon education.” 125 Cong. Rec. 8907 (1979) (statement of Sen. Charles H. Percy).
- d. Sen. Robert Byrd (D-WVa): “Creation of a new Department of Education should help alleviate the problems’ State and local education agencies encounter when trying to administer often duplicative and complicated Federal regulations. Consolidating the numerous Federal education

programs into one department should provide more effective management and coordination of these programs. . . . Our commitment to insuring that quality education will be accessible to all must remain strong. The continued health and strength of our country depend on it. As Thomas Jefferson said almost two centuries ago: The Commonwealth requires the Education of her people as the safeguard of order and liberty . . . Above all things, I hope the education of the common people will be attended to: Convinced that on this good sense we may rely with the most security for the preservation of a due degree of liberty . . .” S. 210, passed by the Senate yesterday 73 to 21, reflects the sentiment voiced by Thomas Jefferson. It is a good bill and should go far toward improving the quality of Federal assistance to State and local education efforts.” 125 Cong. Rec. 9151-9152 (1979) (statement of Sen. Robert C. Byrd).

15. The actions announced in the March 11 Press Release, followed by the directives in the March 20 Executive Order to “take all necessary steps to facilitate the closure of the Department of Education,” run counter to the express purpose of Congress in creating a cabinet-level agency to manage and coordinate all Federal education programs and activities. As envisioned by Congress – and as I experienced first-hand as Secretary of Education – a crucial feature of the Department is to support the states. During my tenure, the Department served as a one-stop-shop for school districts, States, teachers, and parents. These stakeholders currently have a single place to reach out to for guidance and help; a single set of relationships to manage. Federal workers from other agencies do not have the specialized skill sets in the Education field needed to perform these functions. If the Department is eliminated or core functions reassigned to other

agencies, the expertise and institutional knowledge that has been developed over decades will essentially disappear.

16. The federal student loan programs administered by the Department under Title IV of the Higher Education Act of 1965, as amended, are vitally important for the operation of the Department and the reduction in force will place those programs in peril. The FSA administers Pell Grants, work-study programs, handles loan disbursement, servicing and borrower assistance for students and prospective students nationwide.

17. The FSA also develops the Free Application for Federal Student Aid (FAFSA) form and processes students' FAFSA submissions. Students enrolling in institutions of higher education generally must complete the FAFSA prior to their first year of enrollment and then resubmit the FAFSA each subsequent year of schooling. The deadline for applicants to submit their FAFSA forms for the 2025-2026 school year is June 30, 2025, and many students choose to submit their FAFSA forms earlier because their understanding of what, if any, financial aid they qualify for informs their decision about whether they can afford to attend college and, if so, which college.

18. As a result of the March 11 Press Release, 326 positions were eliminated in FSA.

19. In addition, on March 21, 2025, President Trump announced that he was "immediately" transferring the handling of federal student loans to the Small Business Administration (SBA). On that same day, he announced a 40 percent cut to the SBA workforce.

20. The consequences of these actions will be ruinous for America's students and the national security of our nation. When I was Secretary, I always felt that the highest risk portfolio was FSA, based on the sheer number of individuals who rely on those services and the billions of dollars being managed. This is a challenging portfolio under the best of circumstances, and these moves will effectively gut these services. The Department of Education federal workers who are

being let go had years, even decades, of accumulated content area expertise. The amount of work, and the complexity of the work, will not go away. The current administration is attempting to take a massive, high-risk portfolio; lay off the specialized workers who know how to do the work; and transfer it to an agency without specific knowledge of this work and that is also seeing massive layoffs. The risk is exponential that this will break down, and they are taking on risk that no CEO would in good conscience take on, unless the goal is total dismantling and destruction. Again, the potential harm to the people who rely on these services is extraordinary.

21. I am also deeply troubled by the cuts to the Office for Civil Rights (OCR). From my time in the Department, I know this office to serve a critical function when there is trauma or abuse and no redress at the State or local level. I recall one case in particular that stands out. Without giving any identifying detail, a young girl was raped in band class. The school district ended up suspending the young girl for lewd behavior and she found no relief from the local level or at the State level. Ultimately, OCR, the entity that backstops all federal civil rights enforcement in education, stepped in as a last resort to ensure that this injustice was corrected.

22. Students need to have an independent option like OCR as such a last resort, a last recourse. This work requires highly skilled, highly trained civil rights lawyers who understand the education system and can intervene appropriately. Again, this is not a portfolio where you can fire all the highly trained workforce, transfer it to another agency, and expect it to function in any meaningful way. If this reduction in force is not stopped, this refuge for wronged students will effectively cease to exist and cause real injury to students and families.

23. Consistent with OCR's work, one of the Department's vital missions is to protect America's most vulnerable students. The Department is often the last refuge for these students, and without the Department's knowledge, oversight, and intervention, there is a significant risk

that they will lose access to critical educational opportunities. The Trump Administration's decision to move special education programming, including the administration of the Individuals with Disabilities Act (IDEA), to the Department of Health and Human Services (HHS) is myopic. Children with disabilities will bear the brunt of the operational dysfunction and loss of accountability that will almost assuredly result from this decision. This move indicates to me that the administration does not understand the fundamental purpose of IDEA, which is to ensure that children with disabilities have the ability to receive an educational benefit. This is an educational program, and the objective and entitlement is to a free, appropriate public education, and meaningful access to benefit from and make progress towards the general curriculum. Without proper systemic oversight, there will be no accountability to ensure that required services are being provided to students. This is a specialized educational function that will get lost in HHS, and our most vulnerable children – and their parents – will be the victims.

24. The cuts to the data and research arms of the Department will also cause deep, deep harm – both now and in the future. The Institute of Education Sciences, the National Center for Educational Research, the National Center for Education Statistics, National Center for Education Evaluation and Regional Assistance, National Center for Special Education Research – all of these offices contribute to the greater understanding and knowledge of what is working – or not working - in our educational system. We all want accountability for public funding and accountability for outcomes. We also want to be able to scale up what works and make improvements across the educational system, at every level. We need a highly skilled workforce to continue to compete in the world, and where we do not have an educational strategy that we are advancing as a country, using the best available information and resources, we will fail. Congress spoke clearly in creating this Department, and as a former Secretary, I feel confident in saying that the actions referenced

above will have the practical effect of dismantling and destroying the Department without further action by Congress.

25. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on March 24, 2025, at Chicago, Illinois.

/s/ Arne Duncan
ARNE DUNCAN

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

LINDA McMAHON, *et al.*,

Defendants.

C.A. No. 1:25-cv-10601

**DECLARATION OF
SHAYLA HAMLIN**

DECLARATION OF SHAYLA HAMLIN

Pursuant to 28 U.S.C. § 1746, I, Shayla Hamlin, declare as follows:

1. I am a resident of New York. I am over the age of 18 and have personal knowledge of all the facts stated herein. If called as a witness, I could and would testify competently to the matters set forth below.
2. This declaration is submitted in support of the States' Request for a Preliminary Injunction.
3. I am a compliance review specialist in the Multi-Regional and Foreign School Participation Division (MRFSPD), a branch of the Office of Institutions of Higher Education (IHE) Oversight & Enforcement, which is a subdivision of the Federal Student Aid (FSA) office in the Department of Education (the Department). Until recently, the IHE Oversight & Enforcement subdivision was called the School Eligibility and Oversight Service Group (SEOSG). I have been in the MRFSPD for about five years and have worked at the Department for 12 years.

4. IHE Oversight & Enforcement (or SEOSG) manages eligibility, certification, financial analysis, and oversight of all schools that participate in loan programs under Title IV of the Higher Education Act of 1965 (Title IV). We are the buffer in between schools and federal funding, rooting out everyone trying to not do the right thing, and ensuring compliance with Title IV rules and regulations.

5. In addition to being a compliance review specialist within the MRFSPD, I am the Freedom of Information Act (FOIA) coordinator, an eligibility analyst, a timekeeper, and a training specialist assistant. My duty is to ensure that our unit complies with FOIA rules and regulations when responding to requests, and to review schools' applications for eligibility for Title IV funding, which includes updates and acknowledgements, location changes, and recertifications. It is my job to approve or deny their FOIA requests.

6. On the evening of Tuesday March 11, 2025, I received an email from the Chief Human Capital Officer, Jacqueline Clay, stating, "your organizational unit is being abolished along with all positions within the unit—including yours." The email also said that I will be placed on administrative leave beginning March 21, 2025, and that I will receive an "official RIF notice" no earlier than 30 days after March 11, 2025. I understand this email to mean that the entire MRFSPD is being abolished and no one will be assigned to perform the duties I and my colleagues have been responsible for.

7. Prior to receiving this email on March 11, 2025, we were told not to come to the office the next day (Wednesday March 12, 2025) because of "security" reasons. I work remotely, which meant that I would be on administrative leave for the day. After the email, however, we learned that we had lost control of our work computers so we could only view incoming emails

but not send emails outside of the Department, could not access Microsoft Teams to meet or speak with one another, and could not access personnel files or work product.

8. Because I can see incoming emails to the MRFSPD email inbox, I know that schools are reaching out, for example, saying that students cannot access the FAFSA forms, asking for guidance on pending applications, and informing us that borrowers are not sure if they will accrue interest or be penalized because applications on studentaid.gov have been disabled. I personally tried to fill out a FAFSA form and found that it was disabled on March 12, 2025 and for several days thereafter.

9. Based on my experience, I believe the cuts to FSA will mean that some schools will not be able to participate in Title IV programs and enrollment in post-secondary education will drop. Friends and family members of mine who work at universities tell me that students are afraid that they will lose access to financial aid and be unable to complete their education. The MRFSPD oversees foreign and domestic for-profit, non-for-profit, and public program reviews. I believe that if our work is not done, schools will overcharge students. For schools that are required certify with the Department every year, we look at your student financial aid files and your books with a fine-tooth comb. When the financial reviews that we perform are not done or are not done properly, schools that are not financially sound will default later and could even go bankrupt. This will harm students and could have ripple effects on the economy writ large.

I declare under penalty of perjury under the laws of the United States that, to the best of my knowledge, the foregoing is true and correct.

Executed on March 22, 2025 in New York, New York.


SHAYLA HAMLIN

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

LINDA McMAHON, *et al.*,

Defendants.

C.A. No. 1:25-cv-10601

**DECLARATION OF
CHRIS MILLER**

DECLARATION OF CHRIS MILLER

Pursuant to 28 U.S.C. § 1746, I, Chris Miller, declare as follows:

1. I am a resident of Georgia. I am over the age of 18 and have personal knowledge of all the facts stated herein, either through personal experience, documents I have reviewed, or conversations with my colleagues. If called as a witness, I could and would testify competently to the matters set forth below.

2. This declaration is submitted in support of the States' Request for a Preliminary Injunction.

3. I am the Section Chief of the Atlanta School Participation and Analysis Section (which until recently was called a "Division"), which is part of the Office of Institutions of Higher Education (IHE) Oversight & Enforcement, a subdivision of the Federal Student Aid (FSA) office in the U.S. Department of Education (the Department). The IHE Oversight subdivision was called the School Eligibility and Oversight Service Group (SEOSG) before it was renamed as part of a reorganization that took place in February 2025. I have worked for FSA for almost 30 years and served in a managerial role for about 25 years.

4. IHE Oversight is responsible for administering eligibility certification, financial analysis, and oversight of schools participating in FSA programs under Title IV of the Higher Education Act of 1965 (Title IV), including the Federal Pell Grant program, the Federal Direct Loan program, the Federal Supplemental Educational Opportunity Grant (FSEOG), and the Federal Work-Study program. IHE Oversight is divided into School Participation Sections (SPSs) (previously called divisions or SPDs) that specialize in the business processes necessary for managing accountability in campus administration of the Federal student financial aid programs. There are eight School Participation Sections: Atlanta School Participation & Financial Analysis Section, New York/Boston SPS, Philadelphia SPS, Chicago/Denver SPS, Kansas City SPS, San Francisco/Seattle SPS, Dallas School Participation & Critical Response Section, and the Multi-regional & Foreign Schools Participation Section.

5. Each of these sections have the following responsibilities for the schools that are assigned to their region (“SPS Responsibilities”):

- a. Examine, analyze, and make determinations on the initial and renewal eligibility applications submitted by schools for participation in Title IV programs;
- b. Collaborate with the Partner Participation and Oversight (PPO) a subdivision of FSA and the Office of General Counsel (OGC) regarding decisions to place schools that are under review or investigation on heightened cash monitoring or to impose other necessary restrictions on their participation in FSA programs;
- c. Collaborate and assist with school closures and disaster responses;

- d. Process and maintain records of schools' Program Participation Agreements (PPAs) and notices of eligibility to participate in Title IV programs;
- e. Monitor schools and their agents through on-site and off-site reviews and analysis of various reports to provide early warning of program compliance problems and take appropriate actions;
- f. Conduct heightened cash monitoring actions and monitor schools' method of payment;
- g. Manage and monitor missing/late audits and financial submissions;
- h. Schedule and conduct risk assessment reviews, as needed;
- i. Perform audit resolution;
- j. Identify closed, bankrupt, and troubled schools and notify appropriate Department offices;
- k. Work with state agencies and accrediting agencies on closed schools and other issues;
- l. Identify requirements for tuition recovery programs and coordinate the fulfillment of these requirements;
- m. Evaluate and act upon the findings, conclusions, and recommendations produced by other FSA units, such as negative cash and compliance referrals;
- n. Determine liabilities owed by schools and/or recommend administrative actions against schools as necessary;

- o. Work closely with and/or refer matters to the Office of Inspector General, the PPO Partner Enforcement and Consumer Protection Directorate, and other offices; and
- p. Review and update pertinent databases.

6. My section within IHE Oversight & Enforcement, the Atlanta School Participation & Financial Analysis Section, has the following additional responsibilities (“the Financial Analysis Responsibilities”):

- a. Assess the financial responsibility of schools through financial analysis;
- b. Complete detailed analysis of schools’ 90/10 reporting, as required under 34 C.F.R. § 668.28;
- c. Coordinate consistent review of schools’ financial responsibilities for all other SPSs; and
- d. Coordinate analysis outcomes with IHE Oversight & Enforcement’s decision-making framework.

7. I oversee all of the responsibilities described above for the Atlanta School Participation & Financial Analysis Section, which includes the Financial Analysis Responsibilities for all SPSs, as well as the SPS Responsibilities for the schools in the Southeast region. About three years ago, there was a reorganization that put all financial analysts under my oversight, as a certified public accountant (CPA), to ensure consistency and accuracy throughout the SEOSG. Sixteen (16) financial analysts and 1 forensic accountant reported to me as of January 20, 2025. Only five of these financial analysts are not located within the Atlanta School Participation & Financial Analysis Section, though management had planned a reorganization to place them in my section.

8. The work that the Atlanta School Participation & Financial Analysis Section performs is required under statute and regulation, including 20 U.S.C. § 1018(c)(4) and 34 C.F.R. Part 668 Subpart L.

9. Financial responsibility is the bedrock of the work that my team oversees. The Higher Education Act and regulations require that schools must meet certain numeric tests and have audited financial statements to begin and continue participation in Title IV programs. At its heart, the Financial Analysis Responsibilities ensure that these highly complex calculations are completed correctly, which requires staff who are highly skilled and trained in accounting and auditing. Our work ensures that schools are financially sound and responsible, which is correlated to the quality of the education they provide. Schools that cannot make their payroll often cannot retain qualified and talented instructors, and if students are not receiving quality education, they are likely not able to repay their loans. Public schools are exempt from some of the financial responsibility evaluations that we conduct, but only if they can provide documentation that they have full faith and credit backing of a government entity and are not further subject to a condition of past performance under 34 CFR § 668.174 or an automatic mandatory or discretionary triggering event under § 668.171(c) or (d).

10. My team conducts a comprehensive review every time a school first completes the eligibility process for Title IV programs and then again when they are recertified every one to six years. We also look closely when schools add new programs or locations, or change ownership. We also resolve compliance audit findings of noncompliance by either requiring they improve their internal controls or repay any ineligible funds. Periodically, we will send staff on-site at schools to conduct comprehensive program reviews, which test a variety of metrics, including institutional eligibility requirements for aid. We also determine if an institution's

method of payment needs to be changed from Advance to Heightened Cash Monitoring (HCM) based upon risk analysis. HCM places additional restrictions on institution's ability to draw their own funds. Whenever schools go through consolidations or mergers, which often happens with public schools, they must go through us as well for approval.

11. On March 11, 2025 around 6:30 PM, I received an email from the Chief Human Capital Officer, Jacqueline Clay, stating, "your organizational unit is being abolished along with all positions within the unit—including yours." The email further informed me that I will be placed on administrative leave beginning March 21, 2025 and that I will receive an "official RIF notice" no earlier than 30 days after March 11, 2025. As a result of this notice, I understand that my entire unit, the Atlanta School Participation & Financial Analysis Section, is being abolished and no one will be assigned to perform the duties I have been responsible for.

12. I understand that every SPS within IHE Oversight is also being abolished except for the Chicago/Denver SPS and the Philadelphia SPS. This includes every financial analyst trained in the Financial Analysis Responsibilities described above except for one financial analyst who is located within the Denver SPS. I have spoken to the Philadelphia SPS and understand that they have no plan to ensure that the Financial Analysis Responsibilities are accomplished in our absence.

13. Since March 11, 2025, I have been locked out of my work systems and documents. I can see emails that come into my work email account, but I cannot send any emails externally. I was instructed that anything in my inbox that is unresolved should be forwarded to a "case teams" email address, so myself and my section have forwarded a couple hundred emails to that inbox, because there is nothing else we can do to respond to them or resolve any necessary work.

14. In my opinion, it is not possible for the few remaining staff to perform the statutory duties of the IHE Oversight, and especially the Financial Responsibilities that my team oversaw. Due to inadequate staffing, we already had a backlog of over 800 financial reviews before these cuts took place.

15. The impact of these cuts will be severe. When schools have an issue with their account or need to draw down funds and have trouble, there is practically no one left to assist them. The FAFSA system and the Treasury Department systems that distribute funding to schools interface with FSA's Partner Connect databases to make sure that schools have met eligibility requirements. Because of the interplay of these systems, schools could face issues in accessing their funds when there is no staff to oversee the eligibility procedures. This also impacts programs that are not administered by the Department, including the National Council of State Authorization Reciprocity Agreements (NC-SARA) programs, which approve additional funding for students in cooperation with states. NC-SARA relies on the composite score that my team was responsible for, so schools are now saying that they cannot get funding until we finish their financial responsibility analysis.

16. Another impact will be that no one is identifying schools that are failing financially and mitigating the risk to Department funds by ensuring financial protection is in place, including heightened cash monitoring, providing an irrevocable letter of credit, putting cash in escrow accounts, or limiting their ability to draw down funds from the Treasury Department. For example, if a school is financially insolvent and closes, the Department may be liable for providing students with Closed School Discharges and unpaid refunds of Title IV funds. Some schools may take advantage of the lack of accountability and not resolve the issues

we identified. Other schools that may now pass our financial analysis may not be unable to exit monitoring or have their funds returned.

I declare under penalty of perjury under the laws of the United States that, to the best of my knowledge, the foregoing is true and correct.

Executed on March 23, 2025.

A handwritten signature in black ink, appearing to read "Chris Miller", is positioned above a horizontal line.

CHRIS MILLER

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

LINDA McMAHON, *et al.*,

Defendants.

C.A. No. 1:25-cv-10601

**DECLARATION OF
DOE DECLARANT 8**

DECLARATION OF DOE DECLARANT 8

Pursuant to 28 U.S.C. § 1746, I, Doe Declarant 8, hereby declare as follows:

1. I am over the age of 18 and have personal knowledge of all the facts stated herein through personal experience and through conversations with my colleagues. If called as a witness, I could and would testify competently to the matters set forth below.

2. This declaration is submitted in support of the States' Request for a Preliminary Injunction.

3. I am an Education Program Specialist at the Department of Education's Office of English Language Acquisition (OELA), a position I have held for approximately 5 years.

4. As an Education Program Specialist at OELA, I am deeply familiar with the responsibilities of OELA. OELA oversees policy for the education needs of linguistically and culturally diverse students as required under 20 U.S.C. § 3420. OLEA was designed to serve the five million English Language Learners (ELLs) who comprise about 10 percent of all students in the United States. We provide national leadership and support to local and state school systems to ensure that ELLs become proficient in English. We help to set policy relevant to ELLs, provide research and data resources at the National Clearinghouse for English Language

Acquisition (NCELA), and fund three programs: Title III English Language Acquisition State Grants, the National Professional Development (NPD) Program, and the Native American and Alaska Native Children in School (NAM) discretionary grants program. All of these programs are authorized by the Elementary and Secondary Education Act (ESEA) of 1965, as amended by Every Student Succeeds Act of 2015. Together, OELA administers approximately \$818 million in Title III formula, \$64.2 million in National Professional Development (NPD), and \$5 million in Native American and Alaska Native Children in School (NAM) annually.

5. The purpose of Title III is to provide block grants to states and local education agencies to help ensure that ELLs attain English language proficiency and meet state academic standards. The other two grant programs under OELA—NPD and NAM—are discretionary grants. The NPD program supports institutions of higher education (IHEs) or public or private entities with relevant experience and capacity, in consortia with State educational agencies (SEAs) or local educational agencies (LEAs), as they strive to meet the demands of ELLs and improve classroom instruction for ELLs. The grants provide training to teachers and provide scholarships and stipends for pre-service and in-service teachers to teach ELLs. The NPD Program portfolio, which I manage, totals \$55 million over the five-year period of the program. Finally, the NAM Program provides grants to support the learning of Native American languages and to increase the English language proficiency of ELLs from Native American, Alaska Native, Native Hawaiian, and Pacific Islander backgrounds.

6. My specific role within OELA is an Education Program Specialist, also known as a “program officer,” for the NPD Program. I essentially serve as the guardrails on federal expenditures under that discretionary grant program. I am the person grantees come to with questions about what they can do with their grant funding, and I require and review reports from

grantees to make sure money is spent in accordance with federal law and regulations under 2 CFR 200, EDGAR, and program rules. Annexed hereto as **Exhibit 1** to this Declaration is a true and correct copy of my job description, dated October 18, 2020.

7. On March 12, 2025, I received an email (“the RIF Email”) from the Chief Human Capital Officer, Jacqueline Clay, stating, “your organizational unit is being abolished along with all positions within the unit—including yours.” Annexed hereto as **Exhibit 2** to this Declaration is a true and correct copy of the RIF Email and its attachments, dated March 12, 2025.

8. I received the RIF Email to my personal email account. I do not have access to my work email account or any systems I need to complete my work product despite the RIF Email’s statement that I would retain my Ed.gov email through March 21, 2025.

9. To my understanding, the “organizational unit” that is “being abolished” according to the RIF Email is the entire OELA division. There were 12 employees at OELA who received identical emails to the RIF Email that I received. That leaves just one employee who I understand is planning to retire at the end of month and the Deputy Assistant Secretary as the only employees of OELA who remain at the Department of Education (“the Department”). That means that only the Deputy Assistant Secretary will remain to perform all the necessary and statutorily required duties that OELA is responsible for.

10. Based on my knowledge and experience, I do not think that the Department can meet its obligations to administer the programs described above with the abolishment of OELA. Even if the Department transfers the duties of OELA to other parts of the Department, those employees do not have the knowledge, training, or experience to manage the work that we performed. I and my colleagues were provided no opportunity to facilitate the transfer of our work to anyone else in the Department.

11. The impact of OELA's abolishment is severe. States will no longer have guidance from the Department on their Title III expenditure formula grant money or the resources that NCELA provides. Their ability to raise questions with us and to receive monitoring assistance and technical assistance was wiped out overnight. We regularly monitor grantees to ensure that money was funding programs as authorized by Congress that I and my coworkers were unable to complete this work.

12. We do not know what this means for future funding. The cuts will impact individuals who are applying for money under one of these programs—whether they are currently teaching ELLs or want to and are trying to secure scholarship funding—who may face uncertainty about whether their funding is in jeopardy. Students will also be impacted because schools risk losing teachers in an area where there is already shortage. 5 million students also risk losing the necessary supports funded from Title III Formula money. In the immediate future, I was in the midst of preparing the 2026 National Professional Development (NPD) Competition, where competition for discretionary grant funding is fierce. I do not know what will happen to that competition now. Most importantly, this abolishment increases the risk of fraud, risk, and abuse. Recipients of discretionary grants and formula funding will no longer have guardrails on their expenditures or technical assistance on the implementation of their programs. I am aware of grantees who have tried to spend money inappropriately. OELA serves to ensure that all grant spending is allocable according to statute, allowable according to statute, and a reasonable cost anyone could incur. These rules—which are necessary to ensure that federal funds are going where they are intended to go—will go out the window without OELA overseeing the funds.

I declare under penalty of perjury under the laws of the United States that, to the best of my knowledge, the foregoing is true and correct.

Executed on March 23, 2025.

/s/ Doe Declarant 8
DOE DECLARANT 8

EXHIBIT 1

POSITION DESCRIPTION

PD Tracking Number T9988T
Series, Title and Grade 1720 Education Program Specialist GS-12
Department Office of English Language Acquisition

Introduction Statement

This position is located in the Department of Education, the Office of English Language Acquisition (OELA), Language Enhancement and Academic Achievement for Limited English Proficient students. The position requires the performance of a variety of program assignments directed at improving education for English language learners. The incumbent works with Title III discretionary grants, including the National Professional Development Program and the Native American and Alaska Children in School program.

Major Duties

Researches and develops program criteria for selection, funding, evaluation and other grant/contract processes, and where applicable, the competitive selection of awardees. Develops, writes, and obtains necessary clearances for the technical review plan to be used for evaluation and grant/contract review processes.

As assigned, conducts projects involving the analysis of policy related issues. Elicits and compiles other viewpoints and options from program offices which afford management a more complete perspective. Consults literature in the field, regulations, program records, and other Department offices to develop the analysis and support conclusions drawn.

Establishes monitoring criteria and monitoring plans. Conducts monitoring reviews to assess the educational effectiveness and progress, and to determine compliance with Department rules and regulations, with grant/contract terms and agreements, and with proposal objectives.

Advises on the selection of procurement and grant/contract review panel members for the application review process. Selects members and ensures that they are knowledgeable in all areas necessary to the competitive process. Participates in the grant/contract review process. Conducts briefings for panel members and serves as panel monitor.

Initiates, plans and participates in national, state and local meetings, workshops, seminars and conferences for the purpose of providing training to professionals on grant/contract management matters.

Interprets program requirements, criteria, rules and regulations, and as directed, comments on proposed regulations and policies. Meets and consults with staff and program officials to obtain their cooperation and input. Elicits and compiles viewpoints and alternatives that afford management the benefit of several views and options.

Represents the Office in a variety of meetings and conferences and maintains effective relations with lay and professional organizations and education officials at the Federal, state and local levels.

Performs other related duties as assigned.

Primary Factor Level Statements

<p>Factor 1 Knowledge Required by the Position</p> <p>Professional knowledge of education theories, principles and practices and the roles of the federal, state, and local governments sufficient to plan, evaluate and advise on funded educational programs, their requirements and problems.</p>	<p>Factor Level 1-7 1250 pts.</p>
---	--

Skill in adapting education principles and practices to projects and problems for which there are no closely related precedents.

Factor 2 Supervisory Controls Factor Level 2-4 450 pts.
The supervisor makes assignments in terms of scope, objectives and overall policies affecting the work. The incumbent works independently in carrying out assignments, determine the approach, and resolves most problems. The supervisor is kept apprised of potentially controversial problems. The review is in terms of compliance with established policies and the accomplishment of objectives.

Factor 3 Guidelines Factor Level 3-4 450 pts.
Guidelines include laws, regulations, ED policy, and education principles. The available guidelines provide limited and often inadequate guidance. The incumbent uses sound judgment and resourcefulness in adapting the available guidelines and devising new approaches.

Factor 4 Complexity Factor Level 4-5 325 pts.
The work involves planning, advising on, and evaluating assigned education projects. Work products may include the development of guidance and resource materials on major problem areas in education for grantees, contractors, and state and local officials engaged in efforts to improve education programs and practices. The projects planned, developed, monitored, or evaluated by the employee have an impact on the conduct, direction, and success of efforts important to the achievement of major agency program objectives.

Factor 4 Complexity Factor Level 4-5 325 pts.
Assignments include a range of program issues and problems. The work is complicated by unusual circumstances, variations in approaches to problems, inadequate and conflicting data, and differences in views among interested parties. The incumbent assesses, selects, adapts and applies a variety of education concepts, practices and approaches to independently plan, monitor and evaluate projects.

Factor 6 Personal Contacts Factor Level 6-3 60 pts.
Contacts include program and staff officials; state , local and institutional officials; and representatives of education groups.

Factor 7 Purpose of Contacts Factor Level 7-3 120 pts.
Contacts are for the purpose of providing technical assistance, defining and developing solutions for complex problems, developing new and applicable procedures, and directing and monitoring special projects and assignments.

Factor 8 Physical Demands Factor Level 8-1 5 pts.
There are no special or unusual physical demands.

Factor 9 Work Environment Factor Level 9-1 5 pts.
The work is performed in a typical office setting.

Factor Points Total 2990

Position Classification Standards Used

Education Program Series, 1720, TS-109 October 1991

EXHIBIT 2

----- Forwarded message -----

From: **CHCO** <CHCO@ed.gov>

Date: Wed, Mar 12, 2025 at 10:06 AM

Subject: CHCO - Notice to Employees Impacted by Reduction in Force (RIF)

To: CHCO <CHCO@ed.gov>

Dear Colleagues,

I am writing to share some difficult news. This email serves as notice that your organizational unit is being abolished along with all positions within the unit – including yours. Please note, if you elected to separate under another program e.g., Deferred Resignation Program, Voluntary Early Retirement Authority (Early-Out), or Voluntary Separation Incentive Payment (Buy-Out), you are NOT impacted by the Reduction in Force (RIF).

To provide you with the maximum opportunity to focus on your transition, you will be placed on paid administrative leave starting **Friday, March 21, 2025**.

- ***Please take immediate action to review and comply with the Instructions for Employees Impacted by the RIF (attached). This document contains important information regarding access to ED facilities, transitioning your work, and preparing for administrative leave.***
- ***Ensure your Principal Operating Component (POC) has your current mailing address, and a good personal phone number and email address to contact you.***
- During the transition period, you will retain limited equipment and systems access to enable official communications regarding your RIF standing. Please note:
 - You are only authorized to back-up your data to a network device or approved backup device.
 - You are prohibited from storing sensitive or mission-critical data on your systems' hard drive or handheld device.
 - All Department of Education system resources, including hardware, software programs, files, paper reports, and data are the sole property of the Department of Education, and there should be no expectation of privacy.

- You are prohibited from transmitting electronic copies of Department of Education materials to your home or other personal accounts.
 - Personnel using remote access shall not download or store Government information on private equipment, optical or digital media.
 - Unauthorized or improper use of this system may result in disciplinary action, as well as civil and criminal penalties.
- No earlier than 30 days from the date of this email you will receive your official RIF notice, which will begin an additional 60 days of paid administrative leave prior to your separation from the agency.
- This will give you a total of 90 days on paid leave to help facilitate your transition.
- Your official RIF notice will provide more detailed information on your specific benefits and standing and be delivered to your mailing address on file.
- You will only retain your [Ed.gov](#) email to facilitate communications with the agency through March 21, 2025.

ED has made the determination to initiate RIF procedures as part of the agency's restructuring process. These actions support Executive Order (EO) [14158](#), Implementing the President's "Department of Government Efficiency" Workforce Optimization Initiative, dated February 11, 2025 and Office of Personnel Management [Guidance on Agency RIF and Reorganization Plans](#), dated February 26, 2025. This decision is in no way a reflection of your performance or contributions, which we deeply appreciate.

I recognize that this is a challenging moment, and my team is committed to supporting you through this transition.

Ø For additional information about Reductions in Force, visit the Office of Personnel Management [RIF](#) site.

Ø For general questions regarding next steps, please email workforcereshaping@ed.gov.

Ø For specific retirement or benefits questions, please contact benefits@ed.gov.

Ø Use the Employee Assistance Program, if needed. The [Employee Assistance Program \(EAP\)](#) and [WorkLife4You Program](#), provided by Federal Occupational Health (FOH), are available 24 hours a day, 7 days a week at 1-800-222-0364 (TTY: 1-888-262-7848) or at www.FOH4you.com or www.worklife4you.com.

Ø Should you lose access or need IT support, please contact the Help Desk at ocioenterprisehelpdesk@ed.gov; or call 202-708-HELP (202-708-4357) and select Option 2.

With regard,

Jacqueline Clay

Chief Human Capital Officer

Attachments:

Instructions for ED Employees Impacted by RIF

ED RIF Information and Resources

**INSTRUCTIONS
FOR
EMPLOYEES IMPACTED BY REDUCTION IN FORCE (RIF)
3/11/25**

PHYSICAL ACCESS TO ED FACILITY:

Effective 9:00 pm on March 11, 2025, your PIV card access to ED facilities will be removed. You are no longer permitted to use it to access federal buildings or property, including your former ED office space, without prior ED approval.

- The agency will schedule a period of time for those employees who may need to pick-up personal belongings.

TRANSITION OF WORK:

March 12, 2025 - March 21, 2025: During this period, you will have limited IT access to complete work transition activities – you will have access to ed.gov email, Quicktime, FedTalent and Login.gov.

NOTE 1: Please ensure your **Principal Operating Component (POC)** has your current mailing address, and a good phone number and email address to contact you.

NOTE 2: Please follow the instruction on [Login.gov](https://login.gov) to change your account settings (i.e., phone number, email, etc.) and authentication method. This will help you retain access to Employee Express (Leave and Earnings Statements, W-2 tax prep forms).

NOTE 3: See item 5 in the attached Information and Resources document for important instructions on downloading eOPF records.

TIME AND ATTENDANCE:

During your transition period make sure you:

- Cancel all leave requests in Quicktime.
- Code your timecards for Pay Periods 7 through 13 as follows:
 - PP 7:** 3/10/25-3/21/25: Code your timecard as you normally would
 - PP 8:** Use Code 065 for week 1 and week 2
 - PP 9:** Use Code 065 for week 1 and week 2
 - PP 10:** Use Code 065 for week 1 and week 2
 - PP 11:** Use Code 065 for week 1 and week 2
 - PP 12:** Use Code 065 for week 1 and week 2
 - PP 13:** Use Code 065 for 6/2/25 and 6/9/25. Leave the remainder blank.

Once these timekeeping tasks are complete, do NOT continue to report your time and do NOT make any other changes to past timesheets. The payroll team will confirm that your timecard is coded properly for the duration of your administrative leave.

ADMINISTRATIVE LEAVE AND LIMITED TECHNOLOGY ACCESS:

Effective 5:00 pm on March 21, 2025, you will be placed on administrative leave and no longer have access to ED accounts or systems.

- Once your IT account is disabled, you will be mailed a shipping box and label to return government property (IT equipment, phone, PIV Card, Travel Card, etc.). You are required to return all government property within 7 days of receipt.
- **Returning Government Property:** It is very important that your POC has your current mailing address and a good phone number and email address to contact you.

OFFICIAL SPECIFIC EMPLOYEE RIF NOTICE:

On or about April 9, 2025, you will receive your employee specific RIF notice. It will include information regarding severance pay and retirement benefits.

SEPARATION FROM THE DEPARTMENT OF EDUCATION:

On or about June 9, 2025, your employment with the Department of Education will end.

For additional information about Reductions in Force, visit the Office of Personnel Management [RIF](#) site.

For questions, please email WorkforceRestructuring@ed.gov.

Reduction in Force (RIF)
Information and Resources
3/11/25

To help you navigate during this transition period, please use the information below in conjunction with the information provided in the ***Instructions for ED Employees Impacted by RIF***.

1. REDUCTION IN FORCE INTENT

ED has made the determination to initiate RIF procedures as part of the agency's restructuring process. These actions support Executive Order (EO) [14158](#), Implementing the President's "Department of Government Efficiency" Workforce Optimization Initiative, dated February 11, 2025 and Office of Personnel Management [Guidance on Agency RIF and Reorganization Plans](#), dated February 26, 2025.

2. ADMINISTRATIVE LEAVE

Once you receive written notice that you have been impacted by the RIF, you will be afforded a brief period to transition work activities; after which, you will be placed on paid administrative leave effective **Friday, March 21, 2025**.

You will remain on paid administrative leave for the duration of the "notice period" as specified in your written notice.

Once on administrative leave, you will no longer be permitted to conduct the duties of your position and your accounts will be disabled.

NOTE 1: Please ensure your Principal Operating Component (POC) has your current mailing address, and a good phone number and email address to contact you.

NOTE 2: Please follow the instruction on [Login.gov](#) to change your account settings (i.e., phone number, email, etc.) and authentication method. This will help you retain access to Employee Express (Leave and Earnings Statements, W-2 tax prep forms).

NOTE 3: See item 5 below for important instructions on downloading eOPF records.

NOTE 4: Once your IT account is disabled, you will be mailed a shipping box and label to return government property (IT equipment, phone, PIV Card, Travel Card, etc.). You are required to return all government property within 7 days of receipt.

3. PAY AND BENEFITS

Pay During Administrative Leave

While on paid administrative leave:

- You will continue to be paid at the same rate and frequency as you did before you were placed on administrative leave.
- You will continue to accrue annual and sick leave.
- You will receive any scheduled Within Grade (Step) Increases.
- You will maintain the same benefits as you did before you were placed on administrative leave.

Pay After Separating from the Agency

Once you separate from the agency:

- You will receive your RIF severance payout, if eligible.
- OPM's [Severance Pay Estimation Worksheet](#) is intended to allow those eligible for severance pay to calculate the approximate amount of severance pay he or she may receive.
- The actual calculation formula is somewhat more complicated and technical therefore the actual payout will be provided by Office of Human Resources, Benefits and Retirement Branch.

Federal Employee Health Benefits

While on paid administrative leave, your health benefits will not change. Upon separation from the agency:

- Federal Employee Health Benefits (FEHB) will continue for 31 days and may continue, with the employee paying 100%, plus a 2% administrative fee of the premium (with no contribution from the agency) for up to 18 months.
- Federal Dental and Vision Insurance Program (FEDVIP) coverage ends upon separation.
- Flexible spending accounts are closed on separation. Unspent money in a health care FSA is not refunded, although claims for purchases up to the date of separation will still be paid. Unspent money in a childcare FSA will remain available for use through the plan year.
- For more information, visit OPM's RIF [Benefits Summary](#) page.

4. VOLUNTARY SEPARATION INCENTIVES

Voluntary Early Retirement Authority (VERA): ED is currently offering Voluntary Early Retirement (Early Out), through March 25, 2025. VERA is a strictly voluntary option that allows eligible employees to retire early. This authority encourages more voluntary separations and helps agencies to complete needed organizational changes with minimal disruption to the workforce.

- There is no reduction in annuity if you are under the age of 62 as a FERS employee, unlike retiring under the normal Minimum Retirement Age (MRA) +10 rules. However, you must be at your MRA to become eligible for the FERS supplement.

As a reminder, employees who meet age and service requirements for Voluntary Retirement do not need the VERA authority to retire and may apply to retire at any time.

Who is eligible for VERA?

If you are covered by the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS), then you are eligible for VERA if you meet the following requirements:

- At least 20 years of creditable service and at least 50 years old OR completed at least 25 years of creditable service regardless of age.
- Continuously employed by ED since at least January 12, 2025.
- Be in good standing with the agency (i.e., not in receipt of a final removal decision based upon misconduct, or unacceptable performance).
- **Agree to separate from the Department by March 31, 2025**

Application Procedures

- **To request a VERA, you must submit a complete retirement package by March 25, 2025. For your convenience, the attached Benefits and Work/Life email provides important information and forms required to apply for retirement.**
- **All VERA applications must be received by 5:00 pm ET on March 25, 2025.**
- **Incomplete packages will not be considered.**

- **SUBMIT APPLICATION VIA EMAIL** to BenefitsandWork/Life@ed.gov

5. SEPARATION

Retaining Personnel Records - Electronic Official Personnel Folder (eOPF)

To download and save your entire eOPF, please follow the instructions below using **your ED account**:

- Go into the [eOPF portal](#) at OPM
- Click "My eOPF Print Folder" tab at the top
- Check "Select All"
- Click one of the two print buttons
- Click "My eOPF Print Status" tab at the top
 - Wait for the print request to process (this can take several minutes or longer depending on volume)
 - While waiting, read the instructions describing what the password will be for your document password
 - Password will be your last name plus the print number, which you will see in a box as the request is processing. Example: John Doe requested the print job and the system assigned 1234 as the job number. The password would be Doe1234
- When "View" appears in the "Action" box, click on it.
- Save as a PDF
- Open the PDF in Adobe and enter password

Outside Employment and Unemployment Benefits

While on administrative leave:

- You are not eligible to receive state unemployment benefits.
- You are free to accept other employment subject to the ethics rules for outside employment and applicable federal law; however, you may not accept employment with another federal agency.

Once you are separated:

- You are eligible to receive state unemployment benefits.
- You are free to accept federal or non-federal employment, subject to the post-government employment ethics rules and applicable federal law.
- You are entitled to reinstatement rights afforded all federal "displaced employees" for a period of three years.

Retention Standing

Your retention standing will be provided in your individual official RIF notice. Retention standing is an employee's relative standing on a retention register based on tenure, veterans' preference, and length of service augmented by performance credit.

6. CAREER TRANSITION

Available Employee Support

- The [Employee Assistance Program \(EAP\)](#) and [WorkLife4You Program](#), provided by Federal Occupational Health (FOH), are available 24 hours a day, 7 days a week at 1-800-222-0364 (TTY: 1-888-262-7848) or at www.FOH4you.com or www.worklife4you.com (new user registration code: ED) at no cost to you! You can also contact the benefits team at: BenefitsandWork/Life@ed.gov for additional information.

Career Transition Assistance Plan (CTAP)

The Career Transition Assistance Plan (CTAP) is an intra-agency program that helps surplus or displaced federal employees improve their chances of finding a new job in their agency, by giving them selection priority over other applicants, as long as they're qualified for the job.

You're eligible for CTAP if:

1. You're a current federal employee who meets the definition of a surplus or displaced employee—you've received official notice that your job is no longer needed or that you will lose your job by a Reduction in Force.
2. Your agency is accepting applications from within or outside of the permanent workforce.
3. You meet the qualifications and other requirements of the job you're applying for.

Interagency Career Transition Assistance Plan (ICTAP)

The Interagency Career Transition Assistance Plan (ICTAP) is an interagency program that helps surplus or displaced federal employees improve their chances of finding a new job at another agency (not their current or former agency), by giving them selection priority over other applicants from outside the agency.

You're eligible for ICTAP if:

1. You're a current federal employee who meets the definition of a surplus or displaced employee—you've received official notice that your job is no longer needed or that you will lose your job by a Reduction in Force.
2. The agency you're applying to is accepting applications from outside of their workforce.
3. The job you're applying to is in the local commuting area.
4. You meet the qualifications and other requirements of the job you're applying for. For more information on Career Transition, please visit the [Employee's Guide to Career Transition](#)

7. CONTACTS

- For additional information about Reductions in Force, visit the Office of Personnel Management [RIF](#) site.
- For general questions regarding next steps, please email workforcereshaping@ed.gov.
- For specific retirement or benefits questions, please contact benefits@ed.gov
- Use the Employee Assistance Program, if needed. The [Employee Assistance Program \(EAP\)](#) and [WorkLife4You Program](#), provided by Federal Occupational Health (FOH), are available 24 hours a day, 7 days a week at 1-800-222-0364 (TTY: 1-888-262-7848) or at www.FOH4you.com or www.worklife4you.com.
- Should you lose access or need IT support, please contact the Help Desk at ocioenterprisehelpdesk@ed.gov; or call 202-708-HELP (202-708-4357) and select Option 2.
-

From: [Benefits and Work/Life](#)
Cc: [Benefits and Work/Life](#)
Subject: Office Hours – Retirement Paperwork and Process | Questions and Answers
Date: Friday, February 21, 2025 1:31:05 PM
Attachments: [image001.png](#)
[Office Hours - Retirement Paperwork and Process Questions and Answers FINAL.pdf](#)
[FERS Retirement Forms.zip](#)
[CSRS Retirement Forms.zip](#)

Distribution List: Employees who attended the “Office Hours – Retirement Paperwork and Process” meeting on Tuesday, February 18, 2025, 12:00 PM-1:00 PM Eastern

Colleagues,

Thank you for joining me to discuss paperwork and process regarding retirement. As promised, attached are the questions from the Teams Chat along with answers.

Thank you,

Mary Tittle
Branch Chief (Division of Benefits and Work/Life)
Office of Finance and Operations
U.S. Department of Education

Email: mary.tittle@ed.gov
Phone Number: (202) 987-1033



**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

LINDA McMAHON, *et al.*,

Defendants.

C.A. No. 1:25-cv-10601

**DECLARATION OF
DOE DECLARANT 11**

DECLARATION OF DOE DECLARANT 11

Pursuant to 28 U.S.C. § 1746, I, Doe Declarant 11, declare as follows:

1. I am a resident of New York. I am over the age of 18 and have personal knowledge of all the facts stated herein. If called as a witness, I could and would testify competently to the matters set forth below.

2. This declaration is submitted in support of the States' Request for a Preliminary Injunction.

3. I am a case manager in the Multi-Regional and Foreign School Participation Division (MR&FSPD), a branch of the Office of Institutions of Higher Education (IHE) Oversight & Enforcement, which is a subdivision of the Federal Student Aid (FSA) office in the U.S. Department of Education (the Department). Until recently, the IHE Oversight & Enforcement subdivision was called the School Eligibility and Oversight Service Group (SEOSG). I have held my current position for just over 10 years. Before that time, I was in the New York/Boston School Participation Division for just under 10 years.

4. As a case manager in the IHE Oversight & Enforcement subdivision, I am knowledgeable about the responsibilities and functions of the subdivision through my personal experience, as well as through documents and information I have reviewed, and conversations I have had with my colleagues.

5. IHE Oversight & Enforcement (or SEOSG) is responsible for administering eligibility, certification, financial analysis, and oversight of over 5,500 schools that participate in loan programs under Title IV of the Higher Education Act of 1965 (Title IV), including Pell Grants, Direct Loans, Federal Work Study, the Federal Supplemental Educational Opportunity Grant (FSEOG), the TEACH Grant Program, and the Iraqi and Afghanistan Service Grants. These programs are designed to provide critical assistance to prospective students and expand access to higher education to students who could not otherwise afford to pursue a degree or certificate. Generally, the schools administer this aid, so we are a check on that system to make sure that they manage the funds properly. When the system works properly, students submit a FAFSA form, which provides information to their school who then packages the financial aid they are eligible for. If agreed to, the school enters this information for each student in the Common Origination and Disbursement System (COD) and the totals get batched and transferred to G6, which is the system that the school draws and returns funds from. FSA serves to ensure that that system operates appropriately and smoothly, and that fraud and abuse cannot occur.

6. My responsibilities and those of my colleagues are required by Title IV of the Higher Education Act and associated regulations, including 20 U.S.C. §§ 1011, 1094, 1099c, 1099c-1, and 34 C.F.R. Part 668. We are regularly trained and informed about the statutory and regulatory rules that govern our work.

7. There are ten School Participation Divisions (SPDs) that are responsible for schools based in their regional area, including Atlanta, Chicago/Denver, Dallas, Kansas City, New York/Boston, Philadelphia, and San Francisco/Seattle. Additionally, there is an eleventh division, the MR&FSPD which is responsible for overseeing publicly traded companies that own participating schools and large school groups, as well as foreign schools that participate in Title IV programs. MR&FSPD oversees many proprietary schools and those with the largest and those with most complicated ownership.

8. Each SPD is responsible for four statutorily required functional areas:

- a. **Eligibility:** We oversee everything that a school needs to do to gain eligibility to Title IV funds, to expand eligibility, to merge locations, to undergo change in ownership, to update officials, and re-certify eligibility. To continue eligibility, schools must have a program participation agreement (PPA) with the Department delineating their responsibilities for administering FSA program funds, as dictated under 20 U.S.C. § 1094.
- b. **Compliance:** Every school must submit a compliance audit annually of the funds that they expend. Regulations provide for further auditing for proprietary schools. We have 180 days to resolve audits, and our timeliness is reported to Congress. The purpose of this oversight is to ensure that schools are distributing Title IV funds appropriately and not retaining funds that belong to students or the taxpayers.
- c. **Financial Responsibility:** Schools must also submit financial statements annually that are reviewed by financial analysts to come up with a composite score that measures how financially responsible they are. If

schools do not meet a threshold of financial responsibility as dictated by the Department and the Higher Education Act, they need to provide a letter of credit to continue to be eligible for Title IV funds and it potentially impacts their PPA obligations. This process seeks to protect students and taxpayers from the precipitous closure of a financially precarious school, which could leave students in the lurch.

- d. **Program Review:** Statutes require a risk-based approach to identify schools for program review and therefore FSA uses data elements to come up with candidates for review. FSA sends staff to schools that present as high risk to do a program review, which initiates a process of identifying findings and any funds that need to be returned to students or the Department.
- e. **Method of Payment:** Federal regulations provide the Department the ability to restrict a school's ability to draw funds directly if the school meets certain financial statement risks or if there have been significant administrative errors, or in instances of fraud. In these types of instances, FSA can require that a school must post funds to the student account first and request reimbursement, or in some instances, the school could be required to submit student files for review by the FSA staff, and if there are no errors or a few errors in the sample reviewed, then the FSA releases the funds.

9. As a case manager, my work includes overseeing all of the above areas for the 10–15 schools and school groups assigned to me, which include some of the largest schools in

the country. Generally, I help to ensure that compliance audit findings are adequately addressed, that the risks identified through a financial statement submission is adequately handled in the approval process for a schools eligibility items, and I work with program review teams to set the scope of the review and assist onsite. I also work on complex changes of ownership transactions and provide input on all eligibility applications for my school groups. I am a subject matter expert at FSA about my schools whenever questions arise anywhere in the organization, and the first point of contact for the school groups in my portfolio.

10. On January 31, 2025, I was notified that I was placed on administrative leave pursuant to the president's executive order on DEIA. I thought that the email must have been in error because my role has nothing to do with DEIA.

11. The morning after I received the email notifying me that I was put on leave, my work identification and the personal identity verification (PIV) card I must insert in my laptop to work was disabled so I could not access any of my work files or emails. As a result, I have been unable to finish any work product that I had in process, and I am not even able to transition my work to others in the office.

12. On March 12, 2025, I received an email from the Chief Human Capital Officer, Jacqueline Clay, stating, "your organizational unit is being abolished along with all positions within the unit—including yours." A true and correct copy of this email is annexed as **Exhibit 1** to this Declaration. The email further informed me that I will be placed on administrative leave beginning March 21, 2025, although I had already been on leave since February 1, 2025.

13. As a result of this notice, I understand that my entire unit, the MR&FSD, is being abolished and no one will be assigned to perform the duties I have been responsible for. My

program director informed me that this same notice went out to others throughout my unit, and that every SPD was eliminated except for the Philadelphia and Chicago/Denver SPDs.

14. In my opinion, it is not possible for the few remaining staff to perform the statutory duties that IHE Oversight & Enforcement is responsible for. I believe all financial analysts who were in the Atlanta office have been eliminated under the RIF and there is only one remaining in the Chicago/Denver SPD. There are only two to three individuals remaining performing compliance audits. Prior to the RIF, 18 analysts were working on changes in ownership; now I believe there is only one. The work that we do to ensure compliance with Title IV requires significant training and cannot be easily transferred to people who do not have experience in that work.

15. Since February, I have been unable to close out any of my work, and I cannot imagine anyone could make sense of my work without my guidance. For example, I was about to finish two Final Program Review determinations that would assert liability for schools in the millions of dollars for their inappropriate retention of funds to which they were not entitled. As a result, thousands of students may not have their loans reduced as they likely would if I am able to complete my work.

16. The cuts to my division effectively remove the people responsible for holding schools accountable to laws and regulations, which I expect will result in outright fraud by bad actors and an increase in misspent funds. Without staff adept at rooting out fraud, students will be taken advantage of, and taxpayer money will be wasted. Schools that try to do the right thing will no longer have anyone to answer their questions and will experience backlogs when they need our office's approval pursuant to statutory and regulatory procedures. Students will also likely be impacted over the long-run—they will pay more than they should because there is no

one to oversee schools' administration of funds and require them to pay back money improperly retained. Many of the schools that I oversee are more non-traditional programs, for example, small private equity-owned firms that may find it harder to certify new programs in medical fields like nursing. States may suffer when it becomes more difficult for new educational programs to attain and retain eligibility for Title IV funds.

I declare under penalty of perjury under the laws of the United States that, to the best of my knowledge, the foregoing is true and correct.

Executed on March 22, 2025 in New York, New York.

Doe Declarant #11
DOE DECLARANT 11

EXHIBIT 1

6:41



X Gmail - CHCO - Notice to Employees Im...



CHCO - Notice to Employees Impacted by Reduction in Force (RIF)

CHCO <CHCO@ed.gov>
To: CHCO <CHCO@ed.gov>

Wed, Mar 12, 2025 at 9:06 AM

Dear Colleagues,

I am writing to share some difficult news. This email serves as notice that your organizational unit is being abolished along with all positions within the unit – including yours. Please note, if you elected to separate under another program e.g., Deferred Resignation Program, Voluntary Early Retirement Authority (Early-Out), or Voluntary Separation Incentive Payment (Buy-Out), you are NOT impacted by the Reduction in Force (RIF).

To provide you with the maximum opportunity to focus on your transition, you will be placed on paid administrative leave starting **Friday, March 21, 2025**.

- ***Please take immediate action to review and comply with the Instructions for Employees Impacted by the RIF (attached). This document contains important information regarding access to ED facilities, transitioning your work, and preparing for administrative leave.***
- **Ensure your Principal Operating Component (POC) has your current mailing address, and a good personal phone number and email address to contact you.**
- During the transition period, you will retain limited equipment and systems access to enable official communications regarding your RIF standing. Please note:
 - You are only authorized to back-up your data to a network device or approved backup device.
 - You are prohibited from storing sensitive or mission-critical data on your systems' hard drive or handheld device.
 - All Department of Education system resources, including hardware, software programs, files, paper reports, and data are the sole property of the Department of Education, and there should be no expectation of privacy.
 - You are prohibited from transmitting electronic copies of Department of Education materials to your home or other personal accounts.
 - Personnel using remote access shall not download or store Government information on private equipment, optical or digital media.
 - Unauthorized or improper use of this system may result in disciplinary action, as well as civil and criminal penalties.
- No earlier than 30 days from the date of this email you will receive your official RIF notice, which will begin an additional 60 days of paid administrative leave prior to your separation from the agency.
- This will give you a total of 90 days on paid leave to help facilitate your transition.
- Your official RIF notice will provide more detailed information on your specific benefits and standing and be delivered to your mailing address on file.
- You will only retain your Ed.gov email to facilitate communications with the agency through March 21, 2025.

6:41



X Gmail - CHCO - Notice to Employees Im...

- Your official RIF notice will provide more detailed information on your specific benefits and standing and be delivered to your mailing address on file.
- You will only retain your Ed.gov email to facilitate communications with the agency through March 21, 2025.

ED has made the determination to initiate RIF procedures as part of the agency's restructuring process. These actions support Executive Order (EO) 14158, Implementing the President's "Department of Government Efficiency" Workforce Optimization Initiative, dated February 11, 2025 and Office of Personnel Management [Guidance on Agency RIF and Reorganization Plans](#), dated February 26, 2025. This decision is in no way a reflection of your performance or contributions, which we deeply appreciate.

I recognize that this is a challenging moment, and my team is committed to supporting you through this transition.

Ø For additional information about Reductions in Force, visit the Office of Personnel Management [RIF](#) site.

Ø For general questions regarding next steps, please email workforcereshaping@ed.gov.

Ø For specific retirement or benefits questions, please contact benefits@ed.gov.

Ø Use the Employee Assistance Program, if needed. The [Employee Assistance Program \(EAP\)](#) and [WorkLife4You Program](#), provided by Federal Occupational Health (FOH), are available 24 hours a day, 7 days a week at 1-800-222-0364 (TTY: 1-888-262-7848) or at www.FOH4you.com or www.worklife4you.com.

Ø Should you lose access or need IT support, please contact the Help Desk at ocioenterprisehelpdesk@ed.gov; or call 202-708-HELP (202-708-4357) and select Option 2.

With regard,

Jacqueline Clay
Chief Human Capital Officer

Attachments:

Instructions for ED Employees Impacted by RIF

ED RIF Information and Resources

Benefits and Work/Life Email: Office Hours – Retirement Paperwork and Process

----- Forwarded message -----

From: "Benefits and Work/Life" <BenefitsandWork/Life@ed.gov>

To:

Cc: "Benefits and Work/Life" <BenefitsandWork/Life@ed.gov>

Bcc:

Date: Fri, 21 Feb 2025 18:30:46 +0000

Subject: Office Hours – Retirement Paperwork and Process | Questions and Answers

Distribution List: Employees who attended the "Office Hours – Retirement Paperwork and Process" meeting on Tuesday, February 19, 2025, 1:00 PM - 2:00 PM Eastern

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

LINDA McMAHON, *et al.*,

Defendants.

C.A. No. 1:25-cv-10601

**DECLARATION OF DOE
DECLARANT 12**

DECLARATION OF DOE DECLARANT 12

Pursuant to 28 U.S.C. § 1746, I, Doe Declarant 12, declare as follows:

1. I am a resident of Virginia. I am over the age of 18 and have personal knowledge of all the facts stated herein through personal experience and through conversations with my colleagues. If called as a witness, I could and would testify competently to the matters set forth below.

2. This declaration is submitted in support of the States' Request for a Preliminary Injunction.

3. I am an Education Research Analyst in the National Center for Education and Evaluation, and I have worked there for 14 years. The National Center for Education and Evaluation is part of the Institute of Education Sciences ("IES"), which is part of the Department of Education.

4. As an Education Research Analyst, I have knowledge about the responsibilities of IES in general and NCEE specifically.

5. IES is made up of four centers: the National Center for Education and Statistics ("NCES"), the National Center for Education Research ("NCER"), the National Center for

Special Education Research (“NCSE”), and the National Center for Education and Evaluation (“NCEE”).

6. NCEE is further divided into two divisions: Evaluation and Knowledge Use. I work in the Knowledge Use division. The Knowledge Use Division has two branches: the Regional Education Laboratory Branch and the Knowledge Synthesis Branch.

7. The Regional Education Laboratory Branch has the following program:

- a. **The Regional Educational Laboratory Program.** The states, freely associated states, territories, and the District of Columbia are divided into 10 areas or RELs. Each area has a team, made up of staff and contractors, who partners with educators and policymakers nationwide to support meaningful, local, regional, or state decisions about education, policies, programs, and practices designed to improve learner outcomes.

8. The Knowledge Synthesis Branch has the following programs:

- a. **Education Resources Information Center (“ERIC”).** ERIC is a large-scale database of education research that is 60 years old. It is the second most visited website of the Department. It is the only major database of grey literature, which means literature not published in a journal, but from schools, districts, or policy centers across the country. It also includes literature from both mainstay and obscure journals. It catalogs the data and makes it available in a free database. It has 14 million users a year.
- b. **What Works Clearinghouse (“Clearinghouse”).** The Clearinghouse reviews relevant research, identifies well-designed and well-implemented impact studies, summarizes the findings from those studies, and

disseminates them to the public. It reviews studies against the Departments' standard of evidence to determine whether a study's research methods support its causal claims. It is a trusted source of scientific evidence for what works in education.

- c. **The National Library of Education.** The National Library of Education is a legislatively mandated program and one of five national libraries designated by Congress. The library serves the public by providing access to rare and historic education materials, as well as serving as an agency library that supports the Department's offices.

9. ERIC is authorized by name and function in the Education Sciences Reform Act ("ESRA"). While not authorized by name, the Clearinghouse's function is described in ESRA. The RELs and the National Library of Education are also authorized by name and function in ESRA. The evidence standards used to review the research studies for the Clearinghouse are described in the Every Student Succeeds Act ("ESSA").

10. I managed three contracts across two programs. I managed the contract for ERIC, which is a huge project. I have managed ERIC for 12 years. I also managed two contracts involving the Clearinghouse. I managed an infrastructure project that included overseeing the development of methodological standards, training on those standards, developing a workflow management system to review research against those standards, peer review of all findings, and maintaining the website. I also oversaw the development of a Practice Guide on reading interventions for students K-3 struggling in reading. The practice guide was designed by a panel of experts to address the concern, often raised by the President and the Secretary of Education, that American children are falling behind in reading. The practice guide was going to provide a

free resource full of recommended activities, scripts, and lessons to improve reading. Both of the Clearinghouse contracts that I was working on were canceled in February, but I was in the process of appealing the cancellation of the contracts.

11. On March 11, 2025, I received an internal email advising me to telework the following day because there was a security threat for all three Department of Education buildings. Around 6 p.m. that evening, my laptop restarted, and I was no longer able to send external emails. Around 7:22 p.m., I received an email stating that “your organizational unit is being abolished along with all positions within the unit—including yours.” The email further informed me that I would be placed on administrative leave beginning March 21, 2025. Annexed hereto as Exhibit 1 to this Declaration is a true and correct copy of the email, dated March 11, 2025.

12. My understanding is that IES was significantly impacted by the Reduction in Force (“RIF”). The following employees remain:

- a. NCES: Has three remaining employees.
- b. NCER: Only the Commissioner
- c. NCSER: not subject to the RIF, but has fewer than 10 total employees
- d. NCEE: Only the Commissioner
- e. Additional IES staff who were not part of one of these four centers were also impacted. The standard and review offices was not subject to the RIF. However, the director of IT and the Information Security Specialist, who run the server and keep it secure and ensure that personally identifiable information remains confidential were subject to the RIF. Staff who

manage IES' budget were subject to the RIF. Staff who handle congressional inquiries and FOIA requests were also subject to the RIF.

13. Based on my knowledge and experience, I do not believe that the Department can meet its statutory obligations under ESRA given the RIF. There are three Contracting Officer's Representatives left at IES. They are not going to be able to run the statutorily required programs themselves. There are no staff remaining to manage the contracts and or the budget, put money on the contracts, help write the solicitation packages, and ensure that IES is abiding by the law.

14. I transitioned ERIC to another project officer who is taking over all of the contracts at NCEE in addition to her current responsibilities. She will not have the capacity to create agreements with publishers, review all of the deliverables, be the help desk for the website, and work to solve problems as they arise. I do not believe that the project officer will have the capacity needed to effectively manage ERIC. The current ERIC contract was a 5-year contract with a 1-year base and an option period to extend that has to be exercised by April 24, 2025. Even if the contract continues, the Department is required to reduce the contract by 50%. A best-case scenario is that the contract is renewed with 50% of its previous budget, which will mean that ERIC can index 55% of the research under agreement and provide no customer support.

15. If the ERIC contract does not continue, then the website will not be updated with new education research, and there is a risk that valuable research will be lost. Teachers and students will not have a free way to gather research and resources and learn from less known sources. Instead, they may turn to free, easily accessible sources like blogs, Tick Tock, or Pinterest. Peer-reviewed educational research will no longer be available to everyone, but

instead it will only be available to the elite who can pay to access it. It is also possible that the website could be dismantled entirely, which would have a huge impact.

16. The elimination of the Clearinghouse support contract means that the Department cannot review new studies and publish reviews to its website. Educators and teachers will no longer have access to a credible, trusted, free review of educational programs before they spend a lot of money purchasing them. Instead, they may purchase programs based on sales pitches and waste money on programs that are not proven to be effective. Additionally, the Clearinghouse reviews the Department's grant applications to determine whether methodologies in proposed grants are supported by evidence. Without that work, the Department will fund programs that have no evidence of effectiveness.

17. The long-term impact of the decimation of IES will be a loss of knowledge. Without the nation's report card prepared by NCES, we will not know how children are doing in school, be able to measure student outcomes objectively, or track data across years. The Regional Education Lab Program was established approximately 60 years ago to work with states and districts to build capacity and solve problems. They worked with small and rural schools, like the Commonwealth of the Northern Mariana Islands and rural Indiana. Researchers visited districts and helped solve problems while building the district's capacity to problem solve. Now, districts will have to pay for those services, which were previously free, or just guess. Instead of making research-informed decisions on how to address educational issues, schools may make decisions based on a hunch or hypothesis. The nation is going to lose knowledge, and knowledge is hard to replace.

I declare under penalty of perjury under the laws of the United States that, to the best of my knowledge, the foregoing is true and correct.

Executed on March 22, 2025 in Virginia.

/s/ Doe Declarant 12

Doe Declarant 12

EXHIBIT 1

From: Clay, Jacqueline
Sent: Tuesday, March 11, 2025 7:38 PM
To: CHCO
Subject: CHCO - Notice to Employees Impacted by Reduction in Force (RIF)
Attachments: Instructions for ED Employees Impacted by RIF, 3-11-25.docx; ED RIF Information and Resources, 3-11-25.docx; Office Hours – Retirement Paperwork and Process | Questions and Answers

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Colleagues,

I am writing to share some difficult news. This email serves as notice that your organizational unit is being abolished along with all positions within the unit – including yours. Please note, if you elected to separate under another program e.g., Deferred Resignation Program, Voluntary Early Retirement Authority (Early-Out), or Voluntary Separation Incentive Payment (Buy-Out), you are NOT impacted by the Reduction in Force (RIF).

To provide you with the maximum opportunity to focus on your transition, you will be placed on paid administrative leave starting **Friday, March 21, 2025**.

- ***Please take immediate action to review and comply with the Instructions for Employees Impacted by the RIF (attached). This document contains important information regarding access to ED facilities, transitioning your work, and preparing for administrative leave.***
- ***Ensure your Principal Operating Component (POC) has your current mailing address, and a good personal phone number and email address to contact you.***
- During the transition period, you will retain limited equipment and systems access to enable official communications regarding your RIF standing. Please note:
 - You are only authorized to back-up your data to a network device or approved backup device.
 - You are prohibited from storing sensitive or mission-critical data on your systems' hard drive or handheld device.
 - All Department of Education system resources, including hardware, software programs, files, paper reports, and data are the sole property of the Department of Education, and there should be no expectation of privacy.
 - You are prohibited from transmitting electronic copies of Department of Education materials to your home or other personal accounts.
 - Personnel using remote access shall not download or store Government information on private equipment, optical or digital media.

- Unauthorized or improper use of this system may result in disciplinary action, as well as civil and criminal penalties.
- No earlier than 30 days from the date of this email you will receive your official RIF notice, which will begin an additional 60 days of paid administrative leave prior to your separation from the agency.
- This will give you a total of 90 days on paid leave to help facilitate your transition.
- Your official RIF notice will provide more detailed information on your specific benefits and standing and be delivered to your mailing address on file.
- You will only retain your Ed.gov email to facilitate communications with the agency through March 21, 2025.

ED has made the determination to initiate RIF procedures as part of the agency's restructuring process. These actions support Executive Order (EO) [14158](#), Implementing the President's "Department of Government Efficiency" Workforce Optimization Initiative, dated February 11, 2025 and Office of Personnel Management [Guidance on Agency RIF and Reorganization Plans](#), dated February 26, 2025. This decision is in no way a reflection of your performance or contributions, which we deeply appreciate.

I recognize that this is a challenging moment, and my team is committed to supporting you through this transition.

- For additional information about Reductions in Force, visit the Office of Personnel Management [RIF](#) site.
- For general questions regarding next steps, please email workforcereshaping@ed.gov.
- For specific retirement or benefits questions, please contact benefits@ed.gov.
- Use the Employee Assistance Program, if needed. The [Employee Assistance Program \(EAP\)](#) and [WorkLife4You Program](#), provided by Federal Occupational Health (FOH), are available 24 hours a day, 7 days a week at 1-800-222-0364 (TTY: 1-888-262-7848) or at www.FOH4you.com or www.worklife4you.com.
- Should you lose access or need IT support, please contact the Help Desk at ocioenterprisehelpdesk@ed.gov; or call 202-708-HELP (202-708-4357) and select Option 2.

With regard,

Jacqueline Clay
Chief Human Capital Officer

Attachments:

Instructions for ED Employees Impacted by RIF

ED RIF Information and Resources

Benefits and Work/Life Email: Office Hours – Retirement Paperwork and Process

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

LINDA McMAHON, *et al.*,

Defendants.

C.A. No. 1:25-cv-10601

**DECLARATION OF
DOE DECLARANT 16**

DECLARATION OF DOE DECLARANT 16

I, Doe Declarant 16, declare as follows:

1. I am a resident of North Carolina. I am over the age of 18 and have personal knowledge of all the facts stated herein. If called as a witness, I could and would testify competently to the matters set forth below.

2. I am the Branch Chief, Compliance and Remediation Branch of the Vendor Performance Division, within the Department of Education's Federal Student Aid (FSA) office. I have worked at the Department of Education ("the Department") for almost 16 years, with 13 years of experience in loan servicing. I have served in a management role for about eight years.

3. The Vendor Performance Division was part of the newly reorganized Office of Loan Portfolio Management, which included three other divisions as well: the Program Management Division, the Loan Operations Division, and the Borrower Processing Division. My role as Branch Chief of the Compliance and Remediation Branch has been ensuring that our servicers were properly managing and consistently servicing borrowers' accounts in compliance with federal regulations, Departmental requirements, and FSA guidance. All the vendors we

work with are Title IV loan agencies who have been contracted to manage the Department's portfolio of Direct Loans, as well as a small portfolio of Federal Family Education Loans (FFEL). The vendors include Aidvantage, CRI, Ed Financial, Mohela, and NelNet.

4. The role of the Vendor Performance Division is set forth by regulation, including 34 C.F.R. 682 and 685, the Student Loan Borrower Bill of Rights, as well as Unified Servicing and Data Solutions (USDS) requirements for servicing student loans. We are required to provide oversight over our servicers and to ensure they are servicing all borrowers' accounts in the Title IV programs efficiently, effectively, and within the letter of the law and requirements outlined in USDS where some of these requirements are procedural in nature. For example, if there is a credit balance on borrower's account, the servicer is required to refund that credit balance to the borrower within a certain number of days. When it is necessary to transfer a loan from one servicer to another, there are requirements that detail what must occur at the point in time the loans are transferred, including providing notice to the borrower from the sending vendor and notice to the borrower from the receiving vendor or servicer. There are also requirements where the vendor must inform the borrower within a specified number of days that their loan has been transferred to another vendor or servicer, and the receiving vendor or servicer must also inform the borrower that they will now be servicing their loan and provide information regarding their bill, where they can set up an online account, and where to send payments, for example.

5. My team in the Vendor Oversight Group (before reorganization took place in February) would also work with third party entities like state banking regulators to provide them with the servicer's data whenever they intended to perform a review of servicer. We would review the data, involve the Office of General Counsel (OGC) if the data involved personally

identifying information (PII), and allow the entity access to the borrower data so that reviews could take place.

6. The Compliance and Remediation Branch also had a role in oversight activities in the discharging of loans under Public Service Loan Forgiveness (PSLF) or Income-Based Repayment (IBR). Our data review branch would look at the borrowers who fell within those particular categories and examine any anomalies. In instances where the servicer did something wrong, we would work with the servicer to make a plan to fix it and track the issue to ensure the servicer remediated the problem. There have been several issues in the past, for example, with inaccurate data in the processing of PSLF eligibility. In one instance when a servicer granted PSLF to borrowers who had not reached eligibility yet, we had to work with the servicer to remediate that issue. In another instance, during a transfer from one servicer to another, borrowers' payment history was deleted. We worked with the servicers to get the underlying files corrected.

7. On March 11, 2025, I was on vacation and received a call from my division chief letting me know that the entire Vendor Performance Division was going to be eliminated in a reduction-in-force (RIF), including him and me. I learned that all four branches within the Vendor Performance Division, including Compliance Remediation, Data Quality, Evaluation Branch, and Loan Legacy, were subject to the RIF.

8. I later saw an email that I received on March 11, 2025, from the Chief Human Capital Officer, Jacqueline Clay, stating, "your organizational unit is being abolished along with all positions within the unit—including yours." A true and correct copy of this email and its attachments are annexed as **Exhibit 1** to this Declaration. The email further informed me that I

will be placed on administrative leave beginning March 21, 2025 and that I will receive an “official RIF notice” no earlier than 30 days after March 11, 2025.

9. My team later told me that they had been instructed to stay at home on Wednesday, March 12, 2025, because of a threat of some sort, and then received the email the night of Tuesday, March 11, 2025. Following the email, staff were shut out of all work systems. We could see requests come through our email but could not send or respond to external emails. We have only slowly gotten access back to complete our timesheets.

10. The abolishment of the Vendor Performance Division will hurt schools and borrowers that rely on Title IV funding. As one example, we were working with the Contracts Office to write up corrective action plans (CAPs) with financial assessment appropriately so we could validate the CAPs are implemented as they should be. I am further concerned that no one is left to preemptively identify systemic issues and/or errors to provide vendors or servicers a remediation plan and CAP to avoid reoccurrence on impacted accounts and new ones.

11. As an example, if the most recent evaluation and quality review had not been performed on Closed School Discharge, a statutory requirement which provides that borrowers can apply to discharge their loans within 180 days of a school closing, there could have been a serious impact on eligible borrowers. Our last service level agreement accuracy review determined that almost all servicers were below standard on Closed School Discharge protocols, meaning they were not accurately processing discharge applications according to regulations and USDS requirements.

12. Finally, I have concerns that there is potential for borrowers to not receive specific benefits that they are due because of improper processing of payments, the potential for duplicate tradelines when transfers occur, and a lack of oversight that could result in adverse

credit reporting. In Fiscal Year 2024, the Vendor Performance Division collected over 20 million in fines and fees based on servicing non-compliance. In my experience, servicers make mistakes regularly. We manage compliance because none of them want to pay a fine or go through CAPs. Without this necessary oversight, I believe it is likely that more mistakes will occur, harming borrowers and taxpayers.

I declare under penalty of perjury under the laws of the United States that, to the best of my knowledge, the foregoing is true and correct.

Executed on March 24, 2025.

/s/ Doe Declarant 16
DOE DECLARANT 16

EXHIBIT 1

Dear Colleagues,

I am writing to share some difficult news. This email serves as notice that your organizational unit is being abolished along with all positions within the unit – including yours. Please note, if you elected to separate under another program e.g., Deferred Resignation Program, Voluntary Early Retirement Authority (Early-Out), or Voluntary Separation Incentive Payment (Buy-Out), you are NOT impacted by the Reduction in Force (RIF).

To provide you with the maximum opportunity to focus on your transition, you will be placed on paid administrative leave starting **Friday, March 21, 2025**.

- ***Please take immediate action to review and comply with the Instructions for Employees Impacted by the RIF (attached). This document contains important information regarding access to ED facilities, transitioning your work, and preparing for administrative leave.***
- **Ensure your Principal Operating Component (POC) has your current mailing address, and a good personal phone number and email address to contact you.**
- During the transition period, you will retain limited equipment and systems access to enable official communications regarding your RIF standing. Please note:
 - You are only authorized to back-up your data to a network device or approved backup device.
 - You are prohibited from storing sensitive or mission-critical data on your systems' hard drive or handheld device.
 - All Department of Education system resources, including hardware, software programs, files, paper reports, and data are the sole property of the Department of Education, and there should be no expectation of privacy.
 - You are prohibited from transmitting electronic copies of Department of Education materials to your home or other personal accounts.
 - Personnel using remote access shall not download or store Government information on private equipment, optical or digital media.

- Unauthorized or improper use of this system may result in disciplinary action, as well as civil and criminal penalties.
- No earlier than 30 days from the date of this email you will receive your official RIF notice, which will begin an additional 60 days of paid administrative leave prior to your separation from the agency.
- This will give you a total of 90 days on paid leave to help facilitate your transition.
- Your official RIF notice will provide more detailed information on your specific benefits and standing and be delivered to your mailing address on file.
- You will only retain your Ed.gov email to facilitate communications with the agency through March 21, 2025.

ED has made the determination to initiate RIF procedures as part of the agency's restructuring process. These actions support Executive Order (EO) [14158](#), Implementing the President's "Department of Government Efficiency" Workforce Optimization Initiative, dated February 11, 2025 and Office of Personnel Management [Guidance on Agency RIF and Reorganization Plans](#), dated February 26, 2025. This decision is in no way a reflection of your performance or contributions, which we deeply appreciate.

I recognize that this is a challenging moment, and my team is committed to supporting you through this transition.

- For additional information about Reductions in Force, visit the Office of Personnel Management [RIF](#) site.
- For general questions regarding next steps, please email workforcereshaping@ed.gov.
- For specific retirement or benefits questions, please contact benefits@ed.gov.
- Use the Employee Assistance Program, if needed. The [Employee Assistance Program \(EAP\)](#) and [WorkLife4You Program](#), provided by Federal Occupational Health (FOH), are available 24 hours a day, 7 days a week at 1-800-222-0364 (TTY: 1-888-262-7848) or at www.FOH4you.com or www.worklife4you.com.
- Should you lose access or need IT support, please contact the Help Desk at ocioenterprisehelpdesk@ed.gov; or call 202-708-HELP (202-708-4357) and select Option 2.

With regard,

Jacqueline Clay

Chief Human Capital Officer

Attachments:

Instructions for ED Employees Impacted by RIF

ED RIF Information and Resources

Benefits and Work/Life Email: Office Hours – Retirement Paperwork and Process

**INSTRUCTIONS
FOR
EMPLOYEES IMPACTED BY REDUCTION IN FORCE (RIF)
3/11/25**

PHYSICAL ACCESS TO ED FACILITY:

Effective 9:00 pm on March 11, 2025, your PIV card access to ED facilities will be removed. You are no longer permitted to use it to access federal buildings or property, including your former ED office space, without prior ED approval.

- The agency will schedule a period of time for those employees who may need to pick-up personal belongings.

TRANSITION OF WORK:

March 12, 2025 - March 21, 2025: During this period, you will have limited IT access to complete work transition activities – you will have access to ed.gov email, Quicktime, FedTalent and Login.gov.

NOTE 1: Please ensure your **Principal Operating Component (POC)** has your current mailing address, and a good phone number and email address to contact you.

NOTE 2: Please follow the instruction on [Login.gov](https://login.gov) to change your account settings (i.e., phone number, email, etc.) and authentication method. This will help you retain access to Employee Express (Leave and Earnings Statements, W-2 tax prep forms).

NOTE 3: See item 5 in the attached Information and Resources document for important instructions on downloading eOPF records.

TIME AND ATTENDANCE:

During your transition period make sure you:

- Cancel all leave requests in Quicktime.
- Code your timecards for Pay Periods 7 through 13 as follows:
 - PP 7:** 3/10/25-3/21/25: Code your timecard as you normally would
 - PP 8:** Use Code 065 for week 1 and week 2
 - PP 9:** Use Code 065 for week 1 and week 2
 - PP 10:** Use Code 065 for week 1 and week 2
 - PP 11:** Use Code 065 for week 1 and week 2
 - PP 12:** Use Code 065 for week 1 and week 2
 - PP 13:** Use Code 065 for 6/2/25 and 6/9/25. Leave the remainder blank.

Once these timekeeping tasks are complete, do NOT continue to report your time and do NOT make any other changes to past timesheets. The payroll team will confirm that your timecard is coded properly for the duration of your administrative leave.

ADMINISTRATIVE LEAVE AND LIMITED TECHNOLOGY ACCESS:

Effective 5:00 pm on March 21, 2025, you will be placed on administrative leave and no longer have access to ED accounts or systems.

- Once your IT account is disabled, you will be mailed a shipping box and label to return government property (IT equipment, phone, PIV Card, Travel Card, etc.). You are required to return all government property within 7 days of receipt.
- **Returning Government Property:** It is very important that your POC has your current mailing address and a good phone number and email address to contact you.

OFFICIAL SPECIFIC EMPLOYEE RIF NOTICE:

On or about April 9, 2025, you will receive your employee specific RIF notice. It will include information regarding severance pay and retirement benefits.

SEPARATION FROM THE DEPARTMENT OF EDUCATION:

On or about June 9, 2025, your employment with the Department of Education will end.

For additional information about Reductions in Force, visit the Office of Personnel Management [RIF](#) site.

For questions, please email WorkforceRestructuring@ed.gov.

Reduction in Force (RIF)
Information and Resources
3/11/25

To help you navigate during this transition period, please use the information below in conjunction with the information provided in the ***Instructions for ED Employees Impacted by RIF***.

1. REDUCTION IN FORCE INTENT

ED has made the determination to initiate RIF procedures as part of the agency's restructuring process. These actions support Executive Order (EO) [14158](#), Implementing the President's "Department of Government Efficiency" Workforce Optimization Initiative, dated February 11, 2025 and Office of Personnel Management [Guidance on Agency RIF and Reorganization Plans](#), dated February 26, 2025.

2. ADMINISTRATIVE LEAVE

Once you receive written notice that you have been impacted by the RIF, you will be afforded a brief period to transition work activities; after which, you will be placed on paid administrative leave effective **Friday, March 21, 2025**.

You will remain on paid administrative leave for the duration of the "notice period" as specified in your written notice.

Once on administrative leave, you will no longer be permitted to conduct the duties of your position and your accounts will be disabled.

NOTE 1: Please ensure your Principal Operating Component (POC) has your current mailing address, and a good phone number and email address to contact you.

NOTE 2: Please follow the instruction on [Login.gov](#) to change your account settings (i.e., phone number, email, etc.) and authentication method. This will help you retain access to Employee Express (Leave and Earnings Statements, W-2 tax prep forms).

NOTE 3: See item 5 below for important instructions on downloading eOPF records.

NOTE 4: Once your IT account is disabled, you will be mailed a shipping box and label to return government property (IT equipment, phone, PIV Card, Travel Card, etc.). You are required to return all government property within 7 days of receipt.

3. PAY AND BENEFITS

Pay During Administrative Leave

While on paid administrative leave:

- You will continue to be paid at the same rate and frequency as you did before you were placed on administrative leave.
- You will continue to accrue annual and sick leave.
- You will receive any scheduled Within Grade (Step) Increases.
- You will maintain the same benefits as you did before you were placed on administrative leave.

Pay After Separating from the Agency

Once you separate from the agency:

- You will receive your RIF severance payout, if eligible.
- OPM's [Severance Pay Estimation Worksheet](#) is intended to allow those eligible for severance pay to calculate the approximate amount of severance pay he or she may receive.
- The actual calculation formula is somewhat more complicated and technical therefore the actual payout will be provided by Office of Human Resources, Benefits and Retirement Branch.

Federal Employee Health Benefits

While on paid administrative leave, your health benefits will not change. Upon separation from the agency:

- Federal Employee Health Benefits (FEHB) will continue for 31 days and may continue, with the employee paying 100%, plus a 2% administrative fee of the premium (with no contribution from the agency) for up to 18 months.
- Federal Dental and Vision Insurance Program (FEDVIP) coverage ends upon separation.
- Flexible spending accounts are closed on separation. Unspent money in a health care FSA is not refunded, although claims for purchases up to the date of separation will still be paid. Unspent money in a childcare FSA will remain available for use through the plan year.
- For more information, visit OPM's RIF [Benefits Summary](#) page.

4. VOLUNTARY SEPARATION INCENTIVES

Voluntary Early Retirement Authority (VERA): ED is currently offering Voluntary Early Retirement (Early Out), through March 25, 2025. VERA is a strictly voluntary option that allows eligible employees to retire early. This authority encourages more voluntary separations and helps agencies to complete needed organizational changes with minimal disruption to the workforce.

- There is no reduction in annuity if you are under the age of 62 as a FERS employee, unlike retiring under the normal Minimum Retirement Age (MRA) +10 rules. However, you must be at your MRA to become eligible for the FERS supplement.

As a reminder, employees who meet age and service requirements for Voluntary Retirement do not need the VERA authority to retire and may apply to retire at any time.

Who is eligible for VERA?

If you are covered by the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS), then you are eligible for VERA if you meet the following requirements:

- At least 20 years of creditable service and at least 50 years old OR completed at least 25 years of creditable service regardless of age.
- Continuously employed by ED since at least January 12, 2025.
- Be in good standing with the agency (i.e., not in receipt of a final removal decision based upon misconduct, or unacceptable performance).
- **Agree to separate from the Department by March 31, 2025**

Application Procedures

- **To request a VERA, you must submit a complete retirement package by March 25, 2025. For your convenience, the attached Benefits and Work/Life email provides important information and forms required to apply for retirement.**
- **All VERA applications must be received by 5:00 pm ET on March 25, 2025.**
- **Incomplete packages will not be considered.**

- **SUBMIT APPLICATION VIA EMAIL** to BenefitsandWork/Life@ed.gov

5. SEPARATION

Retaining Personnel Records - Electronic Official Personnel Folder (eOPF)

To download and save your entire eOPF, please follow the instructions below using **your ED account**:

- Go into the [eOPF portal](#) at OPM
- Click "My eOPF Print Folder" tab at the top
- Check "Select All"
- Click one of the two print buttons
- Click "My eOPF Print Status" tab at the top
 - Wait for the print request to process (this can take several minutes or longer depending on volume)
 - While waiting, read the instructions describing what the password will be for your document password
 - Password will be your last name plus the print number, which you will see in a box as the request is processing. Example: John Doe requested the print job and the system assigned 1234 as the job number. The password would be Doe1234
- When "View" appears in the "Action" box, click on it.
- Save as a PDF
- Open the PDF in Adobe and enter password

Outside Employment and Unemployment Benefits

While on administrative leave:

- You are not eligible to receive state unemployment benefits.
- You are free to accept other employment subject to the ethics rules for outside employment and applicable federal law; however, you may not accept employment with another federal agency.

Once you are separated:

- You are eligible to receive state unemployment benefits.
- You are free to accept federal or non-federal employment, subject to the post-government employment ethics rules and applicable federal law.
- You are entitled to reinstatement rights afforded all federal "displaced employees" for a period of three years.

Retention Standing

Your retention standing will be provided in your individual official RIF notice. Retention standing is an employee's relative standing on a retention register based on tenure, veterans' preference, and length of service augmented by performance credit.

6. CAREER TRANSITION

Available Employee Support

- The [Employee Assistance Program \(EAP\)](#) and [WorkLife4You Program](#), provided by Federal Occupational Health (FOH), are available 24 hours a day, 7 days a week at 1-800-222-0364 (TTY: 1-888-262-7848) or at www.FOH4you.com or www.worklife4you.com (new user registration code: ED) at no cost to you! You can also contact the benefits team at: BenefitsandWork/Life@ed.gov for additional information.

Career Transition Assistance Plan (CTAP)

The Career Transition Assistance Plan (CTAP) is an intra-agency program that helps surplus or displaced federal employees improve their chances of finding a new job in their agency, by giving them selection priority over other applicants, as long as they're qualified for the job.

You're eligible for CTAP if:

1. You're a current federal employee who meets the definition of a surplus or displaced employee—you've received official notice that your job is no longer needed or that you will lose your job by a Reduction in Force.
2. Your agency is accepting applications from within or outside of the permanent workforce.
3. You meet the qualifications and other requirements of the job you're applying for.

Interagency Career Transition Assistance Plan (ICTAP)

The Interagency Career Transition Assistance Plan (ICTAP) is an interagency program that helps surplus or displaced federal employees improve their chances of finding a new job at another agency (not their current or former agency), by giving them selection priority over other applicants from outside the agency.

You're eligible for ICTAP if:

1. You're a current federal employee who meets the definition of a surplus or displaced employee—you've received official notice that your job is no longer needed or that you will lose your job by a Reduction in Force.
2. The agency you're applying to is accepting applications from outside of their workforce.
3. The job you're applying to is in the local commuting area.
4. You meet the qualifications and other requirements of the job you're applying for. For more information on Career Transition, please visit the [Employee's Guide to Career Transition](#)

7. CONTACTS

- For additional information about Reductions in Force, visit the Office of Personnel Management [RIF](#) site.
- For general questions regarding next steps, please email workforcereshaping@ed.gov.
- For specific retirement or benefits questions, please contact benefits@ed.gov
- Use the Employee Assistance Program, if needed. The [Employee Assistance Program \(EAP\)](#) and [WorkLife4You Program](#), provided by Federal Occupational Health (FOH), are available 24 hours a day, 7 days a week at 1-800-222-0364 (TTY: 1-888-262-7848) or at www.FOH4you.com or www.worklife4you.com.
- Should you lose access or need IT support, please contact the Help Desk at ocioenterprisehelpdesk@ed.gov; or call 202-708-HELP (202-708-4357) and select Option 2.
-

Breaking 5.2 magnitude earthquake shakes Southern California

McMahon hijacks House Democrats' presser after closed-door meeting outside Department of Education

She declined to answer many questions from members of Congress and reporters.

By [Arthur Jones II](#)
April 2, 2025, 1:45 PM



Education Secretary Linda McMahon interrupted a press conference by House Democrats outside the Department of Education to give an impromptu statement after they met in a closed-door meeting earlier Wednesday.

With about a minute's notice, the secretary's team told some attendees that McMahon would be making a statement.

Rep. Melanie Stansbury, D-N.M., was speaking at the podium as the secretary appeared at the press conference.

"We are extraordinarily grateful that the secretary gave us the space to have these conversations, but with all due respect, madam, I think my biggest concern is that the states will not be able to protect the programs and services that you would like to devolve with them," she said before ceding the microphone, noting that the mood during the meeting was "collegial."

Then, the secretary stepped to the podium in front of the group of Democratic lawmakers, who had met with her in her office for about an hour.

Recent Stories from ABC News



[Read More](#)

00:00

02:00

"I just want to express my gratitude to all of these folks who came today so we can have an open discussion about what I believe is one of the most important things that we can have a discussion on or action on in our country, and that is the education of our young people," McMahon said upon taking the podium.

Video

Live

Shows

Shop

Log In

Stream on hulu

electricians and HV/AC operators, then we need to focus on how they can best have their education," she added.



Education Secretary Linda McMahon during a press conference outside of the Department of Education in Washington, D.C., April 2, 2025.
Pool via ABC News

MORE: Elizabeth Warren launches campaign to investigate Department of Education closure: 'I will fight it with everything I've got' →

"And I believe, and I know the president believes as well, the best education is that that is closest to the child where teachers and parents, local superintendents, working together and local school boards to develop the curriculum for those students is the best way that it can happen," she said.

Rep. Mark Takano, D-Calif., who spearheaded the effort to meet with McMahon, and several reporters peppered the secretary with questions.

"When are you going to shut down this building?" Takano asked.



"Well, we've had our discussions already, so thank you all very, very much for coming," McMahon replied.

MORE: Trump signs order gutting Department of Education while surrounded by kids→

She declined to answer any further questions before exiting the presser.

Takano and a coalition of lawmakers had requested the meeting after the secretary was sworn into office last month.

"She came down here to upstage the news press availability, trying to give the impression that she's trying a different approach -- that she's actually meeting with members of Congress," Takano told ABC News after the event.



Congressman Mark Takano with house democrats speaks at a press conference outside of the Department of Education in Washington, D.C., April 2, 2025.
Pool via ABC News

Later Wednesday, McMahon [posted on X](#) about the meeting.

"This morning, I hosted a meeting with House Democrats to hear their concerns," she said. "Our collective goal should be to support students, not the broken bureaucracy."

The meeting comes after weeks of confusion in Washington as the Department of Education slashed nearly half its workforce and lawmakers have been demanding answers from the Trump administration.

Reps. Jamie Raskin, D-Md., Veronica Escobar, D-Texas, Frederica Wilson, D-Fla., Don Beyer, D-Va., and Greg Casar, D-Texas, also attended the meeting..

Chaos ensued outside the agency the last time Democrats tried to meet with department officials as Takano and around two dozen lawmakers were rejected access inside the building.

This time they met with McMahon amid the administration's [attempt to dismantle](#) and spearhead the historic overhaul of the department as directed by President Donald Trump.

MORE: Emotional Education Department 'clap-outs' celebrate departed federal employees→

The members said McMahon took the right step in meeting with them and that she assured them she would work with Congress to move statutory functions to other agencies and follow federal law. However, Wilson said McMahon indicated she is following the president's directive in moving the student loan portfolio for more than 40 million people to the Small Business Administration.

McMahon also told the Democratic lawmakers in the meeting that there will be additional [workforce cuts at the department](#), Takano said.

Meanwhile, the meeting seemed to leave many with unanswered questions, and after McMahon left the podium, Stanbury said the secretary has no plans that she shared with them.

Casar, the Congressional Progressive Caucus chairman, said he grew frustrated and even more alarmed during the meeting because he suggested McMahon's mission will gut public schools.

"What she tried to say, in the nicest of terms, is that she wants to get rid of the guardrails and protections for all of our kids and instead say, No, we can have it set up so that states can give money to the private schools that we like and take away money from the public schools that we may not like," Casar said.

Wilson, a senior member of the House Education and the Workforce Committee, passionately defended public education.

"For the Department of Education to be dismantled, it is going to bring a shock to this nation," said Wilson, a former principal and lifelong educator. "Schools are the bedrock of this nation. When schools are working, our country is moving."

Related Topics

- Trump Administration
- Education
- Democratic Party
- Congress



Sponsored Content by Taboola

Varicose veins - think they're nothing? Your legs may disagree.

Sponsored / Metro Vein Centers

Quiz time! What's your vein health score?

Sponsored / Metro Vein Centers

Amazon's Worst Nightmare: Shoppers Canceling Prime for This Clever Hack

Sponsored / Online Shopping Tools

Top 10 Blood Pressure Monitors of 2024 Tested by DocReviews

Sponsored / DocReviews

2025 Goal: Grow Savings with a High Yield Savings Account

Sponsored / NerdWallet

Go To Quiz

Go To Quiz

Learn More

Learn More

Seniors Born 1941-1979 Receive 55 Benefits This Month if They Ask

Sponsored / WalletLump

Learn More

Top 10 Blood Pressure Monitors of 2024 Reviewed by Doctors

Sponsored / DocReviews

Learn More

New York: 24 Hour Dental Implants

Sponsored / Nuvia Dental Implant Center

Landmark Supreme Court Ruling Could Cause New Economic Boom

Sponsored / Paradigm Press

Learn More

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

LINDA McMAHON, *et al.*,

Defendants.

C.A. No. 1:25-cv-10601

**DECLARATION OF DOE
DECLARANT 18**

DECLARATION OF DOE DECLARANT 18

Pursuant to 28 U.S.C. § 1746, I, Doe Declarant 18, declare as follows:

1. I am over the age of 18 and have personal knowledge of all the facts stated herein through personal experience and through conversations with my colleagues. If called as a witness, I could and would testify competently to the matters set forth below.

2. This declaration is submitted in support of the States' Request for a Preliminary Injunction.

3. I work in the Institute of Education Sciences ("IES"), which is part of the Department of Education, and I have worked there for over 3 years. I have knowledge about the responsibilities of the Department of Education in general and IES specifically.

4. IES is made up of four centers: the National Center for Education and Statistics ("NCES"), the National Center for Education Research ("NCER"), the National Center for Special Education Research ("NCSER"), and the National Center for Education and Evaluation ("NCEE") along with the Office of Science, which handles peer review for grants.

5. NCES was further divided into the Office of the Commissioner, the Assessment Division, the Administrative Data Division, and the Sample Surveys Division.

6. The Office of the Commissioner housed the crosscutting functions of the Chief Psychometrician, the Deputy Commissioner, the Annual Reports and Information Staff and the Chief Statistician and her Statistical Standards and Data Confidentiality Staff. The Chief Psychometrician reviewed the methodology for all assessments in NCES. The Annual Reports and Information Staff produced Digests of Education Statistics and the Report on the Condition of Education, an annual report mandated by the U.S. Congress. According to 20 U.S.C § 9545(b), the report must be submitted to the President and appropriate congressional committees no later than June 1 of every year. The Annual Reports and Information Staff also disseminated information collected by NCES by conducting outreach to data-users, issuing press releases, and conducting webinars and trainings. The Chief Statistician along with the standards review team reviewed everything before it was disseminated by NCES to ensure that it met the Department's quality standards and followed collection and dissemination protocols. The Chief Statistician's staff also operated the National Forum on Education Statistics, which was a group committed to improving the quality, comparability, and usefulness of elementary and secondary education data.

7. The Assessment Division handled the National Assessment of Education Progress and international assessments, such as the Program for International Student Assessment and the Program for the International Assessment of Adult Competencies.

- a. **National Assessment of Education Progress (NAEP).** NAEP is known as the Nation's Report Card. It is the largest continuing and nationally representative assessment of what the nation's students know and can do in subjects such as mathematics, reading, science, and writing. NAEP is a congressionally mandated project administered by NCES.

- b. **Program for International Student Assessment (PISA).** PISA is an international assessment that measures 15-year-old students' reading, mathematics, and science literacy. PISA has been conducted every 3 years since 2000, except for a 1 year delay in the current cycle due to the pandemic.
- c. **Program for the International Assessment of Adult Competencies (PIAAC).** PIAAC, also known as the Survey of Adult Skills, is an international study of key cognitive and workplace skills of adults ages 16-74 in the United States and 16-65 in other countries.

8. The Administrative Data Division managed data collections from state education agencies, school districts, and colleges and universities. They managed the Integrated Postsecondary Education Data System and Common Core Data. The Administrative Division also provided technical support to school districts and states to assist them in collecting their own data through the Statewide Longitudinal Data Systems Grant Program and initiatives such as the Common Education Data Standard.

- a. **Common Core Data ("CCD").** CCD is a census of all public schools in the country. It provides information down to the individual school level about how many children attend a given school, how many teachers work at the school, and where the school is physically located. This is known as non-fiscal CCD, and this data is used to determine things like the pupil to teacher ratio at schools and enrollment counts. Through non-fiscal CCD, we have learned that fall enrollment in public schools has dropped 3% since the start of the pandemic. CCD also collects information at the

district level about how much money the districts are receiving and how the money is being spent. This is known as fiscal CCD, and it is used to understand whether funds are being distributed equitably within states and across the country.

- b. **Integrated Postsecondary Education Data System (IPEDS).** IPEDS consists of 12 interrelated surveys conducted annually from every college, university, and technical and vocational institution that participates in the federal financial aid programs. It is the primary source of information on colleges, universities, and technical and vocational institutions in the United States.
- c. **Statewide Longitudinal Data Systems Grant Program:** Pursuant to 20 U.S.C. § 9607, the Administrative Data Division managed the statewide longitudinal data systems grant program to enable State educational agencies to design, develop, implement and expand statewide longitudinal data systems.
- d. **Common Education Data Standards (CEDS):** NCES, along with the assistance of key stakeholders, was developing a specified set of the most commonly used education data elements, known as CEDS. The goal was to create a common vocabulary to support the effective exchange of data within and across states as students transition between educational sectors and levels and for federal reporting.

9. The Sample Survey Division managed cross-sectional and longitudinal studies that collected person level data from parents, students and education staff through programs such

as the National Teacher and Principal Survey, surveys about bullying, the National Household Education Survey, and the Private School Universe Survey.

- a. **National Teacher and Principal Survey** is the primary source of information on K-12 education from principals and teachers providing trends on staff, demographics, school climates, and principal and teacher attrition since 1987, though the survey name has changed over the years.
- b. **National Household Education Survey** collects data on a variety of topics with a recent focus on parent involvement in education. It collects data on things like homeschooling, school choice, and when parents send children to kindergarten or daycare.
- c. **Private School Universe Survey** is a census of all of the private schools in the country that is conducted every two years. It provides the most comprehensive list of private schools in every state and is used for NAEP and other sample surveys collected by NCES.

10. On February 10, 2025, many of NCES's ongoing contracts to collect data for the aforementioned surveys and programs were terminated despite employees at NCES providing memos about how the contracts were necessary for NCES to complete its statutorily required functions. At the end of February, at least one contract was re-started after getting approval from the Office of the Secretary and the Department of Governmental Efficiency, but funding for the contract was significantly reduced.

11. On March 11, 2025, I received an internal email advising me to telework the following day because there was a security threat at the Department of Education building.

Later that evening, I received an email stating that my organizational unit was being abolished along with all positions in the unit, including mine.

12. My understanding is that NCES was significantly impacted by the Reduction in Force (“RIF”). Prior to the RIF, I believe that there were between 80-90 people working at NCES. Currently, NCES has three remaining employees who all work in the Office of the Commissioner. My understanding is that the three remaining employees are the Chief Psychometrician, an individual who do outreach to states, districts, and stakeholders and a staffer who supported data governance. Everyone else who did not take the “folk in the road” voluntary separation or retirement has been separated from their job as part of the RIF.

13. Based on my knowledge and experience, I do not believe that the Department can meet its statutory obligations to collect, maintain, and disseminate data with only three NCES staff members remaining. The Education Sciences Reform Act requires that data be of high quality, free of partisan influence, and useful. There is no one left at NCES to review the quality of the work being done on the remaining contracts and ensure that it adheres to the statutorily required standards. NCES is also required to disseminate data once it is collected, and there are not enough staff left to meet this requirement or even ensure that NCES’s website continues to function.

14. NCES previously managed over 300 million dollars in contracts every year, with NAEP accounting for 185 million dollars in 2024. Around 30 people used to work on NAEP alone. It is not possible for three people to manage that workload. Even if NCES’s annual contracts are cut in half, that would still be too much work for three people to handle on their own. The remaining three employees need to be experts in testing, surveying, sampling,

dissemination of information, IT, and contracting just to review the quality of the work from contractors.

15. NCES also has required standards that need to be met before information is disseminated. The Chief Statistician had to review and sign off on all work before it was released to the public pursuant to the Paperwork Reduction Act, the Information Quality Act, OMB Statistical Policy Directive 1, and 5 CFR Part 1321, Responsibilities of Recognized Statistical Agencies and Units. The Chief Statistician and her team were separated pursuant to the RIF, and now there is no one at NCES to conduct the required quality reviews.

16. In the short term, I do not believe that NCES will be able to submit a comprehensive Report on the Condition of Education to the President and Congress by June 1st, as is required by statute. Congress and public users have provided feedback requesting comprehensive reports, and the established practice for decades has been to produce a report consisting of 30 or more indicators or chapters.

17. Another immediate impact of the RIF at NCES is that certain data sets will be lost. We will not be able to retroactively collect accurate data for certain surveys. For example, NCES was conducting the Early Childhood Longitudinal Study that started with Kindergarteners in the fall of 2023. The contract for that study was canceled in February, and the people at NCES working on that study were separated as part of the RIF. As a result, there is no one at NCES to collect data on these now First Graders. If the study ultimately continues, it will be missing a year of data that cannot be meaningfully collected at some date in the future. NCES was also collecting data monthly from certain public schools as part of the School Pulse Panel. That data is no longer being collected, and there will be no way to go backward and collect missing data sets.

18. Title I and other formula grants that rely on NCES data are also going to be impacted. It is not clear whether the Department will have valid, reliable, and accurate data sets to use as inputs for calculating Title I grants next year or whether they will have to rely on old data. Even if contractors collect updated data, there are not enough staff left at NCES to conduct quality assurances and confirm the accuracy of the data collected.

19. Many of the systems at NCES are interdependent. NAEP depends on the Common Core of Data and the Private School Universe Survey to determine which schools to sample in the future. Outdated data could impact the accuracy and completeness of NAEP.

20. Long term, I am concerned that there will be a significant loss of institutional knowledge that will impact NCES and the Department's ability to accurately collect data and track trends over time.

I declare under penalty of perjury under the laws of the United States that, to the best of my knowledge, the foregoing is true and correct.

Executed on April 15, 2025.

/s/ Doe Declarant 18

Doe Declarant 18

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF NEW YORK, et al.

Plaintiffs,

v.

LINDA McMAHON, et al.

Defendants.

Case No. 1:25-cv-10601 (MJJ)

DECLARATION OF DOE DECLARANT 19

Pursuant to 28 U.S.C. § 1746, I, Doe Declarant 19, hereby declare and state as follows:

1. I am over the age of 18 and have personal knowledge of all the fact. If called as a witness, I could and would testify competently as to the matters set forth below.

2. I am currently employed in the Office of Elementary and Secondary Education (“OESE”) within the U.S. Department of Education (“Department”).

3. OESE oversees funding to state education agencies (“SEAs”) through a number of programs, chief amongst them Title I of the Elementary and Secondary Education Act (“ESEA”). Title I funds represent a significant portion of the total funding provided by the Department to states. Title I funding is made via noncompetitive formula grant, meaning that each state’s allotment is calculated based on a predetermined formula set out by Congress.

4. In March 2025, the Department experienced significant headcount reduction as a result of a reduction-in-force (“RIF”). While many of my colleagues throughout the Department are slated to lose their jobs because of the RIF, my position within OESE was not one of the roles covered by the RIF.

5. Department leadership has not explained to the Department's remaining employees why the RIF was initiated, how the Department's leadership team arrived at who to RIF, or even who was RIF'ed. My colleagues and I have instead been forced to rely on our union to get some sense of which groups within the Department were impacted by the RIF.

6. My understanding is that on March 20, 2025, President Trump signed an executive order directing Secretary McMahon to dismantle the Department.¹ The next day, my understanding is that the President directed Secretary McMahon to transfer certain functions, including IDEA funding and programming, out of the Department and to other federal agencies.²

7. Despite these momentous announcements, Department leadership has not sought to explain how the Department plans to implement the executive order or the transfer of these statutory functions outside of the Department to career Department employees.

8. I am also aware, from press coverage, that earlier this month, Secretary McMahon met with democratic members of Congress.³ According to press sources, during that meeting, Secretary McMahon apparently informed the congressional delegation that she anticipated making additional reductions in headcount within the Department, and that she was proceeding with the President's directive to move statutory functions out of the Department. Despite this public reporting, Departmental leadership has not informed the remaining staff of the Department whether or when additional headcount reductions are coming. We have also not been told how

¹ "Improving Education Outcomes by Empowering Parents, States, and Communities" Executive Order, Exec. Order No. 14,242, 90 Fed. Reg. 13,679 (Mar. 20, 2025) ("Executive Order").

² Arthur Jones II et al., "Trump says student loans, special needs programs will be moved to new departments," ABC News.com (Mar. 21, 2025) accessed <https://abcnews.go.com/Politics/trump-student-loans-special-programs-moved-new-departments/story?id=120032077>.

³ Arthur Jones II, "McMahon hijacks House Democrats' presser after closed-door meeting outside Department of Education," ABC News.com (Apr. 2, 2025), accessed at: <https://abcnews.go.com/Politics/mcmahon-hijacks-house-democrats-presser-after-closed-door/story?id=120416571>

Departmental leadership plans to move statutory functions—like IDEA funding and programming—out of the Department.

9. In fact, aside from an initial Town Hall to discuss the “fork” offer in February 2025, Department leadership has not provided Departmental employees with any guidance regarding the Administration’s future plans for the Department and its programs.

10. While my office, OESE, was not directly impacted by the RIF, many of the functions we relied on in the ordinary course of our work have been RIF’ed, seriously impacting our ability to carry out our core functions. For instance, the OGC staff that historically advised us has been completely eliminated, leaving OESE largely without legal guidance. Monitoring efforts that were important to our Title I work and which were performed by other functions within the Department were also RIF’ed, seriously impacting our continued ability to monitor funding recipients. Finally, cuts at NCES have had a major impact on the Department’s collection and analysis of data. This is important, because OESE relies on this data for our work. Our team has attempted to fill holes caused by the RIF, but we lack the subject matter expertise of many of the RIF’ed employees.

11. OESE often works closely with the Office of Special Education Programs (“OSEP”), which oversees IDEA funding and programming. This is because OESE and OSEP are often working with the same funding recipients, and frequently use the same or similar data from those funding recipients in fulfilling their duties. Based on my experience, I believe that OESE’s continuing work would be negatively impacted if OSEP’s functions were transferred to a different agency, because that transfer is likely to result in increased difficulty in coordinating and communicating between OESE, OSEP, and funding recipients.

12. Historically, in my experience, OESE provides Title I preliminary allocation figures to States a few weeks after a continuing resolution is passed by Congress. These preliminary allocation levels are important to States, because they allow States and Local Education Agencies (“LEAs”) to plan their budget for the coming year. This year, however, that process has been disrupted, and we have not been able to get preliminary allocation figures to States despite a continuing resolution passing in March 2025. Department management has advised us to tell Title I recipients that the Office of Management and Budget (“OMB”) is still setting funding levels, which has caused preliminary allocation levels to be delayed. This is troubling, because Title I is a formula grant program. A number of States have approached our office about the delay.

13. Moving forward, I believe that the RIF is likely to have significant impacts on OESE’s ability to perform its core functions.

I declare under the penalties of perjury under the laws of the United States that, to the best of my knowledge, the foregoing is true and correct.

Executed this 17th Day of April, 2025

Doe Declarant 19

 Doe Declarant 19

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

LINDA McMAHON, *et al.*,

Defendants.

C.A. No. 1:25-cv-10601

**DECLARATION OF LISA
TESSITORE**

DECLARATION OF LISA TESSITORE

Pursuant to 28 U.S.C. § 1746, I, Lisa Tessitore, hereby declare as follows:

1. I am a resident of Florida. I am over the age of 18 and have personal knowledge of all the facts stated herein, though personal experience, documents and records I have reviewed, and conversations with my colleagues. If called as a witness, I could and would testify competently to the matters set forth below.

2. This declaration is submitted in support of the States' Request for a Preliminary Injunction.

3. Until recently, I was Director of the Vendor Oversight Division at the Department of Education's Federal Student Aid (FSA) office in the Department of Education ("the Department"), a position I held since February 2025, when this unit was first created due to a reorganization. Between January 2020 and February 2025, I was Director of the Vendor Oversight Group, which was then split into three units, including the Vendor Oversight Division. I have worked at FSA since November 2011, serving in supervisory roles since 2013. Prior to

working at FSA, I worked in the private sector with guarantors, lenders and servicers to enhance and build products and services for borrowers and schools.

4. Before February 2025, the Vendor Oversight Group managed FSA's contracts with student loan servicers and vendors, ensuring compliance with statutory and contractual obligations for Title IV federal student aid. Denise Carter, appointed Acting Chief Operating Officer of FSA in July 2024, initiated a reorganization of FSA. This reorganization was completed in late January 2025 and took effect in February. Previously, all contractual oversight was handled by the Vendor Oversight Group; post-reorganization, this work was divided into three parts:

- a. The Vendor Performance Division, which is under the Office of Loan Portfolio Management, kept the bulk of employees and was responsible for monitoring Service Level Agreements (SLAs) in our contracts.
- b. The Program Management Division, also under the Office of Loan Portfolio Management, absorbed a smaller group of employees who were responsible for ensuring that vendors' internal controls complied with federal agency obligations under Office of Management and Budget (OMB) Circular A-123.
- c. My team, the Vendor Oversight Division, was placed under the umbrella of the Office of Strategic Acquisitions Planning, which was created during the reorganization in February 2025 to include staff responsible for contract acquisitions, such as the Contracting Operations Division comprised of the contracting officers responsible for and held accountable for FSA's contracts with vendors, and the Business Requirements

Management Division, which included the business analysts responsible for all change requirements to the contracts. My division was tasked with holistically monitoring our portfolio of vendors, servicers, Business Process Operations (BPO), and the National Student Loan Data System (NDLDS), to make sure these groups were meeting their contractual and regulatory requirements.

5. After the Trump administration took office in January 2025, Denise Carter was appointed as Acting Secretary of Education, in addition to her Acting as Chief Operating Officer of FSA. She placed her Principal Deputy Chief Operating Officer, Phillip Juengst, in charge of planning for a Reduction-in-Force (RIF) shortly after the reorganization took effect. We in the Department were also aware that President Trump and Linda McMahon were making public statements to the press about their intention to shut down the Department altogether. In late February, FSA directors were asked to submit lists to our supervisors describing which of our functions are statutorily required, which we understood was being considered in the planning for a RIF. However, after we provided a preliminary list, I recall that the final list of statutory functions was not in fact due to upper management until March 13, 2025, two days *after* the RIF was announced on March 11th. To the best of my recollection, the entire process of identifying these statutory functions for review had taken place over the course of about two weeks.

6. Even though I had never received a mission statement for the Vendor Oversight Division, which had only just been created in the reorganization, I worked with my director, Calvin Mitchell, on multiple drafts of this list, which the duties of my division to the oversight functions in the Higher Education Act (HEA), as amended, Part D, and associated regulations. I also assisted the Office of Loan Portfolio Management with a list of statutory duties for the

divisions that had been under my oversight before the reorganization. I had felt confident that because these divisions performed vital oversight work mandated by statute, we would be safe from the RIF.

7. For example, the HEA requires a “Performance-Based Organization (hereafter referred to as the ‘PBO’) which shall be a discrete management unit responsible for managing the administrative and oversight functions supporting the programs authorized under” Title IV. 18 U.S.C. § 1018(a)(1). The Vendor Oversight Division and Vendor Performance Division served to fulfill the statutory purposes of the PBO, including:

- a. “to improve service to students and other participants in the student financial assistance programs authorized under subchapter IV, including making those programs more understandable to students and their parents,” § 1018(a)(2)(A);
- b. “to reduce the costs of administering those programs,” § 1018(a)(2)(B);
- c. “to increase the accountability of the officials responsible for administering the operational aspects of these programs,” § 1018(a)(2)(C);
- d. “to provide greater flexibility in the management and administration of the Federal student financial assistance programs,” § 1018(a)(2)(D); and
- e. “to develop and maintain a student financial assistance system that contains complete, accurate, and timely data to ensure program integrity.” 18 U.S.C. § 1018(a)(2)(G).

8. The HEA also requires that a PBO serve several “administrative, accounting, and financial management functions for the Federal student financial assistance programs,” including:

- a. “the collection, processing, and transmission of data to students, institutions, lenders, State agencies, and other authorized parties;” 10 U.S.C. § 1018(b)(2)(A)(i);
- b. “all aspects of contracting for the information and financial systems supporting the Federal student financial assistance programs authorized under subchapter IV;” § 1018(b)(2)(A)(iii);
- c. “providing all customer service, training, and user support related to the administration of the Federal student financial assistance programs authorized under subchapter IV,” § 1018(b)(2)(A)(v); and
- d. “ensuring the integrity of the Federal student financial assistance programs authorized under subchapter IV.” § 1018(b)(2)(A)(vi).

Both the Vendor Oversight Division and the Vendor Performance Division fulfilled these statutory functions.

9. Despite having identified the statutory functions for which these divisions were responsible, I learned on March 11, 2025, that both the Vendor Oversight Division and the Vendor Performance Division were abolished in the RIF. That day, I received an email from the Department’s Chief Human Capital Officer, Jacqueline Clay, stating, “your organizational unit is being abolished along with all positions within the unit—including yours.”

10. Every staff person in the Vendor Oversight Division and the Vendor Performance Division received the same email informing them that their unit was being abolished. However,

the Organizational Charts that the Department provided AFGE Local 252 to identify the units within the Department that were subject to the RIF (Exhibit 49 to ECF No. 70, Memorandum of Law in Support of Plaintiffs' Motion for a Preliminary Injunction, at Exhibit 2 to the Sheria Smith Declaration, page 17), fails to include the Vendor Oversight Division or misidentifies it as "the Office of Strategic Acquisition Planning."

11. I am aware of two individuals who were moved from their units just days before the RIF was announced on March 11th – one who benefited from the move, and one who was harmed by it. One individual was moved out of the Vendor Performance Division into the Loan Operations Division, and thereby saved from the RIF, even though they were far less qualified for that position than other individuals subject to the RIF. Conversely, another staff person was moved from the Borrower Processing Division into the Vendor Performance Division, even though they were over-qualified for that position, and therefore was subjected to the RIF when they otherwise would have remained employed.

12. Following the March 11th RIF email, I was immediately incapacitated from completing my work functions. My work cell phone was shut down, I had no ability to send emails outside of the Department, and I could no longer access Microsoft Teams which we used for staff meetings or Sharepoint which we used to save and share documents. I needed to call into meetings using my personal cell phone. At that point, we did not know who had been subject to the RIF and who remained, so I had no way of knowing to whom to transfer my work, if anyone. I asked how I should transition my work and did not receive a response before March 21, 2025, when I was placed on administrative leave.

13. Despite the fact that I was never able to complete the process of transitioning my work, after I was placed on administrative leave, an automatic reply was set up for my work

email address that falsely claimed, “Tessitore, Lisa is currently engaged in closing out their work activities and responsibilities as part of a planned transition. They are working to ensure a smooth handover of key matters.” I received this message when I emailed my work email address from my personal one on April 1, 2025. A true and accurate copy of this automatic reply is annexed hereto as **Exhibit 1**. Because I regularly speak to my colleagues who were also subject to the RIF, I understand that the same automatic reply message was applied to their work email addresses as well.

14. On April 10, 2025, I received an “official reduction in force (RIF) notice” to my personal email address. A true and accurate copy of this email and its attachments is annexed hereto as **Exhibit 2**. This official RIF notice confirmed that I was subject to the RIF and my final “separation from the Federal service” will take effect on June 10, 2025. Because the notice identifies my competitive area as the “Vendor Audit Division” (ENSA), which I believe is another name for the Vendor Oversight Division, it states that I “do not have an assignment right to another position in [my] competitive area.”

15. Because the RIF was administered by eliminating entire units within the Department as competitive areas, there was no opportunity for staff with longer tenure, higher performance ratings, or Veteran status to compete for retention rights as required under RIF procedures and regulations. As a result, the Department has lost critical institutional knowledge for ensuring proper oversight of Title IV programs.

16. I do not believe it is possible for the Department to fulfill its statutory oversight functions after having abolished the Vendor Oversight Division and the Vendor Performance Divisions and eliminated staff across FSA. Furthermore, because they have lost all individuals with knowledge and experience in performing these duties and failed to transition our work, I

doubt that FSA is equipped to even access the 90 systems that we use to monitor vendors and servicers. Nor do they have the capacity, in skills or size, to maintain the rigorous pace of oversight needed.

17. Even prior to the RIF, the Vendor Oversight Group had been long understaffed. When we had insufficient capacity, in an effort to do more with less, we would need to reduce the number of reviews at each vendor we could complete. We also would need to increase the margin of error of our reviews by either reducing our sample size or increasing our margin of error. Before the reorganization, the Vendor Oversight Group had a team of about 60 employees. Only 13 employees were moved into the Vendor Oversight Division during the reorganization to complete the same oversight work, with even more vendors. In prior planning and staffing exercises conducted across FSA with the Boston Consulting Group, it was calculated that we needed 90-100 staff to attain stronger oversight, so we were already operating from a disadvantage with 60 employees. Furthermore, even before the RIF, we lost many employees who took advantage of voluntary incentive offers to leave the Department, including the “Fork-in-the-Road” email, the Voluntary Separation Incentive Payment (VSIP), the Voluntary Early Retirement Authority (VERA), and the Deferred Resignation Program, further hampering our ability to complete our functions.

18. I am concerned that without the Vendor Oversight Division and Vendor Performance Division, borrowers and taxpayers will be harmed either because servicers are not following requirements or regulations, or because FSA may implement or misinform servicers to do something incorrectly. In 2024, we implemented Unified Servicing and Data Solution (USDS) contracts with our vendors which provide for a direct mechanism for the Department to reduce payments to servicers if they fail to meet requirements in the SLAs, which themselves are

designed to achieve better outcomes on performance. It makes no sense to eliminate divisions which serve directly to save the government millions of dollars in the name of waste, when our work saved money rather than spend it. We have uncovered—and thereby saved—millions of dollars of improper billing and other statutory and required functions in our oversight of vendors. As just one example, we identified one of our servicers who had conducted improper FSA invoicing because a vendor had charged too much per item, amounting to over \$12 million in overcharges.

19. In other cases, our oversight work has uncovered vendors that improperly billed consumers, sent improper notices or incorrect dollar amounts, set up accounts for automatic withdrawal when they should not have, put borrowers in the wrong repayment programs, or simply never notified a borrower of information as required. When we found these errors, we set up corrective action plans and worked with the contracting officer to stop payments for improper services under the SLA and USDS Contract. We also monitored contracts to ensure that they were meeting their benchmark timeframes for completing conditions in their SLAs. If errors are not caught quickly, it costs more to correct the problem down the road, as the error grows in both number of impacted borrowers and loans, as well as time to unwind the errors and reset the loans. Without this work, borrowers will be left to fend for themselves, and no one is left to enforce the terms of our contracts.

20. The Vendor Oversight Division was also responsible for overseeing the NSLDS, which is the main database through which critical data about borrowers' loans are kept, including data from schools and servicers that control new award amounts, loan balances, and repayment information, and used to perform various functions for the FAFSA, loan processing, payment plan eligibility, Public Service Loan Forgiveness (PSLF) and Income Driven Repayment (IDR)

forgiveness. NSLDS is used by the Department, auditors, schools, and servicers for administering enrollment, grants, and eligibility. We have found incorrect data in NSLDS, which could be a result of errors from the vendor reporting information to NSLDS or the vendor interpreting that information. We bridged the gap in identifying who has the correct data to prevent problems for servicers and borrowers. If this oversight is not completed, for example, it could result in an incorrect balance being listed, potentially preventing a consumer from borrowing more loans; or if loans are not properly canceled and payments counts credited, it could affect the consumers' credit reports, could prevent them receiving refunds due to them, or could mean they won't receive credit for payments made.

I declare under penalty of perjury under the laws of the United States that, to the best of my knowledge, the foregoing is true and correct.

Executed on April 17, 2025.

Lisa Tessitore


LISA TESSITORE

EXHIBIT 1

Automatic reply: Transition



Tessitore, Lisa <Lisa.Tessitore@ed.gov>

To  Lisa Tessitore



4/1/2025

Tessitore, Lisa is currently engaged in closing out their work activities and responsibilities as part of a planned transition. They are working to ensure a smooth handover of key matters. To ensure continuity, please direct any related inquiries to FSA-Transition@ed.gov

EXHIBIT 2

From: CHCO-Info <workforcereshaping@ed.gov>

Sent: Thursday, April 10, 2025 3:37:04 PM

To: [REDACTED]

Subject: Official RIF notice

Dear ED Colleague,

Please see attached official reduction in force (RIF) notice and associated documents. Additional information is forthcoming on career transition assistance sessions.

With Regard,
Jacqueline Clay
Chief Human Capital Officer



UNITED STATES DEPARTMENT OF EDUCATION

April 10, 2025

MEMORANDUM

TO: Tessitore, Lisa A.
SUPV MANAGEMENT AND PROGRA, AD-343-00
FSA, VENDOR AUDIT DIVISION

FROM: Jacqueline Clay
Deputy Assistant Secretary
Chief Human Capital Officer
Office of Human Resources
Office of Finance and Operations

A handwritten signature in blue ink, appearing to read "Jacqueline Clay", written over the typed name and title.

SUBJECT: Notice of Separation Due to Reduction in Force

In accordance with the Executive Order titled *Implementing The President's "Department of Government Efficiency" Workforce Optimization Initiative*, dated February 11, 2025, it is with great regret that I must inform you that your position of SUPV MANAGEMENT AND PROGRA, AD-343-00 is being abolished and you have been reached for reduction in force (RIF) action. This memorandum constitutes a specific RIF notice.

Effective June 10, 2025, ED will conduct a RIF within your competitive area. This action is a result of the abolishment of your position in FSA, VENDOR AUDIT DIVISION.

This RIF is in accordance with current law and regulations, which include Chapter 35 of Title 5, United States Code, 5 Code of Federal Regulations, Part 351, internal U.S. Department of Education (ED) policy, and where applicable, the governing collective bargaining agreement between AFGE and ED. In accordance with these provisions, ED will release you from your competitive level, and you do not have an assignment right to another position in your competitive area. As a result, your separation from the Federal service by RIF on June 10, 2025.

To conduct the RIF, the Office of Human Resources (OHR) prepared retention registers which listed employees in retention standing order based on civil service tenure, veterans' preference, length of Federal service and performance ratings. We used the following information to determine your retention standing as of the RIF effective date:

Competitive Area: ENSA

Service Type: Excepted

Position Title, Pay Plan, Series and Grade: SUPV MANAGEMENT AND PROGRA, AD-343-00

Competitive Level: NWP

Tenure Group: 1, CAREER APPT OR EXC (NOT ON TRIAL PD & W/O TIME LIMIT)

Retention Tenure/ Subgroup: 1B

Service Computation Date (SCD): November 21, 2011

Latest Three Performance Evaluations:

Rating Performance and Pattern FY24: 5

Rating Performance and Pattern FY23: 5

Rating Performance and Pattern FY22: 5

SCD adjusted by latest three performance ratings: November 21, 1991

Attached to this letter is an Employee Guide to RIF Benefits which contains information regarding leave and other benefits available to employees separated by RIF, as well as information on the ED Career Transition Assistance Plan. In addition, you may authorize OHR to release your qualification information to Federal, state, and private sector agencies and organizations by completing the attached release authorization. Information regarding benefits available under the Workforce Investment Act of 1998 Program, including unemployment insurance is located at <http://www.doleta.gov/usworkforce/WIA/planstatus.cfm>.

You may be eligible to receive severance pay. If you are eligible for severance, we will process payment upon separation. If you think you may be eligible for discontinued service or regular retirement, please see the Employee Guide to RIF Benefits for more information or contact benefits@ed.gov. **Note:** You are not eligible for severance pay if you are eligible for an immediate annuity under Minimum Retirement Age (MRA) +10, optional or discontinued service retirement.

If you resign on or before the RIF effective date of June 10, 2025, ED will still consider your separation involuntary. Please be advised that you may affect your appeal rights if you resign. You are strongly encouraged to contact OHR for information if you are considering resigning during this specific notice period.

OHR staff are available to assist you by explaining this proposed action and will provide you with copies of pertinent regulations, benefits information, or other material related to this action that you may wish to review. Title 5 of the Code of Federal Regulations Part 351 contain the RIF regulations. OHR will provide a copy to you upon request. You may also inspect the appropriate retention register through the OHR. You may obtain any information in writing by sending your request to the ED RIF Team, email: WorkforceReshaping@ed.gov.

You may have the right to appeal this action to the Merit Systems Protection Board (MSPB). Should you elect to appeal to the MSPB, your appeal must be in writing and submitted no later than 30 calendar days after the effective date of the reduction in force action. For more information, please visit www.mspb.gov or contact your local MSPB regional or field office (see attached). However, if you are a bargaining unit employee, you must use the negotiated grievance procedures and may not appeal to the MSPB unless you allege that the RIF action was based upon discrimination.

Alternatively, you may file an electronic appeal at <https://e-appeal.mspb.gov/>. See *How to File an Appeal* at <http://www.mspb.gov/appeals/appeals.htm>. If you file an appeal the MSPB must serve an acknowledgement order to the following address:

Office of the General Counsel,
U.S. Department of Education
400 Maryland Ave, SW
Washington, DC 20202

If you believe this action is because of a prohibited personnel practice other than discrimination based on your race, color, religion, sex, national origin, age, disability, marital status, or political affiliation, you may seek corrective action with the Office of the Special Counsel (OSC). Your decision to file an MSPB appeal or to seek corrective action from the OSC is exclusive and irrevocable. See [Prohibited Personnel Practices Overview](#) for more information about seeking corrective action.

If you believe this action is because of race, color, religion, sex (including pregnancy), national origin, physical disability, genetic information, or age, you may file a complaint with Office of Equal Employment Opportunity Services by email at ODS_OEEOS@ed.gov. To initiate a complaint, you must contact an ED Equal Employment Opportunity Counselor within 45 days of the effective date of this action.

This RIF action is not a reflection upon your performance or conduct. It is solely due to the reduction in the number of positions as described earlier in this letter. ED appreciates the service you have rendered. We deeply regret that this decision affects you, and we recognize the difficulty of the moment.

Attachments:

RIF Information Sheet
Employee Guide to RIF Benefits
ED Placement Programs
Reemployment Priority List Registration Form
Authorization to Release Qualifications Information
Severance Pay Information
MSPB Appeal Offices Locations

Sent by email to: [REDACTED]

No hard copy to follow

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

LINDA McMAHON, *et al.*,

Defendants.

C.A. No. 1:25-cv-10601

**DECLARATION OF
BRITTANY COLEMAN**

DECLARATION OF BRITTANY COLEMAN

Pursuant to 28 U.S.C. § 1746, I, Brittany Coleman, hereby declare as follows:

1. I am a resident of Texas. I am over the age of 18 and have personal knowledge of all the facts stated herein. If called as a witness, I could and would testify competently to the matters set forth below.

2. I am the chief steward of AFGE Local 252, a role I have held since February 2020. I am also a Civil Rights Attorney at the Department of Education's Office of Civil Rights (OCR), a position I have also held for five years.

3. This declaration is submitted in support of the States' Request for a Preliminary Injunction.

4. As chief steward of AFGE Local 252, I oversee a team of union stewards and the work that we do representing bargaining unit employees in grievances, equal employment opportunity (EEO) matters, salary overpayments, and unfair labor practice complaints. I also attend bargaining sessions, formal union meetings, and assist AFGE Local 252's president, Sheria Smith, with any other tasks for the union.

5. The bargaining unit for AFGE Local 252 includes roughly 2,800 employees nationwide who are non-supervisors, non-managers, and non-politically appointed employees in the Department of Education (“the Department”).

6. As chief steward of AFGE Local 252, I have personal knowledge and experience with the protocols required when an agency implements a RIF. I also have knowledge of what has happened at the Department since the RIF was initiated based on documents I have received, meetings I have attended, and conversations with Department staff and union members I have had in my capacity as chief steward of the union.

7. The protocols and regulations that govern RIFs are laid out in 5 C.F.R. Part 351 and in AFGE Local 252’s collective bargaining agreement (CBA) with the Department. According to RIF procedures, the agency must establish “competitive areas,” which are parts of the agency that are impacted by a RIF and constitute the boundaries in which staff members can compete to be “retained” in the agency based on factors such as seniority, veteran status, or performance. Employees may have the right to “bump” (replace) another employee with lower retention standing in the same competitive level, or to “retreat” to a previously held position. According to our CBA, the Department also must provide affected employees with a “retention register” listing who has seniority, veteran status, and rehire rights. These procedures serve not only to protect employees’ rights, but also to ensure that the Department does not eliminate the staff who are most experienced, qualified, and high performing in their duties.

8. On March 11, 2025, AFGE Local 252 received a formal notice of the Department’s “intent to implement a department-wide reduction-in-force (RIF).” A true and accurate copy of this notice is found at Exhibit 49 to ECF No. 70, Memorandum of Law in Support of Plaintiffs’ Motion for a Preliminary Injunction, at Exhibit 1 to the Sheria Smith

Declaration (“the March 11 RIF Notice”). Exhibit 2 to the Sheria Smith Declaration is a true and accurate copy of a chart provided by the Department attached to the same email which depicts the Department’s determination of competitive areas (“the Competitive Areas Chart”).

9. Also on March 11, 2025, in my capacity as an employee of the Department, I received an email from Chief Human Capital Officer, Jacqueline Clay, stating, “your organizational unit is being abolished along with all positions within the unit—including yours.” I understood this email to mean by my “organizational unit,” the Dallas Branch of OCR (“OCR-Dallas”). I understand that every staff person in OCR-Dallas has been included in the RIF.

10. It became clear to AFGE Local 252 that the Department had made the decision to eliminate entire units, as depicted in the red shaded areas of the Competitive Areas Chart, without examining individual positions within them. In one case, we assisted a bargaining unit employee in filing a grievance after he received notice he was subject to the RIF but the notice incorrectly listed him as belonging to a unit he did not work in. The Department rescinded this individual’s RIF notice and reinstated him.

11. Following the March 11 RIF Notice, AFGE Local 252 requested briefings with the Department. Our first briefing took place on April 4, 2025. Sheria Smith and I were present on behalf of the union, as well as two counsel for the union. Representing the Department, the meeting was attended by Deputy Secretary Richard Smith, Mary Lewis (Labor and Employee Relations Specialist (Contractor)), Adriane Riase, the Director and Chief Negotiator of the Labor Employee Relations Division of the Office of Human Resources, and Abel Hernandez (Labor and Employee Relations Specialist).

12. During the April 4th briefing, we asked a number of questions that the Department could not answer. For example, we asked when staff would be provided the retention register and

were told that that was not yet “identified.” We also asked how the agency determined which offices to eliminate and who made that determination. Richard Smith responded, “I don’t have that information.”

13. We further questioned how the Department made the decision to transfer the work of some units that were abolished to other units. For example, Sheria Smith stated that she sat in on a meeting with the Office of Safe and Supportive Schools (OSSS), within the Office of Elementary and Secondary Education (OESE), wherein staff stated that they are absorbing statutorily required work from the Office of English Language Acquisition (OELA), which was completely abolished. Ms. Smith asked how the determination was made to RIF all of OELA when some bargaining unit employees in OELA would have retention rights that superseded other staff people who remained in OSSS. The Department could not answer this question.

14. Ms. Smith further asked how the work of offices that were abolished in the RIF would be performed, and how the performance of remaining staff would be measured as their duties change to absorb the work of offices that were abolished. For example, she mentioned there was a reorganization in OCR that increased the docket for attorneys to 300 cases. The Department was not able to answer this question either.

15. On April 8, 2025, Adriane Riase sent to the AFGE Local 252 a document entitled “Agency Response to Follow-up Questions (Presented During April 4, 2025, Reduction in Force Briefing).” The email was sent to the AFGE Local 252 email address to which I have access. A true and accurate copy of this document is annexed hereto as **Exhibit 1**. The document reflects questions that AFGE Local 252 representatives asked verbally during the April 4th briefing and the Department’s responses to these questions.

16. According to the document provided in Exhibit 1, as of April 8, 2025, the Department was still in the process of assessing what work from offices that were subject to the RIF would need to be reassigned and “[a] determination has not yet been made regarding any transfer of statutorily mandated functions.”

17. On April 9, 2025, we had a second briefing with the Department. I attended on behalf of AFGE Local 252, in addition to one counsel and two other stewards of the union. The Department was represented by Adriane Riase, Stephanie Stone (Human Resources Specialist), and Mary Lewis (Labor and Employee Relations Specialist (Contractor)).

18. During the April 9th briefing, the Department was still not prepared to provide us the retention register. Adriane Riase informed us that the decisionmakers responsible for defining the competitive areas of the RIF were Denise Drew, Director of Talent Recruitment and Hiring, and Bonnie Hochhalter, Deputy Chief Human Capital Officer. Neither of these individuals were present at either briefing we had with the Department.

19. During the April 9th briefing, the Department was also not yet prepared to tell us exactly when the formal RIF notice would be sent out. They also said that employees who were sent the March 11th email notices of the RIF did not constitute the final list of employees being terminated in the RIF. However, they were unable to explain to us any difference in the universe of employees subject to the March 11th notice and the final RIF.

20. On April 10, 2025, I received by email a “specific RIF notice” that informed me that my position was being abolished. A true and accurate copy of this notice is annexed hereto as **Exhibit 2**. I understand that the specific RIF notice was sent to employees subject to the RIF across the Department.

21. I understand that even though the RIF has now been formalized, the Department has still not determined how it will complete its statutory functions without the terminated staff. Based on my experience sitting in on several staff meetings as a representative of AFGE Local 252, I understand that many Department offices have been left reeling in the wake of the RIFs and are still figuring out how—and if—they can complete their statutorily mandated work. For example, I sat in on an all staff meeting of the Institution for Educational Sciences (IES) on March 27, 2025, in which staff discussed how they would need to compile a list of core responsibilities that cannot be accomplished because the division was cut from 200 to 20 staff and/or because the remaining staff lacked the skills to perform them.

22. As another example, on April 9, 2025, AFGE Local 252 received an email from the Department informing us that 60 bargaining unit employees in FSA would be placed on a 120-day detail reassigning their duties to cover work that could not be performed because of RIFs and other staff lost through voluntary incentives in the Institution of Higher Education (IHE) Oversight and Enforcement, including the elimination of seven out of nine School Participation Sections. A true and accurate copy of this email is annexed hereto as **Exhibit 3**. The work includes adjudication of borrower defense applications required to be completed under the *Sweet v. Cardona* class action lawsuit and statutorily-mandated school eligibility determinations and oversight.

23. I attended a meeting on April 11, 2025 with FSA staff who were being detailed in my capacity as chief steward of AFGE Local 252. Many staff voiced frustration that they were not trained or competent to complete this work, and that it did not make sense that the people who have expertise in completing this work were terminated if it still needed to be done. Management said they had no choice but to detail a certain number of people and they weren't

even sure that they had enough people to detail when they received the initial directive to detail their employees.

24. On April 16, 2025, further meetings were held with the detailed FSA employees. The manager overseeing these details said that she herself was not aware why senior leadership made the decisions to change FSA staffing and leadership, but that the managers were doing their best to implement the directives. The manager said the details were in place to assist their colleagues who were “stretched thin,” “facing a lot of challenges,” and had “a lot on their plate,” in the wake of the RIFs. I also learned that because the detailed staff are from the Administrative Actions and Appeals Branch, Borrower Defense Branch, and Clery Branch, all of the Institution Enforcement Division, the work that those branches do—which is also statutorily required—will be paused for 120 days.

25. The specific RIF notice in Exhibit 2 defined my competitive area as OCR-Dallas. Prior to the RIF there were 12 regional OCR offices. Seven of the regional offices were eliminated in the RIF, leaving only five to complete the division’s work. Because my competitive area was OCR-Dallas rather than all of OCR, the Department has effectively eliminated my right to take precedence over a less senior or highly performing employee in one of the regional OCR offices that remain. Despite our repeated requests, the Department has provided no explanation for why some regional offices were kept and others were abolished. Both Sheria Smith and I—vocal leaders of AFGE Local 252—were staff members of OCR-Dallas, which was eliminated in the RIF. In fact, every board member of AFGE Local 252 was included in the RIF except for two board members who had taken the Deferred Resignation Program offer.

26. OCR's work is mandated by statutes like the Civil Rights Act of 1964 and the Americans with Disabilities Act. OCR-Dallas was the largest OCR office with the most employees and the highest caseload—roughly 50 cases per attorney—prior to the RIF. I understand from an employee who still works at the Department that the average case load at the remaining OCR regional offices is now 300–350 and that the Kansas City OCR office is now responsible for all OCR-Dallas' cases in addition to their own. I do not believe OCR's statutorily mandated work can be completed by the few staff remaining in OCR, especially with such impossibly heavy caseloads.

I declare under penalty of perjury under the laws of the United States that, to the best of my knowledge, the foregoing is true and correct.

Executed on April 17, 2025.

A handwritten signature in black ink that reads "Brittany Coleman". The signature is written in a cursive, flowing style.

BRITTANY COLEMAN

EXHIBIT 1

Agency Response to Follow-up Questions (Presented During April 4, 2025, Reduction in Force Briefing)

Questions re: Planned Movement of Work and Impact:

1. Who is doing the work of the offices that have been closed. They mentioned OCR work being transferred from employees who have been identified to be RIF'ed to other employees not being RIF'ed.
 - **Response:** The agency will assess the work remaining at the Department and determine if a reorganization is necessary and/or reassignments of remaining employees.
2. Will we be updating the performance plans of the employees picking up the new work?
 - **Response:** If warranted and employees are reassigned to new PD, they will receive new performance plans
3. The transfer of statutorily mandated functions, how is this being carried out when employees who were doing this work were RIF'd?
 - **Response:** A determination has not yet been made regarding any transfer of statutorily mandated functions
4. AFGE stated that it heard that some persons on the impacted by RIF list were removed. They mentioned that employees in FSA were brought back—why were they returned and not others?
 - **Response:** Because the planned RIF has not yet been implemented, the proposed list of positions to be impacted is still being finalized. The final list will be created consistent with the agency's discretion to determine the positions that need to be retained.
5. AFGE said that it heard some employees were reassigned to a group that was not impacted by a RIF from one that was – Employee(s) moved from OELA to OSSS(OESE).
 - **Response:** All BU employees within OELA covered by RIF regulations received a letter of intent to RIF.
6. AFGE would like to know which employees (BUES), (by name), were not impacted by the impending RIF. Mr. Smith described this as a ("crosswalk").
 - **Response:** This retained BU list can be provided after it is finalized.

Questions re: Process used to RIF employees:

1. How the Agency identified waste, bloat, and insularity
 - **Response:** The agency reviewed the statutory required functions, the administration's priorities and determined the positions that would not need to be retained to accomplish those functions and support those who are accomplishing those functions.

2. How and who (specifically) identified the persons to be RIF'ed?

- **Response:** The agency made the determination based on positions to that did not meet the criteria noted in #1 above.

3. AFGE requested a more detailed explanation of retention registers (competitive levels)

- **Response:** A “retention register” is a list of employees that is ranked in the order of their relative retention standing. A “competitive level” consists of positions in the competitive area that are: (a) in the same grade (or occupational level); (b) in the same classification series; and (c) similar enough in duties, qualification requirements, pay schedules, and working conditions, so that an agency may reassign the incumbent of one position to any of the other positions in the level without causing undue interruption in the agency’s work.

4. AFGE requested a more detailed explanation of the competitive area.

- **Response:** Each agency must establish competitive areas that are the boundaries within which employees compete for retention under the RIF regulations. The competitive area includes all employees within the organizational unit(s) and geographical location(s) that are included in the competitive area definition. In any one RIF, an agency may not use one competitive area for the first round of competition, and a different competitive area for the second round of competition. Employees in a competitive area compete for retention under the RIF regulations only with other employees in the same competitive area. Employees do not compete for retention with employees of the agency who are in a different competitive area. There is no minimum or maximum number of employees in a competitive area. An employee who teleworks competes in RIF on the basis of the duty station or work site documented for the employee’s official position of record.

5. Are the grievance rights in the RIF notice, correct? (Providing a template might resolve that concern.)

- **Response:** See attached copy of the notice to be issued.

6. How do retention and reemployment rights work in this situation?

- **Response:** If there are current Career Transition Assistance Plan (CTAP) eligibles in ED (i.e., ED employees in a RIF notice period), then every vacancy subject to the internal CTAP (as defined by the regulations) will be announced in the appropriate commuting area on USAJOBS.gov. It is permissible for a merit promotion announcement to be issued concurrent with CTAP advertising. However, the widest recruitment area allowed initially will be ED-wide. If no well-qualified CTAP eligibles are found, then recruitment outside the agency may proceed.

ED maintains a Reemployment Priority List (RPL) for employees in accordance with the current regulations and will continue to do so in order to give appropriate rehiring priority to employees separated by RIF.

Questions re: Employees Encumbering Positions Impacted by RIF:

1. How impacted BUEs must handle outside employment and what effect such employment would have on their severance
 - **Response:** Reemployment in the Federal government or the government of the District of Columbia would end severance pay. Employment in private sector would not.
2. E-OPF Access for employees who no longer have access?
 - **Response:** Employees can email eopf@ed.gov and request a copy of their eOPF.

AFGE Request to Hold Issuance of RIF notices Until Response to Questions is Provided:

1. The Union would like to reconvene once the Agency has responses to the Union's questions. The Union requests that the Agency not send RIF letters to BUEs until the parties have discussed the Agency's responses to the aforementioned queries. AFGE offers Friday, April 18, 2025, at 10:00am – 11:30am to continue this discussion because both parties have identified availability at that time.
 - **Response:** The agency can accommodate AFGE's request to meet tomorrow morning; however, one (1) or more of the briefing participants may not be available for the meeting.
2. If the Agency must send RIF notices before that day, please inform the Union when the Agency is available to reconvene to discuss the unanswered questions prior to the dissemination of RIF notices.
 - **Response:** The agency intends to issue RIF notices as early as Wednesday, April 9, 2025, or soon thereafter.

EXHIBIT 2



UNITED STATES DEPARTMENT OF EDUCATION

April 10, 2025

MEMORANDUM

TO: Coleman, Brittany A
GENERAL ATTORNEY(CIVIL RI, GS-905-13
OCR, TEAM G (DALLAS)

FROM: Jacqueline Clay
Deputy Assistant Secretary
Chief Human Capital Officer
Office of Human Resources
Office of Finance and Operations

A handwritten signature in blue ink, appearing to read "Jacqueline Clay", written over a light blue rectangular background.

SUBJECT: Notice of Separation Due to Reduction in Force

In accordance with the Executive Order titled *Implementing The President's "Department of Government Efficiency" Workforce Optimization Initiative*, dated February 11, 2025, it is with great regret that I must inform you that your position of GENERAL ATTORNEY(CIVIL RI, GS-905-13 is being abolished and you have been reached for reduction in force (RIF) action. This memorandum constitutes a specific RIF notice.

Effective June 10, 2025, ED will conduct a RIF within your competitive area. This action is a result of the abolishment of your position in OCR, TEAM G (DALLAS).

This RIF is in accordance with current law and regulations, which include Chapter 35 of Title 5, United States Code, 5 Code of Federal Regulations, Part 351, internal U.S. Department of Education (ED) policy, and where applicable, the governing collective bargaining agreement between AFGE and ED. In accordance with these provisions, ED will release you from your competitive level, and you do not have an assignment right to another position in your competitive area. As a result, your separation from the Federal service by RIF on June 10, 2025.

To conduct the RIF, the Office of Human Resources (OHR) prepared retention registers which listed employees in retention standing order based on civil service tenure, veterans' preference, length of Federal service and performance ratings. We used the following information to determine your retention standing as of the RIF effective date:

Competitive Area: ECD6

Service Type: Excepted

Position Title, Pay Plan, Series and Grade: GENERAL ATTORNEY(CIVIL RI, GS-905-13

Competitive Level: C6F

Tenure Group: 1, CAREER APPT OR EXC (NOT ON TRIAL PD & W/O TIME LIMIT)

Retention Tenure/ Subgroup: 1B

Service Computation Date (SCD): July 7, 2019

Latest Three Performance Evaluations:

Rating Performance and Pattern FY24: 3

Rating Performance and Pattern FY23: 3

Rating Performance and Pattern FY22: 5

SCD adjusted by latest three performance ratings: July 7, 2001

Attached to this letter is an Employee Guide to RIF Benefits which contains information regarding leave and other benefits available to employees separated by RIF, as well as information on the ED Career Transition Assistance Plan. In addition, you may authorize OHR to release your qualification information to Federal, state, and private sector agencies and organizations by completing the attached release authorization. Information regarding benefits available under the Workforce Investment Act of 1998 Program, including unemployment insurance is located at <http://www.doleta.gov/usworkforce/WIA/planstatus.cfm>.

You may be eligible to receive severance pay. If you are eligible for severance, we will process payment upon separation. If you think you may be eligible for discontinued service or regular retirement, please see the Employee Guide to RIF Benefits for more information or contact benefits@ed.gov. **Note:** You are not eligible for severance pay if you are eligible for an immediate annuity under Minimum Retirement Age (MRA) +10, optional or discontinued service retirement.

If you resign on or before the RIF effective date of June 10, 2025, ED will still consider your separation involuntary. Please be advised that you may affect your appeal rights if you resign. You are strongly encouraged to contact OHR for information if you are considering resigning during this specific notice period.

OHR staff are available to assist you by explaining this proposed action and will provide you with copies of pertinent regulations, benefits information, or other material related to this action that you may wish to review. Title 5 of the Code of Federal Regulations Part 351 contain the RIF regulations. OHR will provide a copy to you upon request. You may also inspect the appropriate retention register through the OHR. You may obtain any information in writing by sending your request to the ED RIF Team, email: WorkforceReshaping@ed.gov.

You may have the right to appeal this action to the Merit Systems Protection Board (MSPB). Should you elect to appeal to the MSPB, your appeal must be in writing and submitted no later than 30 calendar days after the effective date of the reduction in force action. For more information, please visit www.mspb.gov or contact your local MSPB regional or field office (see attached). However, if you are a bargaining unit employee, you must use the negotiated grievance procedures and may not appeal to the MSPB unless you allege that the RIF action was based upon discrimination.

Alternatively, you may file an electronic appeal at <https://e-appeal.mspb.gov/>. See *How to File an Appeal* at <http://www.mspb.gov/appeals/appeals.htm>. If you file an appeal the MSPB must serve an acknowledgement order to the following address:

Office of the General Counsel,
U.S. Department of Education
400 Maryland Ave, SW
Washington, DC 20202

If you believe this action is because of a prohibited personnel practice other than discrimination based on your race, color, religion, sex, national origin, age, disability, marital status, or political affiliation, you may seek corrective action with the Office of the Special Counsel (OSC). Your decision to file an MSPB appeal or to seek corrective action from the OSC is exclusive and irrevocable. See [Prohibited Personnel Practices Overview](#) for more information about seeking corrective action.

If you believe this action is because of race, color, religion, sex (including pregnancy), national origin, physical disability, genetic information, or age, you may file a complaint with Office of Equal Employment Opportunity Services by email at ODS_OEEOS@ed.gov. To initiate a complaint, you must contact an ED Equal Employment Opportunity Counselor within 45 days of the effective date of this action.

This RIF action is not a reflection upon your performance or conduct. It is solely due to the reduction in the number of positions as described earlier in this letter. ED appreciates the service you have rendered. We deeply regret that this decision affects you, and we recognize the difficulty of the moment.

Attachments:

RIF Information Sheet
Employee Guide to RIF Benefits
ED Placement Programs
Reemployment Priority List Registration Form
Authorization to Release Qualifications Information
Severance Pay Information
MSPB Appeal Offices Locations

Sent by email to: [REDACTED]

No hard copy to follow

EXHIBIT 3



AFGE Local 252 <[REDACTED]>

Courtesy Notice Federal Student Aid (FSA) Employee Details for Priority Workload

2 messages

Labor Relations <[REDACTED]>

Wed, Apr 9, 2025 at 12:43 PM

To: "[REDACTED]" <[REDACTED]>

Cc: Labor Relations <[REDACTED]> "Steuerman, Mel (Contractor)" <[REDACTED]> "Alix, Cheryl (Contractor)" <[REDACTED]>

CONTROLLED UNCLASSIFIED INFORMATION

CONTROLLED UNCLASSIFIED INFORMATION

Hello AFGE,

This is a courtesy notice that approximately 60 bargaining unit employees in Federal Student Aid (FSA) will be placed on a 120-day detail, in accordance with Article 19, Non-competitive Reassignments and Details, to unclassified duties that is necessitated by workload. FSA and Department leadership directed that Institution of Higher Education (IHE) Oversight and Enforcement and IHE Program Management reallocate staffing resources to prioritize two FSA workstreams with existing backlogs or imminent deadlines:

1. Adjudication of borrower defense applications covered by the *Sweet* class action settlement that must be completed by January 2026; and,
2. School eligibility determinations and related Oversight work.

The bargaining unit employees will be detailed from the Investigations Branch, the Administrative Actions and Appeals Branch, and the Clery Branch of the Enforcement Division, and the Training and Information Services Branch within the IHE Program Management. In addition, bargaining unit employees from the Oversight Division Front Office, Cohort Default Rate Branch and the Performance Management Branch of the Oversight Division will be detailed. The attached spreadsheet contains the names of the bargaining unit employees who will be detailed, the offices from which they will be detailed, their detail workload assignment (Oversight as listed on the spreadsheet as SEOSB or Sweet Ligation listed on the spreadsheet as BD), and their rating and reviewing officials for the detail. Employees who are detailed will receive appropriate training based on their level of experience with the workload they are assigned. In addition, the employees will receive performance plans for their detail assignments within 30-calendar days after the beginning of the detail.

The above details will begin on or about Friday, April 11, 2025, due to pressing work conditions that preclude a full 10-day advance notice to the affected employees. The details are expected to remain in effect for a period of 120 days and may be extended if needed. The details will be recorded on a SF-52, Request for Personnel Action, as a permanent record in the employees' eOPF. All other work within Oversight and Enforcement will be temporarily de-prioritized to provide the resources necessary to assist in resolving these two priority workloads.

An oral explanation will be given to the affected employees when the notice of detail is given (for example, notice may be given at an upcoming staff meeting), with a written explanation, such as an email to everyone being detailed within 5 workdays from the effective date of the details.

Impacted offices may schedule staff meetings with employees to go over the details with them. AFGE will be given appropriate notice and invited to attend these meetings.

If you have any questions, please contact Mel Steuerman at [REDACTED] or Cheryl Alix at [REDACTED]

Thank you for your understanding.

Sensitive in accordance with 32 CFR Part 2002

Controlled by Department of Education OFO LERD

Labor and Employee Relations Division

Office of Human Resources

U.S. Department of Education

Email Address: [REDACTED]

Sensitive in accordance with 32 CFR Part 2002



Copy of Assignments_BU Notification_4.7.2025.xlsx
28K

AFGE Local 252 <[REDACTED]>
To: Denise Alves <[REDACTED]>

Wed, Apr 9, 2025 at 1:29 PM

[Quoted text hidden]



Copy of Assignments_BU Notification_4.7.2025.xlsx
28K

EXHIBIT 84

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF NEW YORK, *et al.*;

Plaintiffs,

v.

LINDA McMAHON, *et al.*;

Defendants.

C.A. No. 1:25-cv-10601-MJJ

DECLARATION OF DOE DECLARANT 21

Pursuant to 28 U.S.C. § 1746, I, Doe Declarant 21, hereby declare and state as follows:

1. I am over the age of 18 and have personal knowledge of all the facts stated herein. If called as a witness, I could and would testify competently to the matters set forth below. In preparing this declaration, I have reviewed the transcript for a preliminary injunction hearing held on April 25, 2025 at 2:00 PM ET in the above-captioned matter. At points below, I reference specific statements or claims made by counsel for the Federal Defendants during that hearing; where I do so, I refer to the page and line number at which such argument occurs within that transcript.

2. This declaration is being submitted in support of the States' Request for a Preliminary Injunction.

3. Prior to receiving a reduction-in-force ("RIF") notice from the U.S. Department of Education (the "Department"), I was employed as the Deputy Performance Improvement Officer within the Department. I also served as the Acting Performance Improvement Officer. I served in both capacities since January 2025. All told, I have worked for the Department in various capacities for approximately ten years.

4. Generally, the Performance Improvement Office for the Department reports to the Deputy Secretary of the Department. Because that role was empty for the last several months, however, I reported directly to the Acting Secretary of the Department, Denise Carter. I participated in biweekly meetings with Acting Secretary Carter from January until March 13, 2025.

5. The Performance Improvement Officer role is statutorily mandated, and I reported in response to an agency-wide request that each of the nine members of my team's work aligned with statutory requirements. Our functions are required by the Government Performance and Results Act Modernization Act of 2010, among other statutes.

6. On March 11, 2025, I received an email notification from the Department's Chief Human Capital Officer informing me that my position and my team would be abolished by the RIF. Shortly thereafter, my work phone ceased operating, and my work computer's functionality was severely limited.

7. Upon learning that my team and I had been impacted by the RIF, I became concerned that the Department would be unable to fulfill its obligations under the Government Performance and Results Act Modernization Act of 2010. In preparation for our biweekly meeting, I used our standard meeting agenda template to highlight for Denise Carter¹ my concerns and requested written responses to several questions pertaining to how the Department would continue to meet its statutory obligations and if, and to whom, the functions from my team would be transferred to among other remaining employees within the Department. A true and accurate screengrab of a portion of that agenda is included below:

¹ My understanding is that Denise Carter served as Acting Secretary of the Department from late January 2025 until early March 2025. At the time I received the March 11, 2025 RIF email, my understanding is that Carter continued to serve as a senior officer within the Department.

Checkin Agenda 3-13-25 No Label • Saved

Search

Mailings Review View Help Acrobat Table Design Layout

Paragraph Styles Editing

Find Replace Select Create PDF and Share link Create PDF and Share via O

Adobe Acrobat

Executive Check-in Agenda

Office Name: Performance Improvement Office
Date: 03/13/2025

Topic	Status, Including Resolution	Decision/ Guidance
PROGRAM INITIATIVES/ PRIORITIES		
Statutory Requirements and Agency Restructuring	<p>Status: The work of the PIO team is guided by statutory requirements. Primarily the Government Performance and Results Act Modernization Act of 2010 (Public Law No: 111-352), the Government Performance and Results Act of 1993 (Public Law No: 103-62), and the Federal Agency Performance Act of 2024 (Public Law No: 118-190). These laws and accompanying regulations, such as OMB Circular A-11, set out the requirements for the deliverables and processes produced and managed by the PIO team, such as the Agency Strategic Plan, Annual Performance Plan, Annual Performance Report, Agency Priority Goals, and Strategic Reviews, as well as the requirement for each agency to have a Performance Improvement Officer. The attached table further outlines the governance and alignment of PIO's work with statutes and other federal requirements.</p> <p>Questions (written responses requested):</p> <ul style="list-style-type: none"> • With the abolition of the entire Performance Improvement Office, how will these statutory and regulatory obligations be met going forward? • If this function is being transferred to another division, is there an opportunity for PIO staff to transfer with the work? • If this function is being transferred to another division, please clarify which workstreams are being transferred to which divisions and the appropriate points of contact. <p>Roadblock: Current network restrictions will prevent the team from being able to share existing resources with others.</p>	

8. Because I could no longer access Teams on my work computer, Denise Carter's assistant forwarded our bi-weekly call invitation, scheduled for March 13, 2025, to my personal email. A true and accurate screengrab of that invitation is included here:

ODS PIO Status Update Meetings

Hyatt, Shannon

<Shannon.Hyatt@ed.gov>

to me

Mar

13

Thu

ODS PIO Status Update Meetings

[View on Google Calendar](#)

When

Thu Mar 13, 2025 3pm – 3:30pm (EDT)

Where

Microsoft Teams Meeting

Who

ed.gov, richard.smith@ed.gov, Lucas, Richard J., Carter, Denise*

Yes

Maybe

No

More options

Microsoft Teams

[Need help?](#)

[Join the meeting now](#)

Meeting ID: 291 129 004 368

Passcode: er6Xz2WL

Dial in by phone

[+1 202-991-0393](#), [.813609853#](#) United States, Washington

[Find a local number](#)

Phone conference ID: 813 609 853#

For organizers: [Meeting options](#) | [Reset dial-in PIN](#)

9. As a result, I spoke with Denise Carter and Richard Smith, another high-ranking Department official, on March 13, 2025 via Teams about the transfer of my team's statutory functions to others within the Department. This conversation occurred two days after the RIF was

initially announced and approximately seven days before President Trump issued his executive order calling for the dismantling of the Department.²

10. During that call, I asked Carter about the transfer of statutory functions from my team to others. Carter responded by informing me that another high-ranking official within the Department, Richard Lucas, would nominally be designated as Acting Performance Improvement Officer, in addition to his other responsibilities. Lucas had, several weeks earlier, also been named the Department's Director of Budget Service, after the Department's long-serving prior Director of Budget Service left, having accepted the Deferred Resignation Program. Carter instructed me to put together a transition memorandum for Lucas, explaining my team's responsibilities.

11. When asked if my team would be allowed to transfer with our work to Budget Service, Carter then stated that Budget Service would not be performing the work, but that Lucas would oversee the winding down of the work. She stated that because the Department as an agency was winding down, and would not exist moving forward, it would not be responsible for meeting the statutory functions performed by the Performance Improvement Officer. She told me that she had recently spoken with a counterpart at the U.S. Agency for International Development ("USAID"), and compared the Department's future to that of USAID, which has been functionally eliminated by the Trump Administration. She told me that USAID, in this functionally eliminated state, had declined to meet other statutory obligations and compared it to the Department no longer

² Carter announced that she would be departing the Department a little less than three weeks after my conversation with her on March 13, 2025. See "U.S. Department of Education Announces Retirement of FSA Chief Operating Officer," Ed.gov (Apr. 2, 2025), accessed at: <https://www.ed.gov/about/news/press-release/us-department-of-education-announces-retirement-of-fsa-chief-operating-officer#:~:text=U.S.%20Department%20of%20Education%20Announces%20Retirement%20of%20FSA%20Chief%20Operating%20Officer,-April%202%2C%202025&text=The%20U.S.%20Department%20of%20Education,30%20years%20in%20public%20service.>

meeting its obligations under the Government Performance and Results Act Modernization Act of 2010. It is my understanding that Carter made these statements based on her experience as Acting Secretary of the Department through early March 2025, and as a senior official within the Department following Secretary McMahon's confirmation.

12. As noted above, in connection with preparing this declaration, I have had the opportunity to review a transcript of a hearing on the States' request for a preliminary injunction, which was held on April 25, 2025. Based on my experience and my March 13, 2025 conversation with former Acting Secretary Carter, I believe that several representations and arguments presented to the Court by the Department of Justice during that hearing are, at best, inaccurate and misleading.

13. The main thrust of Attorney Hamilton's argument to the Court appears to be that the RIF had no relationship to the administration's efforts to dismantle the Department, and the Executive Order and President Trump's and Secretary's McMahon's comments about the Department's future simply referred to the Trump administration's legislative agenda. In his opening remarks, for instance, Attorney Hamilton states that President Trump's "administration has made it a legislative priority to close the Department of Education, but that's distinct from his administrative agenda to cut bureaucratic bloat wherever it exists. That's a mandate that applies equally to the Department of Education and other agencies in the Federal Government." Tr. 30:7-18. In response to a question from the Court regarding the President's intent, Hamilton again responded that: "I think it's focusing on the legislative agenda of closing the Department of Education and giving states and local authorities more control over decision-making and so that there is less interference from Washington bureaucrats in the Department of Education, but again that's distinct from the administrative agenda of making the Department of Education as efficient

as it can be . . .” Tr. 31:19-25. Again pushed by the Court to clarify the federal government’s position and identify record evidence supporting his assertion, Hamilton stated: “I think the State Plaintiffs have attached a number of statements by the President and Secretary McMahon that talk about the goal of closing the Department of Education. Defendants acknowledge that that requires an act of Congress, our brief says that, and the work that the Defendants are doing to make the Department more efficient today is separate from that legislative goal.” Tr. 32:9-15.

14. Hamilton’s representations to the Court appear to conflict with former Acting Secretary Carter’s representations to me, made before President Trump’s executive order was formally issued and after the RIF had been announced. My understanding from Carter’s statements in March 2025 was that the RIF represented a concrete step towards the complete elimination of the Department, and I interpreted her reference to USAID and her indifference toward the Department’s ability to fulfill its statutory functions, which includes statutorily required deliverables with deadlines due as early as this spring, to signify that she anticipated the Department would be eliminated in its entirety in short order. Carter never mentioned a legislative agenda, pending legislation, or any parallel effort to seek Congressional approval prior to enacting the dismantling of the Department. Rather, the analogy to USAID strongly suggests in my view that Carter believed that the Trump Administration could effectively dismantle the Department without Congressional approval, and that it had begun to do so with the RIF.

15. Later in the hearing, Hamilton informed the Court that “the Department is committed to carrying out its statutory obligations until there is an act of Congress that changes the Department’s statutory obligations.” Tr. 41:17-19. Based on Carter’s statements to me on March 13, 2025, it is my belief and understanding that Hamilton’s representation to the Court is

inaccurate, at least with respect to the statutory functions entrusted to the Performance Improvement Officer by the Government Performance and Results Act Modernization Act of 2010.

16. If the Court wishes to question me on any of the information contained herein *in camera*, I stand ready to testify regarding the same at the Court's convenience.

I declare under penalty of perjury under the laws of the United States that, to the best of my knowledge, the foregoing is true and correct.

Executed this 2nd day of May, 2025.

/s/ Doe Declarant 21
Doe Declarant 21

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

LINDA McMAHON, in her official
capacity as Secretary of Education, *et al.*,

Defendants.

Case No. 1:25-cv-10601-MJJ

SOMERVILLE PUBLIC SCHOOLS, *et al.*,

Plaintiffs,

v.

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

Defendants.

Case No. 1:25-cv-10677-MJJ

STATUS REPORT REGARDING COMPLIANCE

Defendants, through undersigned counsel, hereby file this Status Report documenting the steps taken to date to comply with the Court’s Preliminary Injunctions of May 22, 2025. *See* ECF No. 128, *State of New York, et al. v. McMahon, et al.*, No. 1:25-cv-10601-MJJ; ECF No. 45, *Somerville Public Schools, et al. v. Trump, et al.*, No. 1:25-cv-10677-MJJ. Those preliminary injunctions, which were entered by the Court at 10:30 a.m. on Thursday, May 22, required the filing of a status report “within 72 hours of the date of entry of this Order, describing all steps the

Agency Defendants have taken to comply with this Order, and every week thereafter until the Department is restored to the status quo prior to January 20, 2025.” ECF No. 128 at 88; ECF No. 45 at 88. Consistent with the Court’s orders, Defendants submit this weekly status report. In support of the status report, Defendants submit the attached declaration, which identifies the steps the Department of Education has taken to date to comply with the Court’s preliminary injunctions.

Dated: June 10, 2025

Respectfully submitted,

YAAKOV M. ROTH
Acting Assistant Attorney General
Civil Division

ERIC J. HAMILTON
Deputy Assistant Attorney General
Civil Division

/s/ Brad P. Rosenberg
BRAD P. ROSENBERG (DC Bar No. 467513)
Special Counsel
MICHAEL BRUNS
Trial Attorney
U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, NW
Washington, DC 20005
Phone: 202-514-3374
Email: brad.rosenberg@usdoj.gov

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants.

Dated: June 10, 2025

/s/ Brad P. Rosenberg
BRAD P. ROSENBERG
Special Counsel

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

LINDA MCMAHON, *et al.*,

Defendants.

Civil Action No. 25-10601-MJJ

SOMERVILLE PUBLIC SCHOOLS, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, *et al.*,

Defendants.

Civil Action No. 25-10677-MJJ

DECLARATION OF RACHEL OGLESBY

1. My name is Rachel Oglesby. I make this Declaration based on my own personal knowledge, on information contained in the records of the Department of Education, or on information provided to me by Department of Education employees.
2. I am currently employed as Chief of Staff for the U.S. Department of Education, headquartered in Washington, D.C. I began my service at the Department on January 20, 2025.


3. Before joining the Department, I worked at America First Policy Institute as the Chief State Action Officer and Director of the Center for the American Worker.
4. In my role at the Department, I have the following responsibilities:
 - I assist the Secretary of Education with all her responsibilities running the Department.
 - I advise the Secretary on significant matters within and affecting the Department.
5. I submitted a declaration in this matter on June 3, 2025, describing the Department's compliance activities with regard to the preliminary injunction issued by this Court on May 22, 2025 (the "Preliminary Injunction"), and I incorporate herein by reference the statements made in my previous declaration.
6. The ad-hoc committee described in my June 3, 2025, declaration, met again on June 5, 2025, to coordinate Preliminary Injunction compliance actions. The Department took numerous actions to further the complex process of reintegrating approximately 1,400 employees into the workforce. It is an operational project not dissimilar to "standing up" an entire agency with regard to the logistical complexities of, for example: arranging for facilities for physical workspace; updating, reactivating, and re-issuing government furnished equipment (GFE) (for which contracts supporting software must be rescoped to provide for the additional number of employees); providing for security access (including building entry, parking, transit passes, and PIV card updates); preparing and updating position descriptions; and ensuring that all actions comply with collective bargaining requirements.
7. By June 10, 2025, the Department had:
 - Issued a formal communication (by email to personal email addresses for employees who do not have access yet to their GFE) on June 6, 2025 to all employees who had received RIF notices on March 11, 2025, advising them that they will not be separated on June 10 and affirming the agency's commitment to fully reintegrate them into the workforce. A true and correct copy of that communication to employees is attached hereto as Exhibit A.
 - Sent a follow-up email on June 9, 2025, to all employees who had received RIF notices on March 11, 2025, with information for employees about the impact on reintegration back into ED on retirement.

- Contacted the Department's Employee Assistance Program (EAP) to support employee reorientation and reintegration. The Department is currently awaiting a cost estimate and scheduling availability.
 - Initiated outreach to the Department of Homeland Security (DHS) to conduct structured safety and security training sessions for returning employees. The Department is awaiting confirmation of dates.
 - Identified the information technology (IT) contracts that the Department must renegotiate to restore technical services for returning employees.
 - Communicated to the agency union that previously-filed union grievances challenging the RIF would not be determined by the Department due to the Preliminary Injunction.
 - Formulated a reintegration plan (which the Department is working to finalize) to return employees in phases to minimize disruption and ensure a smooth operational transition.
8. In addition to the steps above, the Department is arranging for the following additional actions to support a successful reintegration:
- Conducting individual check-ins with each impacted employee to assess needs.
 - Hosting a reorientation to the Department to communicate expectations, timelines, and available support services.
 - Revalidating position assignments to ensure returning employees are appropriately aligned with current operational needs.
 - Auditing HR and payroll systems to ensure accuracy in personnel records and timecards.
 - Considering modifications to remote-work policies including analyzing how such policies might apply to returning employees as well as current active duty employees and the need for collective bargaining agreement compliance and general fairness to all employees.
 - Issuing guidance to supervisors to aid in supporting returning staff and maintaining team cohesion.
9. In compliance with the Preliminary Injunction, the Department continues to pause implementing significant interagency agreements, preventing the Department (and other agencies) from pursuing operational efficiencies and cost-savings. For example, on May 21, 2025 the Department executed an interagency agreement with the Department of Labor regarding administration of certain career, technical, and adult education grants, a copy of which is attached here as Exhibit B. Similarly, the Department had been negotiating a memorandum of understanding with the Treasury Department regarding student loan management and the Department has paused this action pursuant to the Preliminary Injunction.¹

¹ The Department finalized an agreement with the Treasury Department on April 8, 2025, under which nine Department employees were, and currently are, detailed to Treasury. A true and copy of that agreement is attached hereto as Exhibit C. The Department does not view the Preliminary Injunction as requiring the Department to disrupt the status of those nine detailees, as none were subject to the Department's March 11, 2025 RIF notice.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Washington, DC this 10th day of June.

A handwritten signature in cursive script, reading "Rachel Oglesby".

Rachel Oglesby

EXHIBIT A

From: CHCO-Info <workforcereshaping@ed.gov>

Sent: Friday, June 6, 2025 2:12 PM

To: RIF@listserv.ed.gov

Subject: Update: RIF Status

Colleagues,

I wanted to provide an update to the Official Reduction in Force notice you previously received. Considering the recent injunction in *State of New York v. McMahon (1:25-cv-10601)*, you will not be separated on June 10, 2025. We are actively assessing how to reintegrate you back to the office in the most seamless way possible. This includes evaluating necessary updates to security access, technology, and workspaces to ensure full operability.

As part of our reintegration planning, we are asking all impacted employees to voluntarily share any information regarding current outside employment or offers they may have accepted since the RIF notification. This information will assist us in understanding potential reentry timelines and identifying any accommodations that may be needed. We understand that circumstances may have changed during this period, and this request is made solely to support a smooth and informed return to duty. Please note this information does not affect your employment status. Please click the following link to complete the form found here: [Outside Employment](#).

Your continued patience is appreciated. You will receive further updates as soon as possible.

Jacqueline Clay

Chief Human Capital Officer

EXHIBIT B

CONTROLLED UNCLASSIFIED INFORMATION



**Interagency Agreement
Between the
U.S. Department of Education
and
U.S. Department of Labor**

Pursuant to 20 U.S.C. § 1231(a) and 31 U.S.C. § 1501 and § 1535, this Interagency Agreement (IAA or Agreement) is entered into between the U.S. Department of Education (ED) and the U.S. Department of Labor (DOL), who hereby agree as follows:

1. PURPOSE/SCOPE

The signatory agencies (Parties) enter into this Interagency Agreement to affirm their common commitment to furthering and improving career, technical, and adult education in the United States. The Parties together commit to utilizing available statutory authorities to promote innovation and process improvements in pursuit of better employment and earnings outcomes for program participants, by establishing a partnership that (1) enables administrative reforms to agency policies and programmatic requirements; (2) provides process improvements to enhance the experience for education and workforce program participants; and (3) connects ED education and workforce development programs with DOL workforce programs to provide a coordinated federal education and workforce system, consistent with Executive Order No. 14278 signed on April 23, 2025. This work also serves to “return authority over education to the States and local communities while ensuring the effective and uninterrupted delivery of services, programs, and benefits on which Americans rely” in accordance with Executive Order No. 14242 signed on March 20, 2025.

The Parties’ partnership will enhance opportunities to invest in the upskilling of American students and workers to meet rapidly evolving skill demands of industries, including the use of Artificial Intelligence in the workplace; provide common programmatic requirements for identifying and making transparent alternative credentials and assessments to the 4-year college degree that can be mapped to the specific skill needs of prospective employers; and implement efficiencies to streamline information collection by harmonizing performance reporting, reducing the burden on grantees, and ensuring that performance outcomes are measured using the most reliable data sources.

This partnership will further facilitate the integration of programs funded under the Workforce Innovation and Opportunity Act (WIOA) (P.L. 113-128) and the Strengthening Career and Technical Education for the 21st Century Act (Perkins V) by coordinating program administration and grant administration funds appropriated to ED’s Office of Career, Technical, and Adult Education (OCTAE) for the adult education and family literacy programs funded under Title II of WIOA and career and technical education (CTE) programs funded by Perkins V. The project will leverage WIOA Title I adult, youth, and dislocated worker program funds; WIOA Title II adult education and family literacy funds; WIOA Title III Wagner-Peyser funds;

CONTROLLED UNCLASSIFIED INFORMATION



and Perkins CTE program funds, in order to provide a seamless workforce development system designed to assist youth and adults with receiving training and postsecondary education needed to enter into, and persist in, high-wage, high-demand, high-skill occupations. This agreement will also reduce the administrative burden on states by reducing reporting requirements and aligning performance reporting requirements for programs covered under the agreement, to the extent permissible under existing statutory authorities.

2. AUTHORITY

This IAA is executed by ED and DOL under authority of 20 U.S.C. § 1231(a), which authorizes the Secretary of Education to enter into arrangements with other Federal agencies to jointly carry out projects of common interest, and to transfer to such agencies funds appropriated under any applicable program, for projects of common interest; 20 U.S.C. § 3475, which authorizes the Secretary of Education to make, enter into, and perform agreements with Federal agencies as the Secretary determines necessary or appropriate to carry out ED functions; 20 U.S.C. § 3479, which authorizes the Secretary of Education to use the services of any agency of the United States, with its consent, in carrying out any function of the Secretary or Department; 29 U.S.C. § 3249(c), which authorizes the Secretary of Labor to enter into contracts and agreements necessary to carry out Title I of WIOA, and 31 U.S.C. § 1535, which authorizes agencies to acquire goods and services from other agencies where amounts are available, the head of the ordering unit assesses that such an order is in the best interests of the U.S. government, the recipient of the order is capable of meeting the need, and the head of the agency determines that said goods and services cannot be provided as cheaply or conveniently by contracting with a commercial enterprise.

3. PERFORMANCE

- A. The Employment and Training Administration (ETA) within the Department of Labor commits to carry out the following activities in coordination with the Department of Education:
 1. Administration of State formula grants authorized under Title I of the Perkins Act to all 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, and Palau (referred to as "States") intended to improve the academic, technical, and employability skills of youth and adults who participate in career and technical education programs, as well as discretionary programs authorized through the Perkins Act, as authorized by law, pursuant to 31 U.S.C. § 1301;
 2. Administration of the Adult Education formula grant program to the States and provision of assistance to States in order to improve program quality and capacity, as well as discretionary programs authorized through WIOA Title II, as authorized by law, pursuant to 31 U.S.C. § 1301;

CONTROLLED UNCLASSIFIED INFORMATION



3. Administration of discretionary grants, cooperative agreements, and contracts for national activities funded through the Perkins Act and WIOA Title II programs, as authorized by law, pursuant to 31 U.S.C. § 1301;
4. Implementation of programs and other initiatives that help adult learners become literate, obtain the knowledge and skills necessary for employment and self-sufficiency, obtain secondary school diplomas, and transition to postsecondary education and training, pursuant to Title II of WIOA, related legislation, and Departmental regulations;
5. Implementation of programs and other activities that promote the education of students enrolled in secondary and postsecondary career and technical education programs funded under the Perkins Act, and that help students prepare for high-skill, high-wage, in-demand occupations in current and emerging professions;
6. Promotion of collaboration, coordination, and communication among States, local education agencies, community colleges, and organizations in order to ensure that CTE programs and activities prepare youth and adults for postsecondary education and high-skill, high-wage, or high-demand occupations in current or emerging professions;
7. Encouragement of high-quality and broadly available career, technical, and adult education and literacy programs of study, and career pathways that transition students seamlessly into postsecondary programs and careers funded by programs under the Perkins Act and WIOA;
8. Execution of monitoring visits to ensure discretionary grantees' compliance with the Perkins Act and Title II of WIOA and to protect against waste, fraud, and abuse, as well as to provide technical assistance to discretionary grantees in implementing the Perkins Act and Title II of WIOA;
9. Cultivation of continuous improvement for CTE and adult education and family literacy programs in service of engaging, developing, and inspiring a high-performing workforce informed by high-quality data and accountability systems and quality assurance measures;
10. Provision of technical assistance to OCTAE staff on interagency grant policies and procedures;
11. Provision of assistance in managing and coordinating contracts, procurements, grants, and program administration for OCTAE staff;
12. Coordination and management of DOL physical and information technology assets, information systems security, and cybersecurity administration;
13. Monitoring of States' drawdowns of funds to help ensure that grant funds do not lapse and are used to provide career and technical education programs in accordance with the Perkins Act and adult education and family literacy in accordance with Title II of WIOA; and
14. Provision of appropriate other services specified in the Perkins Act and Title II of WIOA, in coordination with OCTAE staff, including provision of technical and program improvement assistance to National, State, and local education systems, programs, and organizations and on the execution of national

CONTROLLED UNCLASSIFIED INFORMATION



leadership functions in career and technical education and adult basic education and family literacy under Title II of WIOA.

B. The Office of Career, Technical, and Adult Education within the Department of Education commits to carry out the following activities:

1. Management and leadership of OCTAE in accordance with section 202(b)(1)(C) and section 206 of the Department of Education Organization Act (Pub. L. 96–88, as amended);
2. Service, by the Assistant Secretary for Career, Technical, and Adult Education, as liaison for Community and Junior Colleges pursuant to section 202(i) of the Department of Education Organization Act, as amended (Pub. L. 96–88, as amended) (20 U.S.C. §3412(i));
3. Management and leadership of all correctional education programs within the Department of Education, including service as the Correctional Education Officer, pursuant to section 212 of the Department of Education Organization Act (Pub. L. 96–88, as amended);
4. Coordination and partnership in execution of cross-functional priorities aligned to applicable directives, goals, objectives, and special projects; and maintenance of liaison and representation of OCTAE before the Data Governance Board (DGB), Investment Review Board (IRB), Office of Inspector General (OIG), Government Accountability Office (GAO), and other inter- and intra-agency governance bodies;
5. Coordination of clearance of documents that communicate or implement policy, including non-regulatory guidance, Federal Register notices, budget justifications, and legislation;
6. Coordination of review of documents circulated by Executive Secretariat and the Office of General Counsel (OGC) related to grant funds transferred to DOL;
7. Coordination of clearance of grant program announcements, grant competition technical review plans, grant slate memoranda, and information collection packages related to ED grant programs;
8. Provision of leadership for audit resolution processes, including resolution and closure of Single Audit findings for OCTAE formula grant programs;
9. Management and coordination of human resource/capital services, including hiring, awards and recognition, employee engagement, workforce and succession planning, performance management, training and development for OCTAE employees;
10. Oversight of reasonable accommodations and equal employment opportunity (EEO) programs, service as EEO Liaison, and negotiation of personnel related matters, in conjunction with relevant labor stakeholders, Employee/Labor Relations, and other ED and DOL offices for OCTAE employees;
11. Execution of budget formulation, execution, and resource allocation activities, including formulation of administrative budget requests and justifications for

CONTROLLED UNCLASSIFIED INFORMATION



- discretionary funding, salaries and staffing allocations, payroll, and spending, and acquisition plans related to OCTAE programs in partnership with DOL;
12. Coordination of ED responses to GAO inquiries, and resolution of internal audit findings from GAO and the Office of the Inspector General (OIG) that are assigned to ED related to OCTAE programs;
 13. Monitoring of internal controls and risk assessments for OCTAE programs;
 14. Performance of all duties associated with internal and external accountability requirements related to OCTAE programs, including ED priorities, Government Performance and Results Act (GPRA), and ongoing reporting to Congress;
 15. Development of program notices for publication in the Federal Register, announcement of discretionary program competitions and establishment of selection criteria, priorities, and program requirements related to OCTAE programs;
 16. Review of annual performance and fiscal reports submitted by States to OCTAE related to OCTAE programs; and
 17. Issuance of annual grant awards to States in accordance with the Perkins Act, WIOA Title II, and applicable Education Department General Administrative Regulations (EDGAR);
 18. Resolution of matters requiring the exercise of final and conclusive authority that has been assigned to OCTAE by statute, or assigned by statute to the Secretary of Education and delegated to OCTAE; and
 19. All remaining activities OCTAE is statutorily required to perform under the Perkins Act and WIOA that are not otherwise identified in Section 3.B.

4. FUNDING

ED will transfer funds as necessary to cover the costs of the activities described in this agreement related to administration of OCTAE programs, except where the described activities are specifically identified as the responsibility of ED, in an amount up to \$2,673,000,000 in FY 2025 for funds appropriated in FY 2024 and FY 2025, other sums in future fiscal years, and (as applicable) for past fiscal years. From these amounts, DOL will carry out the reimbursable activities described in this agreement. ETA will award grants related to OCTAE, which will be active through close-out.

Transfers of funds will be by means of an Intra-Government Payment and Collection (IPAC) system when agreed to by all Parties in writing.

As the provider of funds for the activities carried out pursuant to this Agreement, ED will initiate the IPAC. As the receiver of transferred funds, DOL will provide ED with regular performance updates on a cadence agreed to by the parties that detail all work performed to date for the related project. Additionally, at least quarterly, the Parties will reconcile balances related to revenue and expenses for work performed under the Agreement. Issues arising during this reconciliation process must be brought to the attention of all Parties in writing. Resolution of the reconciliation process issues must be

CONTROLLED UNCLASSIFIED INFORMATION



documented in writing within 30 calendar days of the written notice of the issue. No funds are obligated by this agreement; the Interagency Agreement's 7600B obligates the funds described here. ED agrees to transfer funds to DOL, in the form of lump sum payments for grants and contracts to be awarded, to support the initiative described in this Agreement.

5. GENERAL PROVISIONS

A. Effective Date

This Agreement is effective as of the date of the last signature and will remain in effect until terminated by the Parties. All Parties will review this Agreement periodically and modify it as necessary and appropriate.

B. Modification

Any modifications to this Agreement must be agreed upon in writing by both Parties.

C. Termination/Severability

This Agreement may be terminated upon 90 calendar days advance written agreement by both Parties. Upon termination, the Parties may collect costs incurred prior to cancellation of the Agreement plus any reasonable termination costs, provided that such costs do not exceed the total amount obligated on the Form 7600B. A judicial determination that any provision of this Agreement is unenforceable shall not affect the enforceability of any other provision.

D. Liability/Indemnification

Each party shall be responsible for any liability arising from its own conduct and retain immunity and all defenses available pursuant to federal law. Neither party agrees to insure, defend, or indemnify the other party.

Each party shall cooperate with the other party in the investigation/resolution of administrative actions and litigation arising from conduct related to the responsibilities and procedures addressed herein.

E. Anti-Deficiency Act

Nothing contained herein shall be construed to violate the Anti-Deficiency Act, 31 U.S.C. §1341, including by obligating the Parties to any expenditure or obligation of funds in excess or in advance of appropriations.

F. Resolution Mechanism

Should disagreements arise on the interpretation of the provisions of this Agreement

CONTROLLED UNCLASSIFIED INFORMATION



or amendments and/or revisions thereto, that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each party and presented to the other party for consideration. If agreement or interpretation is not reached within 30 days, the Parties shall forward the written presentation of disagreement to respective higher officials for appropriate resolution.

G. Effect of Agreement

This Agreement is not intended to confer any right upon any person. Nothing in this Agreement shall be interpreted as limiting, superseding, or otherwise affecting either party's normal operations or decisions in carrying out its statutory or regulatory duties.

H. Points of Contact

DOL Contact Information:

U.S. Department of Labor
Employment and Training
Administration

Lori Frazier Bearden 200 Constitution Avenue, NW Room 4508
Washington, DC 20210

ED Contact Information:

U.S. Department of Education
Office of Career, Technical,
and Adult Education

Nick Moore
400 Maryland Avenue,
SW Washington, DC
20202

I. Disclaimer

DOL will not accept responsibility for reimbursement of late fees or other costs incurred due to the negligence of a servicing agency in complying with its obligations to third party contractors.

J. Authorizing Signatures and Dates

The signatories below warrant and represent that they have the competent authority on behalf of their respective agencies to enter into the obligations set forth in this Agreement:

CONTROLLED UNCLASSIFIED INFORMATION



Lori Bearden
Acting Assistant Secretary
U.S. Department of Labor
Employment and Training Administration

A large, stylized handwritten signature in blue ink, likely belonging to Lori Bearden.

Date

5/21/25

Nicholas Moore
Acting Assistant Secretary
U.S. Department of Education
Office of Career, Technical, and Adult Education

NICHOLAS
S MOORE

Digitally signed by
NICHOLAS MOORE
Date: 2025.05.21
12:20:05 -04'00'

Date

EXHIBIT C

MEMORANDUM OF UNDERSTANDING BETWEEN

U.S. Department of Education

AND

U.S. Department of the Treasury

I. INTRODUCTION

The **United States Department of Education** (“ED” or “Employing Agency”) and the **United States Department of the Treasury** (“Treasury” or “Gaining Agency”) hereby enter into this Memorandum of Understanding (“MOU”) regarding the temporary Detail of the employees listed in Appendix A or (“Detailees”). The Detail shall be made on a non-reimbursable basis, whereby the Employing Agency will continue to pay each employee’s salary and benefits in accordance with the provisions set forth herein.

II. PURPOSE

This MOU constitutes an agreement between the Employing Agency and the Gaining Agency. This MOU establishes the Terms and Conditions for non-reimbursable work done by the Employing Agency for the Gaining Agency. The purpose of this MOU is to provide for the assigning, tracking, and accounting of personnel on a Detail and to set forth the roles and responsibilities of the Employing Agency, the Gaining Agency, and the Detailees.

III. GENERAL INFORMATION

- A. The Gaining Agency has requested this Detail with the Employing Agency. The supervisor for the employees during the detail will be Matt Garber of the Gaining Party.
- B. The start date of the Detail will be April 9, 2025.
- C. Either party may terminate this agreement by providing 10 days advance written notice to the other party.
- D. The Detailees will remain on the rolls of his Employing Agency in his permanent position of record during the Detail. The Employing Agency retains the right to effect such personnel actions as necessary and required in accordance with its personnel management policies.
- E. Position title of record for the employees: FSA Expert
- F. The commencement of the Detail is contingent upon the Detailees successful adjudication and receipt of any necessary security clearances and other pre-employment screening required by Treasury. If the Detailees are unable to obtain the required level of access prior to the detail or his access is suspended or revoked for any reason during the detail, Treasury retains the right to immediately terminate the detail. ED is not obligated to provide a replacement. The Gaining Agency will be responsible for the costs of obtaining the security clearance does not satisfy requirements.

IV. AUTHORITY

The authority for this Detail is the Economy Act, 31 U.S.C. §§ 1535 - 1536 16 HRM 9334.2A.

V. RULES, REGULATIONS, AND POLICIES

1. The Employees are subject to the Federal statutory and regulatory provisions that govern ethical and other standards of conduct, conflicts of interest, suitability, security, and limitations on political activity.
2. Employees will maintain coverage under Federal retirement, group health benefits, and life insurance during the assignment; employees' shares of costs for such coverage continue to be withheld from salary.
3. Employees will continue to accrue annual and sick leave.
4. The Federal tort claims statutes and any other federal tort liability statute shall apply to the Employee.
5. The rules and policies that govern the internal operation and management of the Gaining Agency are applicable to the Employee.
6. Records retention. The Detailees agrees to preserve information worked on for the Treasury team in accordance with the Federal Records Act and other applicable agency or federal records laws, rules, or requirements.
7. Unauthorized disclosure of information. The Detailees will not disclose nonpublic information to outside parties without prior approval from Treasury. If the Detailees improperly discloses non-public information, the Employing Agency agrees to pursue appropriate steps. These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. These definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.
8. The Detailees will not knowingly take any actions that undermine Treasury responsibilities under governing statutes, regulations, or directives.
9. The Detailees will not knowingly take any measures that create cybersecurity risks to Treasury systems.
10. The Detailees will not knowingly access Treasury systems in a manner that fails to comply with all relevant federal, security, ethics, and confidentiality laws, regulations, and policies, including Treasury records management and information security requirements.
11. The Detailees will not access, or attempt to access, classified information without proper security clearance.
12. The Detailees will access Treasury data, information, and systems for only legitimate purposes related to Federal Student Aid.
13. The Detailees will comply with the requirements of the Privacy Act for information that Treasury collects on individuals, including, if necessary, publishing or amending Systems of Records Notices to adequately account for the information it collects.
14. The Detailees will destroy or erase copied Treasury data or information when no longer needed for official purposes in compliance with applicable records laws, rules, and regulations.
15. To the greatest extent possible, the Detailees will use the program agency system documentation to understand how to use the data and information which is being accessed.
16. Travel, transportation, and related allowances may be authorized only in accordance with Federal Travel Regulations. The travel authorization prepared by the Gaining Party or Employing Agency, as applicable, will serve as documentation of authorized allowances.

VI. RESPONSIBILITIES OF THE PARTIES**A. Scope of Work.**

During their assignment, the Detailees will support Federal Student Aid functions performed in partnership with Treasury.

B. Time and Attendance.

The Detailees' time and attendance will be maintained by the Employing Agency.

C. The Gaining Agency agrees to perform the following responsibilities:

- Provide all necessary identification to allow only relevant and necessary access and communications, to include badges, network access, and permissions for assignees to complete work for Treasury. This access includes enabling the employee to access and store documents related to their work for Treasury on Treasury's network and/or hardware. Treasury will provide ED employees with this access on ED devices to the maximum extent practical and allowable by law; to the extent new e-mail accounts or new devices are required by law, Treasury will provide those accounts and devices.
- Provide technical and operational support to the Detailees for all Gaining Agency activities.
- Provide office space and administrative support to the Detailees while assigned to the Gaining Agency.
- Provide the Detailees with badge access to the appropriate facilities.
- Provide the Detailees with duties and tasks according to, and described, in Scope of Work above.

D. The Employing Agency agrees to perform the following additional responsibilities:

- Maintain personnel records for the Detailees.
- Manage Detailees' leave requests. Leave requests by the assignees will be made to the Employing Agency and Detailees will inform Gaining Agency supervisor of said request.
- Maintain the Detailees' security clearance.

VII. TRAVEL AND TRAINING

- A. All travel and training required by the Detailees at the Gaining Agency during the Detail will be paid for by the Gaining Agency.

VIII. CONTACTS

Role	Name	E-mail Address	Location
Employing Agency Supervisor	Phillip Juengst		Washington, DC
Gaining Agency Supervisor	Matthew Garber		Washington, DC

The parties agree that if there is a change regarding the information in this section, the party making the change will notify the other party in writing of such change within five (5) business days.

IX. PERIOD OF AGREEMENT AND MODIFICATION/TERMINATION

This MOU will become effective when signed by all parties. The MOU will terminate on the date the Detail is intended to end as noted in Section III (C) above.

NOTE: The duration of the Assignment may be amended at any time by the mutual written consent of the parties. Any party may terminate this MOU by providing 30 calendar days' prior written notice to the other party. The addition of additional Detailees may be completed at any time by the mutual written consent of the parties. Any other modification of this MOU may be achieved by executing a separate, subsequent agreed upon written document containing either amendments (changing or eliminating existing provisions) or addenda (adding new provisions).

X. OBLIGATIONS AND EXPENDITURES

Nothing in this MOU requires the parties to obligate or expend appropriated funds.

XI. THIRD PARTY RIGHTS

This MOU shall not be construed to provide a private right or cause of action for or by any person or entity.

XII. OTHER PROVISIONS

Should disagreement arise on the interpretation of the provisions of this MOU, or any amendments thereto, that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each party and presented to the other party for consideration. If agreement on interpretation is not reached within thirty days, the parties shall forward the written presentation of the disagreement to respective higher officials for appropriate resolution.

Nothing herein is intended to conflict with current Treasury or ED directives. If the terms of this MOU are inconsistent with existing directives of either of the agencies entering into this MOU, then those portions of this MOU which are determined to be inconsistent shall be invalid; the remaining terms and conditions not affected by the inconsistency, however, shall remain in full force and effect. At the first opportunity for review of the MOU, all necessary changes will be accomplished by either an amendment to this MOU or by entering into a new MOU, whichever is deemed expedient to the interest of both parties.

SIGNATURES:

**JACQUELINE
CLAY**


Digitally signed by
JACQUELINE CLAY
Date: 2025.04.08 14:39:34
-04'00'

Jacqueline Clay
Deputy Assistant Secretary for
Human Resources
U.S. Department of Education

Janice D.
Williams

Digitally signed by Janice D.
Williams
Date: 2025.04.10 12:54:36 -04'00'

Janice Benjamin
Deputy Director, Office of Human Resources
U.S. Department of the Treasury

 4/8/2025
Tom Krause
Fiscal Assistant Secretary of the Treasury, BFS
U.S. Department of the Treasury

APPENDIX A

Role	Name	E-mail Address	Location
Senior Treasury Advisor	Phillip Juengst		Washington, DC
Senior Treasury Advisor	Brooks Morgan		Washington, DC
Senior Treasury Advisor	Adam Ramada		Washington, DC
Treasury Advisor	Yinqiu (Julia) Ju		Washington, DC
Treasury Advisor	Pete Tyrell		Washington, DC
Treasury Advisor	Chris Krobath		Washington, DC
Treasury Advisor	Steve Tu		Washington, DC
Treasury Advisor	Luz Wohlfield		Washington, DC
Treasury Advisor	Shital Shah		Washington, DC