No. 24A

In the Supreme Court of the United States

LINDA MCMAHON, ET AL., APPLICANTS

v.

STATE OF NEW YORK, ET AL.

APPLICATION TO STAY THE INJUNCTION ISSUED BY THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS AND REQUEST FOR AN IMMEDIATE ADMINISTRATIVE STAY

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PARTIES TO THE PROCEEDING

Applicants (defendants-appellants below) are Linda McMahon, Secretary of Education; Donald J. Trump, President of the United States; and the United States Department of Education.

Respondents (plaintiffs-appellees below) are the 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; State of Illinois; State of Maine; State of Maryland; State of Minnesota; State of Nevada; State of New Jersey; State of Oregon; State of Rhode Island; State of Washington; State of Wisconsin; State of Vermont; Dana Nessel, Attorney General for the People of Michigan; District of Columbia; Somerville Public Schools; Easthampton Public Schools; American Federation of Teachers; American Federation of Teachers Massachusetts; American Federation of State, County, and Municipal Employees, Council 93; American Association of University Professors; and Service Employees International Union.

RELATED PROCEEDINGS

United States District Court (D. Mass.):

New York v. *McMahon*, No. 25-cv-10601 (May 22, 2025)

Somerville Public Schools v. *Trump*, No. 25-cv-10677 (May 22, 2025)

United States Court of Appeals (1st Cir.):

New York v. *McMahon*, Nos. 25-1495, 25-1500 (June 4, 2025)

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Pursuant to Rule 23 of the Rules of this Court and the All Writs Act, 28 U.S.C. 1651, the Solicitor General—on behalf of applicants Linda McMahon, et al.—respectfully files this application to stay the preliminary injunction issued by the United States District Court for the District of Massachusetts (App., *infra*, 1a-88a), pending the consideration and disposition of the government's appeal to the United States Court of Appeals for the First Circuit and, if the court of appeals affirms the injunction, pending the timely filing and disposition of a petition for a writ of certiorari and any further proceedings in this Court. In addition, the Solicitor General respectfully requests an immediate administrative stay of the district court's order pending the Court's consideration of this application.

For the second time in three months, the same district court has thwarted the Executive Branch's authority to manage the Department of Education despite lacking jurisdiction to second-guess the Executive's internal management decisions. This Court curtailed that overreach when the district court attempted to prevent the De-

partment from terminating discretionary grants. See *Department of Educ.* v. *California*, 145 S. Ct. 966 (2025) (per curiam). In this case, the district court is attempting to prevent the Department from restructuring its workforce, despite lacking jurisdiction several times over. Intervention is again warranted.

Nearly three months ago, the Department of Education announced a reduction in force (RIF) involving 1378 employees. That RIF effectuates the Administration's policy of streamlining the Department and eliminating discretionary functions that, in the Administration's view, are better left to the States. The government has been crystal clear in acknowledging that only Congress can eliminate the Department of Education. And the government has acknowledged the need to retain sufficient staff to continue fulfilling statutorily mandated functions and has kept the personnel that, in its judgment, are necessary for those tasks. The challenged RIF is fully consistent with that approach.

Nevertheless, on May 22, 2025, the district court issued a sweeping preliminary injunction with immediate effect, ordering the Department to reverse the RIF, reinstate all affected employees to active status, produce status reports starting within two business days and continuing every week thereafter, and pursue myriad other measures to turn back the clock at the Department of Education "to the status quo prior to January 20, 2025." App., *infra*, 88a. And the district court enjoined the Department and the Secretary from taking any steps to "implement[]" or "giv[e] effect to" the President's executive order to restore control over education to the States and communities, to the extent permitted by law. *Ibid.* As justification, the court asserted that the Secretary has "dismantle[d]" the Department "by firing nearly the entire staff," *id.* at 57a, notwithstanding that 2183 employees (plus numerous contractors) remain—most of the pre-RIF workforce—and the Department remains committed to

implementing its statutorily mandated functions.

That preliminary injunction epitomizes many of the same errors in recent district-court injunctions usurping control of the federal workforce.[1] To start, Article III limits federal courts to deciding concrete cases and controversies, not adjudicating abstract policy disagreements disconnected from the relief sought. Here, respondents—who are not Department employees, but end-users of government services—asserted standing based on the theory that the reduction in the Department's workforce might affect the quality or promptness of Department services. The district court thus blocked the Department's entire RIF and ordered nearly 1400 employees reinstated based on speculation that terminating those employees might have downstream effects, such as delaying particular funding distributions or slowing down programs. Contrary to the court of appeals' assertion, the district court's holding—and the declarations upon which it rests—cannot plausibly be read to reach an "evidence-based conclusion" that the RIF has "effectively shut down" the Department, not least because the declarations themselves all employ speculation and were largely made only three days after the RIF took effect. App., *infra*, 165a, 167a. Rather, the district court's theory of standing, based solely on hypothetical downstream effects, is too

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[1] *E.g.*, *AFGE* v. *Trump*, No. 25-cv-3698, 2025 WL 1482511 (N.D. Cal. May 22, 2025), stay denied, No. 25-3293, 2025 WL 1541714 (9th Cir. May 30, 2025); *Rhode Island* v. *Trump*, No. 25-cv-128, 2025 WL 1303868 (D.R.I. May 6, 2025), administrative stay denied, No. 25-1477 (1st Cir. May 27, 2025); *Widakuswara* v. *Lake*, No. 25-cv-1015, 2025 WL 1166400 (D.D.C. Apr. 22, 2025), stay granted, No. 25-5144, 2025 WL 1288817 (D.C. Cir. May 3, 2025) (per curiam); *Abramowitz* v. *Lake*, No. 25-cv-887, 2025 WL 1176796 (D.D.C. Apr. 22, 2025), stay granted, No. 25-5144, 2025 WL 1288817 (D.C. Cir. May 3, 2025) (per curiam); *Maryland* v. *USDA*, No. 25-cv-748, 2025 WL 973159 (D. Md. Apr. 1, 2025), stay granted, No. 25-1248, 2025 WL 1073657 (4th Cir. Apr. 9, 2025); *National Treasury Emps. Union* v. *Vought*, No. 25-cv-381, 2025 WL 942772 (D.D.C. Mar. 28, 2025), appeal dismissed, No. 25-5132, 2025 WL 1385557 (D.C. Cir. May 12, 2025) (per curiam); *AFGE* v. *OPM*, No. 25-1780, 2025 WL 820782 (N.D. Cal. Mar. 14, 2025), stay granted, No. 24A904, 2025 WL 1035208 (U.S. Apr. 8, 2025).

speculative and causally remote to establish a cognizable injury, let alone causation or redressability. Article III does not empower district courts to presume that all 1400 employees must be reinstated to their previous jobs and functions based on anecdotal speculation about impairment of some of the Department's services.

On top of that is a further jurisdictional bar: Congress created a different, comprehensive framework for resolving legal challenges to federal personnel actions via the Civil Service Reform Act of 1978 (CSRA). That reticulated process allows employees—not (as here) States, school districts, or teachers' unions—to seek reinstatement. And it requires them to do so before the Merit Systems Protection Board (MSPB)—not in federal district courts. Strangers to the employment relationship should not be able to leapfrog that process and leverage federal-court injunctions to force mass reinstatements. The First Circuit credited the government's "concern that the CSRA may not be bypassed" by reframing challenges to employment terminations as Administrative Procedure Act (APA) suits, but it inexplicably rejected that concern as to larger-scale terminations. App., *infra*, 160a. The CSRA channels all personnel actions, whether single terminations or RIFs. Courts should not usurp Congress's choices by creating extra-statutory exceptions.

The district court's remedy—an injunction undoing the Executive Branch's decisions about how many employees to devote to statutory functions—compounds the constitutional offense. The Constitution vests the Executive Branch, not district courts, with the authority to make judgments about how many employees are needed to carry out an agency's statutory functions, and whom they should be. Federal courts lack equitable authority to compel reinstatement outside of express statutory schemes. And where courts have that authority, this Court has demanded a heightened showing of necessity to guard against the profound separation-of-powers con-

cerns that arise from judicial intervention in executive-branch personnel policy. *Sampson* v. *Murray*, 415 U.S. 61, 83 (1974). The injunction rests on the untenable assumption that *every* terminated employee is necessary to perform the Department of Education's statutory functions. That injunction effectively appoints the district court to a Cabinet role and bars the Executive Branch from terminating *anyone*, even though respondents conceded that some other RIFs would plainly be proper. App., *infra*, 101a, 114a, 135a.

As the First Circuit recognized, the preliminary injunction imposes irreparable harm insofar as it requires the government to pay salaries it cannot possibly recoup. App., *infra*, 169a. Beyond that, the injunction forces the government to shoulder the massive administrative undertaking of reinstating large numbers of employees, subject to ongoing judicial supervision, on pain of potential contempt proceedings. Indeed, the district court already scheduled an emergency compliance hearing for this coming Monday, June 9, at 3 p.m. The court ordered that the Department of Education restore nearly 1400 employees to jobs and functions they have not performed in over two months, no matter the upheaval for the Department or the employees themselves—an ironic result given the court's professed solicitude for the efficient discharge of the Department's statutory duties. On the flip side, respondents' attenuated concerns over diminished government services do not establish irreparable harm. This Court issued a stay after the same district court committed similar errors in *Department of Education*, 145 S. Ct. at 968-969, and should do so again here.

STATEMENT

1. Congress created the Department of Education in 1979. See Department of Education Organization Act, Pub. L. No. 96-88, 93 Stat. 668. That legislation established the Department, § 201, 93 Stat. 671, and many entities within it, §§ 203-

214, 93 Stat. 673-677. As of January 20, 2025, the Department had 4133 employees. See Press Release, U.S. Dep't of Educ., *U.S. Department of Education Initiates Reduction in Force* (Mar. 11, 2025), https://perma.cc/7485-CZFU (RIF Press Release).

President Trump campaigned on a proposal to abolish the Department. App., *infra*, 2a & n.1. Once in office, the President signed an executive order reiterating that "[c]losing the Department of Education would provide children and their families the opportunity to escape a system that is failing them." Exec. Order No. 14,242, 90 Fed. Reg. 13,679, 13,679 (Mar. 25, 2025). But the executive order does not order the Department's closure; instead, it directs the Secretary to facilitate closure "to the maximum extent appropriate and permitted by law." *Id.* § 2, 90 Fed. Reg. at 13,679. The government has repeatedly acknowledged—and acknowledges again now—that the Department cannot be closed without an act of Congress.[2] Indeed, on Tuesday, June 3, Secretary McMahon requested a $66.7 billion appropriation from Congress to "preserv[e] key programs" including "full funding" for school districts and children with disabilities. *The President's Fiscal Year 2026 Budget: Hearing Before the Subcomm. on Labor, Health and Human Services, Education, and Related Agencies of the Senate Comm. on Appropriations*, 119th Cong., 1st Sess. 2-3 (2025) (statement of Linda McMahon, Sec'y, U.S. Dep't of Educ.) (McMahon Testimony).

2. The Executive Branch cannot unilaterally close the Department, but it retains significant authority to trim its workforce and its performance of discretion-

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[2] See 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 (Secretary of Education: "[W]e know we'll have to work with Congress" to close Department); 25-cv-10677 D. Ct. Doc. 38, at 13 (Apr. 11, 2025) ("[T]he Department of Education is not closed. And it will not be closing without congressional action."); App., *infra*, 130a (Government counsel: "Our brief comes out and acknowledges that the Department of Education is not closed and it is not closing absent an act of Congress.").

ary functions. To that end, the Administration first terminated a host of discretionary grants to eliminate inefficiency and wasteful spending at the Department. After review, the Department terminated 104 grants as contrary to law or to the Department's policies and priorities. Appl. at 6, *Department of Educ.* v. *California*, 145 S. Ct. 966 (2025) (No. 24A910). The United States District Court for the District of Massachusetts issued a putative temporary restraining order "enjoining the Government from terminating" the grants and "requir[ing] the Government to pay out past-due grant obligations and to continue paying obligations as they accrue." *Department of Educ.*, 145 S. Ct. at 968. This Court stayed that order because the district court likely "lacked jurisdiction to order the payment of money under the APA." *Ibid.*

The Executive Branch can also curb inefficiency and waste through a reduction in force (RIF), whereby agencies can release a large number of employees for myriad reasons, including "lack of work," "shortage of funds," or "reorganization." 5 C.F.R. 351.201(a)(2); see generally 5 U.S.C. 3502. On March 11, 2025, the Department announced a RIF affecting 1378 employees—about a third of its workforce. RIF Press Release.[3] The affected employees were placed on administrative leave on March 21; "all impacted employees will receive full pay and benefits until June 9th." *Ibid.*

The announcement stated that the Department would "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." RIF Press Release. The Department also reiterated to interested parties that the RIF "will not directly impact students and families," that "critical func-

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[3] The press release indicates that the RIF affects "nearly 50% of the Department's workforce," but that figure includes 572 employees who opted for deferred resignation or voluntary separation. RIF Press Release. Respondents are not seeking relief regarding those employees. See, *e.g.*, App., *infra*, 132a.

tions for elementary and secondary education will not be impacted by these cuts," that "funds will continue to flow normally, and program functions will not be disrupted," and that "the Department's critical work supporting individuals with disabilities" will be unaffected. D. Ct. Doc. 71-6, at 2 (Mar. 24, 2025)[4]; see also D. Ct. Doc. 71-7 (Mar. 24, 2025) (similar commitment concerning higher-education functions). The Department thus confirmed that the RIF, like the Department's previous termination of discretionary grants, would exclusively eliminate activities left to agency discretion and that the Department would continue performing its statutorily mandated functions unless and until Congress provides otherwise.

Finally, on March 21, the President indicated at a press conference that he had determined that the Small Business Administration would take over the Department's student-loan portfolio, and that the Department of Health and Human Services would handle special education, nutrition, and related services. App., *infra*, 59a. Neither the district court nor respondents have identified any concrete steps taken by the Department to effectuate any such transfer.

3. As to administrative and judicial review of personnel decisions, the CSRA, enacted in 1978, "established a comprehensive system for reviewing personnel action taken against federal employees." *United States* v. *Fausto*, 484 U.S. 439, 455 (1988). Under the CSRA, most civilian employees can appeal terminations and other major adverse personnel actions to the MSPB. 5 U.S.C. 7512, 7513(d), 7701. Implementing regulations also expressly authorize employees who have been "furloughed for more than 30 days, separated, or demoted by a reduction in force action" to challenge a RIF before the MSPB, where class-wide litigation is possible. 5 C.F.R.

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[4] All docket citations are to *New York* v. *McMahon*, No. 25-cv-10601 (D. Mass.), unless otherwise indicated.

351.901; see 5 C.F.R. 1201.27.

In such proceedings, employees might raise arguments with broader consequences, such as that a RIF exceeds an agency's authority or prevents an agency from carrying out its statutory functions. Cf. *Elgin* v. *Department of the Treasury*, 567 U.S. 1, 12 (2012) (rejecting "an exception to CSRA exclusivity for facial or as-applied constitutional challenges to federal statutes" because "[t]he availability of administrative and judicial review under the CSRA generally turns on the type of civil service employee and adverse employment action at issue"). The CSRA empowers the MSPB to order relief, including reinstatement. 5 U.S.C. 1204(a)(2), 7701(g). Employees aggrieved by final decisions of the MSPB may obtain review in the Federal Circuit. 5 U.S.C. 7703(a)(1) and (b)(1). We are informed that at least two employees affected by the Department's RIF here have already filed individual appeals with the MSPB, and more appeals would presumably follow the employees' separation date.

A separate part of the CSRA, the Federal Service Labor-Management Relations Statute (FSLMRS), governs labor relations between the Executive Branch and its employees and provides another avenue of administrative and judicial review of personnel actions. See 5 U.S.C. 7101-7135; *AFGE* v. *Trump*, 929 F.3d 748, 752 (D.C. Cir. 2019). Under the FSLMRS, unions representing federal employees must bring labor disputes, including complaints of unfair labor practices, before the Federal Labor Relations Authority (FLRA). 5 U.S.C. 7105(a)(2); *AFGE*, 929 F.3d at 755. Review of the FLRA's decisions is available in the courts of appeals. 5 U.S.C. 7123(a).

4. This application involves two consolidated lawsuits: one filed just two days after the Department's RIF announcement by States on behalf of their residents, schools, state universities, state regulators, and others; and one filed about two weeks after the announcement by school districts and unions representing teachers and

other school and university employees. Both sets of respondents are beneficiaries of Department services. They have raised constitutional, ultra vires, and APA claims. App., *infra*, 4a-5a. Each suit rests on respondents' belief that the RIF will render the Department less effective in performing statutory functions on which respondents rely, thereby harming anyone who relies on those functions. For example, the States claim that the RIF "increas[es] the likelihood of delays and other problems in processing FAFSA [Free Application for Federal Student Aid] applications." D. Ct. Doc. 70, at 34 (Mar. 24, 2025). Both suits sought a preliminary injunction blocking the Department from proceeding with the RIF. See *id.* at 40; 25-cv-10677 D. Ct. Doc. 26, at 34 (Apr. 1, 2025); see also App., *infra*, 101a.

On May 22, 2025, almost a month after a hearing on respondents' motions for a preliminary injunction and over two months after the RIF announcement, the district court granted the motions. See App., *infra*, 1a-88a. Notwithstanding the government's concessions that it cannot close the Department without Congress's approval, the court's opinion proceeds from the premise that the case concerns "an attempt by Defendants to shut down the Department without Congressional approval." *Id.* at 2a. As to standing, the court found that respondents have shown that "their harms stem from the Department's inability to effectuate vital statutory functions" because of the RIF. *Id.* at 42a.

The district court rejected the government's contention that the CSRA has divested it of jurisdiction. The court reasoned that respondents "are not federal employees or labor unions who have access to the MSPB or FLRA," and that the CSRA is thus inapplicable. App., *infra*, 43a. The court relied on a district court decision in another challenge to a purported RIF brought by non-employee plaintiffs, *Maryland* v. *USDA*, No. 25-cv-748, 2025 WL 973159 (D. Md. Apr. 1, 2025)—a decision the

Fourth Circuit stayed after concluding that the district court likely lacked jurisdiction, *Maryland* v. *USDA*, No. 25-1248, 2025 WL 1073657, at *1 (Apr. 9, 2025). The district court then concluded that respondents are likely to succeed on the merits because, in the court's view, the RIF was a unilateral effort to close the Department and a unilateral closure would violate the separation of powers, App., *infra*, 46a-50a, be ultra vires, *id.* at 50a-52a, and violate the APA, *id.* at 52a-63a.

The district court concluded that the remaining stay factors favor respondents. The court held that respondents "are likely to suffer irreparable harm in the form of [(1)] financial uncertainty and delay damaging student education, (2) impeded access to vital knowledge upon which students, districts, and educators rely, and (3) loss of essential services provided by the office of Federal Student Aid and the Office for Civil Rights." App., *infra*, 84a. The court decided that the equitable balance favors respondents, given the public interest in following the law and the importance of education. *Id.* at 85a-87a.

The district court thus entered a preliminary injunction enjoining the RIF in toto and enjoining the implementation of further presidential actions as well. Among other things, the court:

- enjoined the government "from carrying out the reduction-in-force announced on March 11, 2025; from implementing President Trump's March 20, 2025 Executive Order; and from carrying out the President's March 21, 2025 Directive to transfer management of federal student loans and special education functions out of the Department," App., *infra*, 88a;
- ordered the government to "reinstate federal employees whose employment was terminated or otherwise eliminated on or after January 20, 2025, as part of the reduction-in-force announced on March 11, 2025 to restore the Depart-

ment to the status quo such that it is able to carry out its statutory functions," *ibid.*; and

- required the government to submit a status report "within 72 hours" and weekly thereafter, "until the Department is restored to the status quo prior to January 20, 2025," *ibid.*

Although the government had requested that the district court stay any injunction pending appeal, see 25-cv-10677 D. Ct. Doc. 38, at 27 (Apr. 11, 2025), the court made its injunction "effective immediately upon entry," App., *infra*, 88a. The court later denied the government's separate stay motion. *Id.* at 142a-144a.

5. On May 23, the government sought a stay pending appeal and an immediate administrative stay from the court of appeals. The court of appeals denied an administrative stay on May 27 and a stay on June 4. App., *infra*, 145a-173a. According to the court, the district court had made "detailed and extensive factual findings" that "the Department was already unable to carry out statutorily assigned functions in consequence of the RIF." *Id.* at 156a. Based on those purported findings, the court of appeals held that respondents had alleged a non-speculative, impending injury as required for Article III standing. *Id.* at 156a-157a.

The court of appeals also rejected the government's arguments that the CSRA deprived the district court of jurisdiction. App., *infra*, 159a-162a. The court "appreciate[d] [the government's] concern that the CSRA may not be bypassed by the mere recharacterization of a challenge to a termination of employment." *Id.* at 160a. But the court was "loath at this juncture of the proceedings" to read the CSRA as barring challenges to "firing [agency] employees en masse." *Id.* at 160a-161a.

On the merits, the court of appeals did not address respondents' constitutional claims, but concluded that the government had not met its burden to show that the

district court's APA ruling was erroneous, relying again on what it described as the district court's "record-based findings about the extent of the RIF" and "the intent * * * to shut down the Department." App., *infra*, 162a-165a.

As to the ordered remedy to reinstate nearly 1400 employees, the court of appeals questioned whether the government preserved its challenge but determined that the district court could properly order reinstatement of Department employees. App., *infra*, 166a-168a. The court of appeals acknowledged "the 'traditional unwillingness of courts of equity to enforce contracts for personal service either at the behest of the employer or of the employee.'" *Id.* at 166a (citation omitted). But in the court's view, courts of equity have the "authority to remedy the effective disabling of a cabinet department of its statutorily assigned functions," even where "that disabling was effectuated through the mass termination of the department's employees." *Id.* at 166a-167a.

Finally, on the equities, the court of appeals recognized the irreparable harm of requiring the government to erroneously pay terminated employees. App., *infra*, 169a. But the court rejected government's other asserted harms and concluded that financial injury alone could not outweigh respondents' asserted harms in the loss of "statutorily mandated services." *Id.* at 168a-171a.

6. On June 5, at 9:41 a.m.—the morning after the court of appeals' decision—respondents moved for an "emergency status conference," asserting that the government's failure to "restore[] * * * the status quo prior to January 20" within nine business days raised questions about the Department's compliance. D. Ct. Doc. 142, at 1-2 (June 5, 2025) (capitalization omitted). The district court granted respondents' motion 19 minutes later and set an emergency hearing for this coming Monday, June 9, at 3 p.m. D. Ct. Docket entries Nos. 143-144 (June 5, 2025).

ARGUMENT

Under Rule 23 of the Rules of this Court and the All Writs Act, 28 U.S.C. 1651, the Court may stay a preliminary injunction entered by a federal district court. See, *e.g.*, *Brewer* v. *Landrigan*, 562 U.S. 996 (2010); *Brunner* v. *Ohio Republican Party*, 555 U.S. 5 (2008) (per curiam). To obtain such relief, an applicant must show a likelihood of success on the merits, a reasonable probability of obtaining certiorari, and a likelihood of irreparable harm. See *Hollingsworth* v. *Perry*, 558 U.S. 183, 190 (2010) (per curiam). In "close cases," "the Court will balance the equities and weigh the relative harms." *Ibid.* Those factors strongly support a stay here.

A. The Government Is Likely To Succeed On The Merits

More than two months after the RIF's announcement, the district court immediately ordered the Department of Education to reverse the RIF, restore the January 20, 2025 status quo, and reinstate nearly 1400 employees to active status. That injunction is legally flawed for multiple reasons. First, respondents—States, school districts, and unions representing teachers and school employees—lack any non-speculative harm to support Article III standing. Respondents hypothesize that downsizing *might* halt the Department's statutory obligations, but the Secretary of Education has determined that it will not. Such speculation cannot show a cognizable injury, let alone causation or redressability. The injunction is jurisdictionally barred for another reason: The CSRA is the exclusive means for challenging federal personnel actions. Finally, the injunction exceeds courts' traditional remedial authority. The court ordered the reinstatement of nearly 1400 employees even though respondents allege adverse effects on only certain departmental services carried out by specific employees and even though reinstatement of public officials is not a remedy traditionally available in equity. Each of these errors independently warrants relief.

1. States, school districts, and teachers' unions lack Article III standing to challenge government downsizing

a. Courts adjudicate cases or controversies, which rest on legally cognizable injuries to specific protected interests, not the public's views about how the government should be run. Under Article III, federal courts "do not exercise general legal oversight of the Legislative and Executive Branches." *TransUnion LLC* v. *Ramirez*, 594 U.S. 413, 423-424 (2021). Instead, a plaintiff must establish an injury that is both "legally and judicially cognizable." *Raines* v. *Byrd*, 521 U.S. 811, 819 (1997). "This requires, among other things, that the plaintiff have suffered 'an invasion of a legally protected interest which is … concrete and particularized,' and that the dispute is 'traditionally thought to be capable of resolution through the judicial process.'" *Ibid.* (citations omitted).

To establish standing, "a plaintiff must demonstrate (i) that she has suffered or likely will suffer an injury in fact, (ii) that the injury likely was caused or will be caused by the defendant, and (iii) that the injury likely would be redressed by the requested judicial relief." *FDA* v. *Alliance for Hippocratic Med.*, 602 U.S. 367, 380 (2024). Only "actual or imminent" injuries count. *Id.* at 381. Allegations that are "too speculative" or merely assert "*possible* future injury" do not suffice. *Clapper* v. *Amnesty Int'l*, 568 U.S. 398, 409 (2013) (citations omitted). Injuries that are "self-inflicted" likewise do not support standing. *Id.* at 418.

b. In granting the preliminary injunction, the district court violated those bedrock principles. First, the court accepted a standing theory rife with speculation. While the court of appeals asserted without citation that the district court made "detailed and extensive factual findings" "that the Department was already unable to carry out statutorily assigned functions in consequence of the RIF," App., *infra*, 156a,

the district court's opinion and the record tell a different story. In 19 places, the district court relied on purported "uncertain[ty]" over the Department's ability to provide funding and carry out its statutory objectives as an Article III injury. *Id.* at 2a, 25a, 27a, 29a-30a, 38a-39a, 64a-66a, 68a, 84a.

For example, the state respondents fear that the RIF would put federal student aid "at risk." D. Ct. Doc. 70, at 34; accord D. Ct. Doc. 71-26 ¶ 34.e (Mar. 24, 2025) (alleging calls from parents concerned about financial aid). They allege that they are "unsure whether the Education Department will be able to provide" next year's student aid "[i]f the Education Department does not have sufficient staff." D. Ct. Doc. 71-18 ¶ 14 (Mar. 24, 2025). Likewise, the school-district respondents worry that students "would suffer learning losses" "if [the district] must cut its summer program" due to "funding uncertainty." 25-cv-10677 Doc. 26, at 27 (Apr. 1, 2025). And they fear "the loss of or delay in funds" to local schools, which would "threaten[] to reduce school staff, increase class sizes, exacerbate teacher shortages, diminish educational opportunities for students, terminate afterschool programs, and erode support services for students with disabilities." App., *infra*, 24a-25a; accord *id.* at 30a-31a. Similarly, the union respondents fear the loss of federal student aid without which union members "would be forced to forgo higher education, default on existing loans, or potentially opt out of careers in public service." *Id.* at 40a-41a, 79a.

In short, the district court accepted as sufficient allegations that respondents "*fear*" harms to "quality education," that they "*may* be unable to plan for" the future, and that they "would be forced to forgo higher education" *if* federal student aid vanished. App., *infra*, 26a, 30a, 40a, 79a (emphases added). Elsewhere, the court expressed the view that, "prior to the RIF, the Department was already struggling to meet its goals," so it would be "only reasonable to expect that a RIF of this magnitude

will likely cripple the Department." *Id.* at 3a.

As a factual matter, those claims are incorrect. The government has been adamant that "the Department of Education is not closed and is not closing absent an act of Congress." App., *infra*, 130a. As the press release announcing the RIF says, the Department "will continue to deliver on all statutory programs that fall under the agency's purview." RIF Press Release. Employees affected by the RIF have been on administrative leave for over two months, and the Secretary just requested $66.7 billion in funding. McMahon Testimony 2. Respondents' speculation that the RIF will cause the Department to suddenly cease operations has no basis in reality.

Further, as a legal matter, uncertainty, fear, mays, and ifs do not create Article III standing. Respondents have not identified any actual losses of federal funds or financial aid. Respondents offer only rank speculation that an agency with over 2000 remaining employees will abruptly halt its statutory functions—contrary to the Administration's repeated representations and the reality on the ground. Respondents thus hypothesize that (1) reduced staffing will impede Department services, (2) those impediments will delay or halt the services respondents use, and (3) the loss or delay of services will cause downstream harms like increased class sizes or loan defaults. That "attenuated chain of possibilities[] does not satisfy the requirement that the threatened injury must be certainly impending." *Clapper*, 568 U.S. at 410

Respondents' failure to demonstrate standing should be unsurprising given the timing of this litigation. While the courts below faulted the government for not putting on its own evidence, App., *infra*, 35a, 155a, 156a n.3, 173a, *plaintiffs* bear the burden to establish standing at the time the suit is filed. *Lujan* v. *Defenders of Wildlife*, 504 U.S. 555, 561, 569 n.4 (1992). Yet the state respondents sued a mere two days after the RIF's announcement, before any affected employee had even begun

administrative leave. D. Ct. Doc. 1 (Mar. 13, 2025). The school-district and union respondents sued less than two weeks later. 25-cv-10677 D. Ct. Doc. 1 (Mar. 24, 2025). The two sets of respondents then filed their preliminary-injunction motions and supporting declarations on March 24 and April 1—a mere 3 and 11 days, respectively, after the first employees began leave. D. Ct. Doc. 69 (Mar. 24, 2025); 25-cv-10677 D. Ct. Doc. 25 (Apr. 1, 2025). While the state respondents later filed supplemental declarations from current and former Department employees, D. Ct. Doc. 102 (Apr. 18, 2025); D. Ct. Doc. 124-1 (May 3, 2025), they notably failed to offer any supplemental evidence of their *own* harm. The district court thus cannot have conceivably or credibly found that the Department has ceased functions on which respondents rely because the record was largely submitted before the effects of the RIF could have even been apparent.

Below, respondents alleged only a handful of actual effects on Department services in the extremely short window between the RIF's announcement and the preliminary-injunction briefing. Those minor effects do not demonstrate an actual, concrete injury. And respondents fail to tie those effects to the RIF or to the sweeping remedy of mass reinstatement, so they also fail to establish causation or redressability. For example, New Jersey officials saw an online notice about "delays in connecting to a live help desk agent" for a tech-support hotline due to "severe staffing restraints," yet they do not allege ever attempting to call that hotline. D. Ct. Doc. 71-29 ¶ 29 (Mar. 24, 2025); see also D. Ct. Doc. 71-26 ¶ 34.b (alleging "significant[] decline[]" in customer service at call center). New York asserted such "challenges" in obtaining funding as having to send requests to a different email address and obtain one Department official's sign-off. D. Ct. Doc. 71-31 ¶ 7 (Mar. 24, 2025). And one public college asserted that the Department took four months to approve a new cam-

pus—although respondents elide that the college applied in early December 2024, during the previous Administration, and the application was approved barely a month after the RIF's announcement. D. Ct. Doc. 71-43 ¶¶ 7-12 (Mar. 24, 2025); D. Ct. Doc. 101, at 6 n.9 (Apr. 18, 2025); see App., *infra*, 71a, 76a-77a (twice highlighting this example); see also D. Ct. Doc. 71-40 ¶ 6 (Mar. 24, 2025) (another college's allegation that the Department failed to approve an application between August 29, 2024—during the prior Administration—and March 17, 2025—before anyone had begun administrative leave).

To the extent those allegations are harms at all, they come nowhere close to establishing that the RIF *caused* a particular delay in services, let alone that those delays will continue going forward, or that reversing the RIF and reinstating nearly 1400 employees would restore services to the level respondents desire. The district court asserted, without citation or analysis, that those "injuries to Plaintiff States and School Districts would not have occurred in the absence of the RIF." App., *infra*, 40a. But respondents have not attempted to show, for example, that the delay in approving the college's new campus was caused by the RIF or that reinstating any particular employee would speed up processing times. If anything, the speedy approval of a new campus after the RIF refutes the alleged harms and demonstrates respondent's inability to establish causation or redressability.

The court of appeals "highlight[ed]" the district court's findings about the Department's Institute for Education Services and Office of Federal Student Aid as its purported best examples of actual impacts. App., *infra*, 155a n.2. Those findings are equally speculative. As for the Institute for Education Services, the Department's research and statistics division, the district court cited declarations by three John Doe declarants who claim to work at the Department. *Id.* at 70a. Those declarants

asserted their "belie[f]" that the remaining staff could not carry out their "statutory obligations," D. Ct. Doc. 71-64 ¶ 13 (Mar. 24, 2025), and that cuts would have a "major impact" on data collection, D. Ct. Doc. 102-10 ¶ 10 (Apr. 18, 2025). But the Institute's statutory obligation is simply to "conduct and support scientifically valid research activities" and promote and disseminate that research. 20 U.S.C. 9512. Respondents are not entitled to any particular level of research or data, so respondents cannot possibly have an Article III injury from any hypothetical reduction in the Department's research output. Regardless, as the Secretary recently confirmed, the Institute continues to operate as "a more effective and efficient research organization." McMahon Testimony 3.

As for the Office of Federal Student Aid, the district court again relied on speculation. While the court sweepingly stated that "[t]he RIF has resulted in the practical elimination of most, if not all, essential offices within the [Office]," the court's actual analysis was far more limited. App., *infra*, 74a.[5] The court relied heavily on cuts to the Vendor Oversight Group, a group that conducts "oversight and compliance" to ensure that loan servicers are not overbilling the federal government. *Id.* at 74a-75a; accord *id.* at 76a (discussing another group's work to "safeguard[] taxpayer funds"). But respondents plainly lack standing to prevent overbilling to the federal government. And, in any event, the cited John Doe declaration describes that group as merely a "second line of defense" and documents the impacts of other Administration policies—such as those involving telework and diversity, equity, and inclusion—that have nothing to do with the RIF. D. Ct. Doc. 102-8 ¶¶ 14, 38-42 (Apr. 18, 2025).

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[5] The court of appeals stated that the district court "found that 'the entire team that supervises [the Free Application for Federal Student Aid (FAFSA)] was eliminated,' such that 'the administration of FAFSA applications will be disrupted.'" App., *infra*, 155a n.2 (quoting *id.* at 24a, 27a). That is incorrect. The quoted passages summarize the complaints' allegations, not the district court's findings.

The court also invoked (App., *infra*, 76a) a John Doe declaration from a terminated Department employee who asserted that his division, which offers back-end technology support for some Department products, could not "fulfill its duties following such vast cuts," although he admittedly did "not know how many employees in the division remain" and did not explain why other information-technology divisions could not perform the same functions. D. Ct. Doc. 71-61 ¶¶ 12-13 (Mar. 24, 2025). That paper-thin speculation that the RIF *might* harm services which respondents utilize does not establish a concrete, actual or imminent injury.

This Court rejected on standing grounds a similar effort by end-users of government services to challenge federal terminations in *OPM* v. *AFGE*, No. 24A904, 2025 WL 1035208, at *1 (Apr. 8, 2025), and it should do the same here. The court of appeals distinguished the terminations in *OPM* as involving only probationary employees and not seeking to "dismantle" the agency. App., *infra*, 158a (citation omitted). But the basic standing flaw is the same: Users of government services can only speculate that terminating specific employees will harm the services they use and that reinstatement will cure those asserted harms.

c. Respondents face yet further hurdles on redressability. Respondents have disclaimed any relief that would "prevent the agency from terminating employees lawfully in the future" even via "further RIFs"; they just dislike this RIF specifically because, in their view, it prevents the Department from meeting its "statutory mandates." App., *infra*, 101a, 114a; accord *id.* at 135a. In other words, respondents would apparently have no objection if the Department shuttered every discretionary function tomorrow and dismissed every employee who carries out those functions. That concession should doom respondents' standing on redressability grounds since respondents have no statutory right to any particular level of government services.

For example, union respondents allege that they use the Department's guidance documents when advising members. *Id.* at 33a. But the Department has no obligation to publish specific guidance. Likewise, state respondents have no statutory entitlement to prompt Department approval of new campuses. Even with all its previous employees, the Department might decide that a particular application warrants extended review or should be denied. Respondents' asserted harms are simply untethered from a requirement that the Department must retain nearly 1400 employees whom the Secretary considers unnecessary.

Adding to the mismatch, the district court granted respondents' request for sweeping relief against the President's executive order directing the Secretary to "facilitate the closure of the Department" "to the maximum extent appropriate and permitted by law" "while ensuring the effective and uninterrupted delivery of services, programs, and benefits." App., *infra*, 88a; Exec. Order No. 14,242, § 2(a), 90 Fed. Reg. 13,679, 13,679 (Mar. 20, 2025). And the court enjoined the government from "carrying out" the President's proposal to transfer certain functions to other agencies. App., *infra*, 88a. But those actions plainly do not harm respondents. Respondents decry the disruption of services, not their "uninterrupted delivery." Exec. Order No. 14,242, § 2(a), 90 Fed. Reg. at 13,679. And respondents can offer no more than speculation that other agencies would not provide the same services just as effectively.

At a minimum, the handful of allegations that specific respondents suffered some delay or disruption in a specific service cannot justify sweeping relief increasing the Department's workforce by 60%. That injunction restores employees whose departure has no conceivable link to respondents' asserted injuries and who have no connection to redressing their asserted harms. For example, state respondents highlight allegations that the Department's Performance Improvement Office will cease

operations. States' C.A. Stay Opp. 7-8 (discussing D. Ct. Doc. 124-1). But respondents do not even allege that they depend upon or use that office, which advises the Department on long-term strategic planning and internal quality improvement. See 31 U.S.C. 1124(a)(2). Yet the injunction would require the restoration of all of those employees, even though they have nothing to do with respondents. Likewise, the injunction would require the Department to reopen an office in Dallas, whose functions were transferred to Kansas City. See App., *infra*, 79a. But respondents do not allege that they used the Dallas office, which served Texas, Louisiana, and Mississippi—States that all signed an amicus brief *supporting* the RIF. D. Ct. Doc. 97-1 (Apr. 14, 2025). Article III does not permit end users of government services to leverage alleged delays in particular services into mass reinstatement by judicial fiat.

d. The district court compounded its error by relying on multiple theories of harm that are not cognizable under this Court's precedents. Take the district court's reliance on allegations that the RIF may "impede[] access to vital knowledge." App., *infra*, 84a. Among other allegations, a school district claimed to need "training and information" from the Department to address "racial bias" with "compassion and empathy." 25-cv-10677 D. Ct. Doc. 27-9 ¶¶ 31-33 (Apr. 1, 2025). A professor who belongs to a respondent union alleged that he looks at Department data during his research. 25-cv-10677 D. Ct. Doc. 27-14 ¶ 11 (Apr. 1, 2025). And another union alleged that it reviews Department guidance documents when advising members. 25-cv-10677 D. Ct. Doc. 27-12 ¶ 27 (Apr. 1, 2025).

Those amorphous claims of informational injury do not support Article III standing. This Court has accepted an informational-injury theory only where "public-disclosure or sunshine laws * * * entitle[d] all members of the public to certain information." *TransUnion*, 594 U.S. at 441; accord *Alliance*, 602 U.S. at 395-396 (re-

jecting informational-injury theory where plaintiffs did "not suggest[] that federal law require[d]" dissemination). This Court has never held that every member of the public who appreciates or uses some government data source, website, or other publication has Article III standing to challenge the removal or modification of that publication. Otherwise, every mine-run government website update, change in data practices, or discontinuation of outdated print editions could support a federal suit. And respondents' claims of informational injury suffer from the same failure to show causation and redressability as respondents' other alleged injuries—they make no plausible showing that the reduction in force rendered such information unavailable, or that reinstating those employees will make it more readily available again.

The district court also allowed the state respondents to assert the rights of their citizens—a clear violation of the rule that "States do not have 'standing as *parens patriae* to bring an action against the Federal Government.'" *Murthy* v. *Missouri*, 603 U.S. 43, 76 (2024) (quoting *Haaland* v. *Brackeen*, 599 U.S. 255, 295 (2023)). For example, the "States fear that equal access to quality education may be restricted within their [S]tates." App., *infra*, 26a. And they worry that higher education could "become more expensive for students in Plaintiff States." *Ibid.* But if those speculative harms existed at all, they would be borne by *students*, not States. Yet the district court ignored that jurisdictional defect.

The district court also accepted the theory that supposed uncertainty over the Department's operations will "hinder long term planning" for school districts. App., *infra*, 84a. But such uncertainty, to the extent it exists, is equally attributable to the ongoing debate over whether Congress should close the Department—an action that has not been taken and is not ripe for judicial review. On top of that, school districts' response to that uncertainty is an entirely "self-inflicted" injury and thus not cogniza-

ble. *Clapper*, 568 U.S. at 418. One school district, for example, alleges that it may cancel summer school because of "doubts about the availability of federal funds." 25-cv-10677 D. Ct. Doc. 27-7 ¶ 48 (Apr. 1, 2025). But the Department has not threatened to cut off funding or directed the district to cancel summer school; that is a choice the district is considering based on its fear of some hypothetical future federal action. "[R]espondents cannot manufacture standing merely by inflicting harm on themselves based on their fears of hypothetical future harm that is not certainly impending"—even were those fears "reasonable." *Clapper*, 568 U.S. at 416.

Similarly, the district court accepted the state respondents' claim that they must "fill the gap" due to perceived federal underenforcement of civil-rights laws. App., *infra*, 80a. But States cannot sue the federal government simply because they would prefer more robust enforcement of federal laws. Cf. *United States* v. *Texas*, 599 U.S. 670, 674 (2023). And States likewise cannot "manufacture standing" by choosing to take on more law enforcement for themselves. See *Clapper*, 568 U.S. at 416. Otherwise, some State could always assert standing to challenge virtually every shift in federal enforcement priorities. Across the board, the kinds of injuries that respondents assert are not ones "traditionally thought to be capable of resolution through the judicial process." *Texas*, 599 U.S. at 676 (citation omitted).

2. The district court lacked subject-matter jurisdiction to assess the legality of government personnel actions

Separately, the government is likely to succeed on the merits because the district court lacked jurisdiction to assess the legality of the Department's RIF or to summarily command the reinstatement of nearly 1400 employees based on its determination that the "mass terminations" were unlawful. See, *e.g.*, App., *infra*, 49a. That assertion of jurisdiction is especially remarkable because the district court

acknowledged that, for "a more limited RIF, the appropriate challenge would have been brought by aggrieved agency personnel before the [MSPB]," or, by unions, before the FLRA. *Id.* at 42a. The court of appeals, too, acknowledged the "concern that the CSRA may not be bypassed by the mere recharacterization of a challenge to a termination of employment," yet asserted that Congress did not intend to foreclose challenges to "firing [agency] employees en masse." *Id.* at 160a-161a. But courts cannot evade the CSRA and order reinstatement en masse by recasting a suit against larger-scale terminations as instead challenging "the impact that those terminations have" on an agency. *Id.* at 43a; see *id.* at 160a-161a. The CSRA's comprehensive, exclusive review scheme does not recede when the number of terminations reaches an undefined tipping point that a court identifies as affecting particular functions. Nor can outsiders to the CSRA system—like States and other non-employees—hijack that process by bringing federal-district-court suits that target the consequences of employees' terminations and insist on their reinstatement.

a. Congress has "'established a comprehensive system for reviewing personnel action[s] taken against federal employees'" that provides the "exclusive means" for that review. *Elgin* v. *Department of the Treasury*, 567 U.S. 1, 5, 8 (2012) (citation omitted). The CSRA, which includes the FSLMRS for federal labor-management relations, 5 U.S.C. 7101-7135, sets out an "integrated scheme of administrative and judicial review" for challenges to personnel actions taken against members of the civil service. *United States* v. *Fausto*, 484 U.S. 439, 445 (1988). That scheme permits some, but not all challenges; it channels those challenges to agencies; and it grants exclusive jurisdiction over MSPB appeals to the Federal Circuit. See *Elgin*, 567 U.S. at 5-6 & n.1; 5 U.S.C. 7703(b)(1); see also 5 U.S.C. 7105(a)(2), 7123(a).

Here, the employees themselves have not sued. Instead, States, school dis-

tricts, and teachers' unions have challenged federal employees' terminations by objecting to the projected consequences of the employees' absence and demanding reinstatement. If tangentially affected parties could challenge the legality of personnel actions and obtain reinstatement of terminated employees without the constraints that apply to the aggrieved employees and the unions that represent them, that would turn the structure of the CSRA "upside down." *Fausto*, 484 U.S. at 449. Beneficiaries of government services—who are, at most, indirectly affected by a termination—should not be able to leapfrog the employees whom the legislative scheme seeks to protect and potentially coopt the remedies that those employees may or may not seek in CSRA proceedings. Indeed, we are informed that at least two employees affected by the RIF have already filed individual appeals with the MSPB; absent the injunction, more appeals would presumably follow the June 9 termination date. Allowing separate litigation by collaterally affected parties would "seriously undermine[]" "[t]he CSRA's objective of creating an integrated scheme of review," *Elgin*, 567 U.S. at 14, and harm "the development * * * of a unitary and consistent Executive Branch position on matters involving personnel action," *Fausto*, 484 U.S. at 449.

b. The district court acknowledged that, "had the Department eliminated only a single program office or conducted a more limited RIF," the CSRA would foreclose respondents' claims. App., *infra*, 42a. But the court viewed "the magnitude and the proportion of the mass terminations" as differentiating respondents' challenge. *Ibid.* The court of appeals likewise brushed aside CSRA case law as not applying where "mass terminations [a]re *explicitly* implemented to shut down [an agency]." *Id.* at 160a (citation omitted; brackets in original). But the CSRA contains no statutory exception based on the number of employees affected or the purported effect of terminations. Hence, courts have upheld the CSRA's exclusivity against "collateral, sys-

temwide challenge," explaining that "what you get under the CSRA is what you get." *Fornaro* v. *James*, 416 F.3d 63, 67 (D.C. Cir. 2005) (Roberts, J.). The district court's remedy makes clear that this is a personnel dispute: The court ordered the "reinstate[ment]" of "federal employees whose employment was terminated or otherwise eliminated." App., *infra*, 88a.

The district court also determined that respondents' suit should proceed because they "are not federal employees or labor unions who have access to the MSPB or FLRA under the CSRA." App., *infra*, 43a. But that gets things backwards. The "exclusion" of respondents—who are States, school districts, and teachers' unions—"from the provisions establishing administrative and judicial review for personnel action" of the type challenged here "*prevents* [them] from seeking review" under other provisions. *Fausto*, 484 U.S. at 455 (emphasis added); see, *e.g.*, *Block* v. *Community Nutrition Inst.*, 467 U.S. 340, 347 (1984) (recognizing that where a statute omitted a "provision for participation" by dairy consumers, but allowed participation by dairy producers and handlers, "Congress intended to foreclose consumer participation in the regulatory process" and "intended a similar restriction of judicial review"); *Grosdidier* v. *Chairman*, 560 F.3d 495, 497 (D.C. Cir.) (Kavanaugh, J.) ("[T]he CSRA is the exclusive avenue for suit even if the plaintiff cannot prevail in a claim under the CSRA."), cert. denied, 558 U.S. 989 (2009). Respondents' exclusion from the CSRA reflects Congress's considered judgment about the limitations of who should be permitted to challenge a personnel decision, not a green light to sue in federal district courts and jump ahead of the employees' own litigation.

The district court further suggested that respondents' claims are not precluded because they suffer harms "distinct" from those typically covered by the CSRA. App., *infra*, 44a (citation omitted). But respondents' core argument is that the govern-

ment's personnel action was unlawful, and they persuaded a district court to reverse the RIF via a preliminary injunction that compels the Department to reinstate nearly 1400 people. Reinstatement and other means of undoing personnel actions are exactly the relief that federal employees can seek through the CSRA. Respondents' claims, like those in *Elgin*, are simply "the vehicle by which [respondents] seek to reverse the removal decisions." 567 U.S. at 22 (constitutional claims fall within the CSRA scheme).

The court of appeals ignored this Court's decision in *Elgin*, and dismissed *Fausto* in a footnote string cite. See App., *infra*, 160a n.4. The court instead invoked *Axon Enterprise, Inc.* v. *FTC*, 598 U.S. 175 (2023), as endorsing broad federal-court jurisdiction. App., *infra*, 161a; see also States' C.A. Br. 17; Somerville C.A. Br. 17. But *Axon* cuts the other way here. In *Axon*, the challenges were "to the structure or very existence of an agency"—*i.e.*, that "an agency is wielding authority unconstitutionally." 598 U.S. at 189. *Axon* explicitly distinguished the challenges there from *Elgin* and a "specific substantive decision" like "firing an employee." *Ibid.* And *Axon* reaffirmed that a challenge to a termination is "precisely the type of personnel action [that is] regularly adjudicated by the MSPB." *Id.* at 187 (citation omitted).

If the lower courts' view of the CSRA prevailed, downstream users of government services could always challenge RIFs in federal district court—thereby circumventing the CSRA's highly specific requirements that the employees themselves must first pursue administrative relief. School districts, teachers' unions, and many others could challenge the Department's RIF in every judicial district, requiring the government to run the table or risk an injunction. Indeed, the district court below issued its injunction the day after the United States District Court for the District of Columbia refused to issue a preliminary injunction against part of the same RIF. *Carter* v.

United States Dep't of Educ., No. 25-744, 2025 WL 1453562, at *1 (May 21, 2025). Yet the district court's injunction here rendered that ruling meaningless.

This Court's intervention is essential to halt such perverse results and the one-way litigation ratchet. Numerous courts in recent months and years have concluded that similar federal-employment suits are precluded. See, *e.g.*, *AFGE* v. *Trump*, 929 F.3d 748, 753, 761 (D.C. Cir. 2019) (challenge to three executive orders governing collective bargaining and grievance processes); *American Foreign Serv. Ass'n* v. *Trump*, No. 25-cv-352, 2025 WL 573762, at *8-*11 (D.D.C. Feb. 21, 2025) (challenge to employees' placement on administrative leave); *National Treasury Emps. Union* v. *Trump*, No. 25-cv-420, 2025 WL 561080, at *5-*8 (D.D.C. Feb. 20, 2025) (challenge to terminations of probationary employees, anticipated RIFs, and deferred-resignation program); *AFGE* v. *Ezell*, No. 25-10276, 2025 WL 470459, at *1-*3 (D. Mass. Feb. 12, 2025) (challenge to deferred-resignation program); see also *Maryland* v. *USDA*, No. 25-1338, 2025 WL 1073657, at *1 (4th Cir. Apr. 9, 2025) ("The Government is likely to succeed in showing the district court lacked jurisdiction over Plaintiffs' claims" challenging the "terminat[ion] [of] thousands of probationary federal employees"); but see *AFGE* v. *OPM*, No. 25-1780, 2025 WL 900057, at *1 (N.D. Cal. Mar. 24, 2025) (asserting jurisdiction over challenge to probationary-employee terminations). Respondents' suit is likewise precluded. This Court should not allow federal district courts to circumvent the comprehensive scheme that Congress has dictated for challenges to employee terminations and RIFs.

3. Ordering the government to reinstate nearly 1400 employees was an unlawful remedy

Finally, the government is independently likely to prevail because the district court vastly exceeded its remedial authority by ordering the reinstatement to active

status of nearly 1400 employees. Reinstatement is not an available remedy under the APA because it exceeds courts' historical authority in equity. Even where reinstatement is a permissible remedy, this Court has recognized that it requires an elevated showing. Respondents' threadbare allegations come nowhere close.[6]

a. Respondents brought putative APA challenges to the RIF (in addition to constitutional and ultra vires claims), but APA Section 705 "was primarily intended to reflect existing law * * * and not to fashion new rules of intervention for District Courts." *Sampson* v. *Murray*, 415 U.S. 61, 69 n.15 (1974) (citation omitted). The APA thus authorizes a court to grant injunctive relief subject to traditional equitable limitations. See 5 U.S.C. 702(1). Absent express statutory authority, a federal court may grant only those equitable remedies that were "traditionally accorded by courts of equity." *Grupo Mexicano de Desarrollo, S.A.* v. *Alliance Bond Fund, Inc.*, 527 U.S. 308, 319 (1999).

Reinstatement was not a traditionally available remedy at equity. See *Sampson*, 415 U.S. at 83. To the contrary, courts of equity lacked "the power * * * to restrain by injunction the removal of a [public] officer." *In re Sawyer*, 124 U.S. 200, 212 (1888); see, *e.g.*, *Baker* v. *Carr*, 369 U.S. 186, 231 (1962) (decisions that "held that federal equity power could not be exercised to enjoin a state proceeding to remove a public officer" or that "withheld federal equity from staying removal of a *federal* officer" reflect "a traditional limit upon equity jurisdiction"); *Walton* v. *House of Representatives*, 265 U.S. 487, 490 (1924) ("A court of equity has no jurisdiction over the appointment and removal of public officers."); *Harkrader* v. *Wadley*, 172 U.S. 148, 165

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[6] The court of appeals questioned whether the government preserved its objection to the district court's remedy, App., *infra*, 166a, but the court of appeals "passed upon" the issue, making this Court's review manifestly proper, *United States* v. *Williams*, 504 U.S. 36, 41 (1992).

(1898) ("[T]o sustain a bill in equity to restrain * * * the removal of public officers, is to invade the domain of the courts of common law, or of the executive and administrative department of the [g]overnment."); *White* v. *Berry*, 171 U.S. 366, 377 (1898) ("[A] court of equity will not, by injunction, restrain an executive officer from making a wrongful removal of a subordinate appointee, nor restrain the appointment of another." (citation omitted)).

The creation of new remedies is "a legislative endeavor," *Egbert* v. *Boule*, 596 U.S. 482, 491 (2022), and courts of equity lack "the power to create remedies previously unknown to equity jurisprudence," *Grupo Mexicano*, 527 U.S. at 332. Accordingly, where Congress departs from equitable tradition, it does so expressly. In the CSRA, Congress authorized the MSPB to award "reinstatement," as well as "backpay" to prevailing employees, and it has authorized review of the MSPB's decisions in the Federal Circuit. *Elgin*, 567 U.S. at 6 (citing 5 U.S.C. 1204(a)(2), 7701(g), and 7703(b)(1)); see, *e.g.*, 42 U.S.C. 2000e-5(g) (empowering courts to grant "reinstatement" as well as "back pay" as remedies for employment discrimination). But respondents are not entitled to bring claims under the CSRA, nor did they follow CSRA-required procedures. More broadly, no statute authorizes courts to reinstate public employees in order to improve government services to third parties. The district court lacked the power to grant the reinstatement remedy here.

Even where Congress has authorized reinstatement, this Court has recognized that a grant of preliminary-injunctive relief in government personnel cases requires an elevated showing. *Sampson*, 415 U.S. at 84. The Court emphasized the historical denial of a reinstatement power to courts of equity, citing "the well-established rule that the Government has traditionally been granted the widest latitude in the dispatch of its own internal affairs, and the traditional unwillingness of courts of equity

to enforce contracts for personal service," and instructing that a plaintiff in a "Government personnel case[]" must "at the very least * * * make a showing of irreparable injury sufficient in kind and degree to override these factors cutting against the general availability of preliminary injunctions." *Id.* at 83-84 (citation and internal quotation marks omitted). The district court disregarded those principles by ordering the Executive to "reinstate" nearly 1400 employees to redress speculative potential harms to entities other than the employees themselves. App., *infra*, 88a. Even if those harms met the bare minimum required for Article III (and for the reasons already explained, they do not), they could not provide the basis for reinstating nearly 1400 employees that the Executive has chosen to dismiss.

b. In the court of appeals' view, reinstatement is an available remedy because this case implicates the "authority to remedy the effective disabling of a cabinet department of its statutorily assigned functions." App., *infra*, 166a-167a. But there is no large-numbers exception whereby federal courts attain new equitable powers when enough federal employees are affected. The court acknowledged that respondents challenge the "mass termination" that purportedly caused the disabling of the Department. *Id.* at 167a. It would be perverse for courts to lack equitable authority to order one reinstatement but retain equitable authority to order nearly 1400.

The district court's sweeping order was particularly unjustified considering the mismatch between the remedy and the harms alleged. Respondents' central claim is that "the massive reduction in staff has made it effectively impossible for the Department to carry out its statutorily mandated functions." App., *infra*, 2a. But the court did not even try to tailor its reinstatement order to restore any particular function or functions upon which respondents allege they rely, let alone confirm that all those functions are statutorily mandated and not discretionary. Instead, the court ordered

the blanket reinstatement of nearly 1400 employees whom the Department has determined are unnecessary, without regard to those particular employees' roles and responsibilities or to how they relate to the harms that respondents allege.

Regardless, had the Department failed to carry out its mandatory functions, the proper recourse would be to challenge particular failures. Any claim that the Department has failed to take a discrete, mandatory agency action to which respondents believe they are legally entitled must be brought under the APA's provision authorizing suits to "compel agency action unlawfully withheld or unreasonably delayed." 5 U.S.C. 706(1); see *Carter*, 2025 WL 1453562, at *8. Or, should the Department fail to disburse funds that respondents believe the Department is obligated to pay, respondents could pursue remedies in the Court of Federal Claims under the Tucker Act, 28 U.S.C. 1491. See *Department of Educ.* v. *California*, 145 S. Ct. 966, 968 (2025) (per curiam). Respondents may not evade the limits on such actions by seeking mass reinstatement instead.[7]

B. The Other Factors Support Relief From The District Court's Order

In deciding whether to grant emergency relief, this Court also considers whether the underlying issues warrant its review, whether the applicant likely faces irreparable harm, and, in close cases, the balance of the equities. See *Hollingsworth*, 558 U.S. at 190. Those factors overwhelmingly support relief here.

1. The issues raised by this case warrant this Court's review

The district court's order directs applicants to reinstate nearly 1400 employees and "restore[]" the Department "to the status quo prior to January 20, 2025," at least

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[7] The district court compounded its errors by concluding that the RIF was likely unconstitutional, ultra vires, and in violation of the APA. App., *infra* 46a-63a. Although the Court need not address those issues at this stage, the district court's reasoning was incorrect. See Gov't C.A. Stay Mot. 16-19.

insofar as necessary "to carry out its statutory functions." App., *infra*, 88a. In other words, the district court ordered the current Administration to restore the previous Administration's discretionary choices about how, and with how many employees, the Department should carry out its statutory duties.

This Court has repeatedly intervened to block lower courts' attempts to direct the functioning of the Executive Branch, including to stay three preliminary injunctions dictating federal personnel actions in just the last two months. See, *e.g.*, *Trump* v. *Wilcox*, No. 24A966, 2025 WL 1464804, at *1 (May 22, 2025) (stay of order reinstating two terminated executive-branch officials); *United States* v. *Shilling*, No. 24A1030, 2025 WL 1300282, at *1 (May 6, 2025) (stay of order enjoining military personnel policy); *OPM*, 2025 WL 1035208, at *1 (stay of order reinstating thousands of federal employees); see also *Heckler* v. *Lopez*, 463 U.S. 1328, 1329 (1983) (Rehnquist, J., in chambers) (stay of order requiring Secretary of Health and Human Services "immediately to reinstate benefits to the applicants"); *INS* v. *Legalization Assistance Project*, 510 U.S. 1301, 1305-1306 (1993) (O'Connor, J., in chambers) (stay of order mandating certain immigration procedures, as "an improper intrusion by a federal court into the workings of a coordinate branch of the Government").

And, as noted, this Court also stayed an order that blocked the Department of Education's discretionary decision to terminate grants. *Department of Educ.*, 145 S. Ct. at 968-969. The renewed intrusion into the Department's discretionary decisions about how to manage its own operations similarly warrants review.

2. The district court's injunction causes irreparable harm to the Executive Branch

As the First Circuit held, the injunction irreparably harms the government by obligating it to continue paying terminated employees, particularly because the dis-

trict court refused to order the mandatory bond. App., *infra*, 169a; see *id.* at 87a; Fed. R. Civ. P. 65(c). That conclusion was correct: This Court recently stayed a similar order mandating the reinstatement of thousands of terminated federal employees. *OPM*, 2025 WL 1035208, at *1. And this Court stayed an injunction requiring the Department to pay unrecoverable funds. *Department of Educ.*, 145 S. Ct. at 968-969. Here too, requiring the government to continue paying nearly 1400 employees that the Executive has determined are unnecessary constitutes clear irreparable harm.

The irreparable harms extend well beyond that unrecoverable fiscal burden. This Court has recognized that "the Government has traditionally been granted the widest latitude in the 'dispatch of its own internal affairs.'" *Sampson*, 415 U.S. at 83 (citation omitted). And the Court has expressed concern about the intrusion inflicted by a court order directing the reinstatement of a single government employee. See *id.* at 91-92. An order directing reinstatement of nearly 1400 employees—growing an agency's headcount 60% above the level that politically accountable leaders have deemed appropriate—is intolerable.

Already, the injunction has imposed "complex and costly challenges" on the Department, as it seeks to suddenly "'re-onboard[]'" nearly 1400 workers. D. Ct. Doc. 139-1 ¶ 10 (June 3, 2025). Before the preliminary injunction—which, again, the district court did not issue for two months following the RIF announcement—the Department had shuttered two of its three buildings in Washington, D.C., moving employees to the main office and cancelling contracts for shuttle-bus service and parking. *Id.* ¶ 7. The Department had modified workflows and begun renegotiating contracts to account for those shifts. *Id.* ¶¶ 8, 10. Employees were in the process of mailing computers and phones back to the Department. *Id.* ¶ 6. The injunction suddenly reverses all of those processes, compelling the Department to turn on a dime to

seek more physical office space, reorganize teams, and work to restore information-technology access. *Id.* ¶ 10.

Exacerbating those burdens, the district court ordered employees to be returned in a manner that "restore[s] * * * the status quo prior to January 20, 2025," at least such that the Department "is able to carry out its statutory functions." App., *infra*, 88a. Beyond reinstatement, the injunction thus may require the Department to give employees the same assignments they had before Inauguration Day, regardless of unrelated changes to their duties and the inevitable shift in priorities that comes with a new Administration. Adding to the chaos, the Department must operate in the shadow of serious uncertainty over the legality of the district court's order, including its potential reversal. And the Department was ordered to report on its progress within 72 hours of the injunction. *Ibid.* Worse, the district court mandated weekly progress reports "until the Department is restored to the status quo prior to January 20, 2025," apparently to flyspeck job assignments and operations. *Ibid.* Indeed, while the court of appeals found that the injunction imposed no "special timeline" that might prove "unreasonably short or excessively burdensome," *id.* at 169a n.5, the district court promptly granted respondents' request for an emergency status conference about whether the Department's failure to reinstate all employees within nine business days constitutes noncompliance. D. Ct. Docket entries 143-144 (June 5, 2025). Each day this preliminary injunction remains in effect subjects the Executive Branch to judicial micromanagement of its day-to-day operations.

3. The balance of the equities strongly favors the government

The balance of the equities also strongly supports a stay. The crux of the district court's irreparable-harm finding was the possibility that the RIF could produce "financial uncertainty and delay" for respondents and lead to the loss of services pro-

vided by specifical departmental components. App., *infra*, 84a. Even if those speculative injuries sufficed for Article III purposes (which they do not), they cannot outweigh the government's constitutional authority to manage its internal affairs.

That is particularly so because reinstatement, while extraordinarily burdensome for the government, has at best an attenuated impact on any specific services on which respondents allegedly rely. As the court of appeals recognized, restoration of any services that were in fact affected by the RIF would rely on the independent judgment of employees (who are not parties in this suit) to accept reinstatement to active status. App., *infra*, 171a.

As for the feared losses of funding, App., *infra*, 64a-68a—which, again, respondents have not actually identified—respondents' claims are decidedly monetary. Should the Department fail to pay money to which respondents claim they are entitled, they are free to take up such contractual disputes in the proper forum, the Court of Federal Claims. See p. 34, *supra*; *Department of Educ.*, 145 S. Ct. at 969. An injunction is therefore unnecessary to prevent any irreparable harm.

The court of appeals collapsed the public-interest factor with the merits, asserting that "there is generally no public interest in the perpetuation of unlawful agency action." App., *infra*, 171a (quoting *League of Women Voters of the U.S.* v. *Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016)). But, as detailed below, Gov't C.A. Stay Mot. 16-19, the RIF is entirely lawful and, in any event, not properly challenged here.

For its part, the district court's assessment of the public interest rested on its view that the Department plays "a crucial role in education" that "cannot be understated." App., *infra*, 1a. That statement confirms that the district court strayed from its lane to adjudicate a policy disagreement with the President, who views many of the Department's functions as better and more efficiently performed by the States—

consistent with the States' traditional authority over education.

Compounding the impression of policymaking, the district court portrayed the public interest as favoring an injunction given the need for "an educated citizenry [that] provides the foundation for our democracy," App., *infra*, 86a, and quoted an amicus brief by Democratic members of Congress baselessly accusing "the Trump administration" of trying to "short-circuit[]" Congress's response to *Brown* v. *Board of Education*, 347 U.S. 483 (1954), App., *infra*, 86a-87a (quoting D. Ct. Doc. 110, at 9 (Apr. 23, 2025)). That policy-driven view led the district court to inflate respondents' purported harms and downplay the Executive Branch's paramount interest in managing its internal affairs. Streamlining a federal agency well known for its inefficiency is hardly an assault on *Brown* or an attack on democracy. Respondents' asserted harms from diminished government services cannot outweigh the public's and the government's strong interest in operating the Executive Branch in line with the President's priorities.

C. This Court Should Issue An Administrative Stay

The Solicitor General respectfully requests that this Court grant an administrative stay while it considers this application. The district court waited more than two months to enjoin the RIF. Yet the preliminary injunction took immediate effect, directing the government to reinstate every Department of Education employee terminated after January 20, 2025 under the RIF, "restore the Department to the status quo," and provide the district court with weekly progress reports. App., *infra*, 88a. Respondents and the district court have already signaled their intent to micromanage the Department's functions, with an emergency status conference set for this coming Monday, June 9, at 3 p.m.—an exigency that confirms the need for an administrative stay. Requiring the Department to reinstate employees who have not performed their

duties for two months, who may have already taken other jobs, and who could be re-fired if the Court later grants a stay risks needless chaos and confusion for all involved and injects the district court into core executive-branch personnel matters. An administrative stay—restoring staffing levels that existed for two months while this lawsuit proceeded and avoiding potentially gratuitous and protracted compliance proceedings—is warranted while the Court assesses this application.

CONCLUSION

This Court should stay the district court's preliminary injunction. In addition, the Solicitor General respectfully requests an immediate administrative stay of the district court's order pending the Court's consideration of this application.

Respectfully submitted.

D. JOHN SAUER
Solicitor General

JUNE 2025

APPENDIX

UNITED STATES DISTRICT COURT
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

MEMORANDUM AND ORDER ON CONSOLIDATED PLAINTIFFS' MOTIONS FOR PRELIMINARY INJUNCTION

May 22, 2025

JOUN, D.J.

For over 150 years, the federal government has played a crucial role in education. Congress created the Department of Education (the "Department") in 1979 to streamline federal support of education into a single, Cabinet-level department. The Department's role in education across the nation cannot be understated: it administers the federal student loan portfolio, provides research and technological assistance to states and their educational institutions, disburses federal

education funds, and monitors and enforces compliance with numerous federal laws. Congress enacted these laws to promote equality and anti-discrimination in schools, assist students with special needs and disabilities, ensure student privacy, and much more.

This case arises out of an attempt by Defendants to shut down the Department without Congressional approval. President Trump has publicly and repeatedly promised to shut down the Department "immediately."[1] On March 11, 2025, Defendants announced a massive reduction in force ("RIF"), cutting the Department's staff by half. On March 20, 2025, President Trump issued an executive order directing the Secretary to "take all necessary steps to facilitate the closure of the Department of Education." On March 21, 2025, President Trump further announced that the federal student loan portfolio as well as the special needs programs would be transferred out of the Department. Defendants argue that the RIF was implemented to improve "efficiency" and "accountability" in the Department. The record abundantly reveals that Defendants' true intention is to effectively dismantle the Department without an authorizing statute.

Since the implementation of the RIF, Plaintiffs—a group of states, school districts, non-profit organizations, and labor unions—have provided an in-depth look into how the massive reduction in staff has made it effectively impossible for the Department to carry out its statutorily mandated functions. As one example, Defendants have shut down seven out of twelve offices of the Office for Civil Rights, a statutorily created program that protects students from discrimination on the basis of race, sex, and disability. The supporting declarations of former Department employees, educational institutions, unions, and educators paint a stark picture of the irreparable harm that will result from financial uncertainty and delay, impeded access to vital

[1] Defendants admit that "President Trump ran on the promise to close the Department of Education."

knowledge on which students and educators rely, and loss of essential services for America's most vulnerable student populations. Indeed, prior to the RIF, the Department was already struggling to meet its goals, so it is only reasonable to expect that an RIF of this magnitude will likely cripple the Department. The idea that Defendants' actions are merely a "reorganization" is plainly not true.

Defendants do acknowledge, as they must, that the Department cannot be shut down without Congress's approval,[2] yet they simultaneously claim that their legislative goals (obtaining Congressional approval to shut down the Department) are distinct from their administrative goals (improving efficiency). There is nothing in the record to support these contradictory positions. Not only is there no evidence that Defendants are pursuing a "legislative goal" or otherwise working with Congress to reach a resolution, but there is also no evidence that the RIF has actually made the Department more efficient. Rather, the record is replete with evidence of the opposite. Consolidated Plaintiffs have demonstrated that the Department will not be able to carry out its statutory functions—and in some cases, is already unable to do so—and Defendants have proffered no evidence to the contrary. Defendants fail to understand Plaintiffs' claims which is evident by their attempt to frame this case as an unlawful terminations employment action. As fully explained below, a preliminary injunction is warranted to return the Department to the status quo such that it can comply with its statutory obligations.

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[2] The Court acknowledges the amici brief in support of Plaintiffs by 192 members of Congress. [Doc. No. 110].

On March 13, 2025, 21 states[3] ("Plaintiff States") filed suit against Defendants Secretary of Education Linda McMahon (the "Secretary"), in her official capacity, the U.S. Department of Education (the "Department"), (together with the Secretary, the "Agency Defendants"), and President Donald J. Trump ("President Trump"), in his official capacity, (collectively, "Defendants"). Two days prior, on March 11, 2025, Defendants announced a large-scale reduction in force ("RIF") of the Department of Education (the "March 11 Directive").[4] [Doc. No. 1]. The March 11 Directive announced that the Department would cut approximately 2,183, or slightly more than 50% of its 4,133 employees. [*Id.* at ¶ 3]. The Plaintiff States allege that the RIF is not only unlawful, but also so severe and sweeping that it is an impermissible step toward dismantling the Department of Education in its entirety. [*Id.* at ¶ 5]. The Plaintiff States allege that the March 11 Directive violates the Constitution's Separation of Powers doctrine (Count I), violates the Take Care Clause of the Constitution (Count II), is *ultra vires* (Count III), and violates the Administrative Procedure Act ("APA") because it is contrary to law (Count IV), and arbitrary & capricious (Count V). [*Id.* at ¶¶ 149–195].

On March 20, 2025, President Trump issued an executive order (the "Executive Order") directing the Secretary to "take all necessary steps to facilitate the closure of the Department of Education." [Doc. No. 71-1]. On March 24, 2025, Plaintiffs Somerville Public Schools, Easthampton Public Schools, the American Federation of Teachers, American Federation of Teachers Massachusetts, AFSCME Council 93, American Association of University Professors,

[3] The Plaintiff States consist of: New York, Massachusetts, Hawai'i, California, Arizona, Colorado, Connecticut, Delaware, the District of Columbia, Illinois, Maine, Maryland, Michigan, Minnesota, Nevada, New Jersey, Oregon, Rhode Island, Washington, Wisconsin, and Vermont.

[4] As explained below, 25-cv-10601 and 25-cv-10677 are being consolidated. Citations to the docket herein are citations to filings entered in 25-cv-10601, unless noted otherwise. *E.g.*, [Doc. No. __; 25-cv-10677 Doc. No. __].

and the Service Employees International Union (collectively, "Somerville Plaintiffs," together with the Plaintiff States, "Consolidated Plaintiffs") sued Defendants for injuries stemming from the March 11 Directive and the Executive Order. [25-cv-10677 Doc. No. 1]. The Somerville Plaintiffs assert the same causes of action against Defendants as the Plaintiff States, [*see id.* at Counts I-III, V-VII], as well as additional APA claims alleging that the Agency Defendants' actions are contrary to a constitutional right, [*id.* at Count IV], and exceed the Secretary's statutory authority, [*id.* at Count V].

On March 24, 2025, the Plaintiff States filed a Motion for Preliminary Injunction seeking to enjoin the Agency Defendants from implementing the RIF, and from carrying out a directive announced by President Trump orally at a press conference, which directed the immediate transfer of the federal student loan portfolio and special education programs out of the Department ("March 21 Directive"). [Doc. No. 69; Doc. No. 70 at 22; 25-cv-10677 Doc. No. 1 at ¶¶ 75–76]. Plaintiff States also ask this court to direct the Agency Defendants to reinstate federal employees whose employment was terminated as part of the RIF. [Doc. No. 69 at 2]. On April 1, 2025, the Somerville Plaintiffs filed a Motion for Preliminary Injunction seeking the same relief, on largely the same grounds, as the Plaintiff States. [25-cv-10677 Doc. No. 25]. On April 11, 2025, Defendants filed a Consolidated Opposition to both Motions. [Doc. No. 95; 25-cv-10677 Doc. No. 38]. On April 18, 2025, the Consolidated Plaintiffs filed their Reply briefs. [Doc. No. 101; 25-cv-10677 Doc. No. 41]. A hearing on the Motions was held on April 25, 2025. [Doc. No. 118].

I. CONSOLIDATION

Rule 42(a) of the Federal Rules of Civil Procedure governs consolidation, providing that "[i]f actions before the court involve a common question of law or fact, the court may: (1) join

for hearing or trial any or all matters at issue in the actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay." Fed. R. Civ. P. 42(a). The power to consolidate related actions falls within the broad inherent authority of every court "to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936); *see also Arnold v. E. Air Lines, Inc.*, 681 F.2d 186, 192 (4th Cir. 1982) ("The decision whether to sever or to consolidate whole actions or sub-units for trial is necessarily committed to trial court discretion."). Here, the parties have not moved to consolidate the two actions. "Normally the district court would be acting quite within its discretion in taking steps to consolidate or otherwise avoid the duplication of such closely similar cases, whatever the substantive rights of the parties." *Sutcliffe Storage & Warehouse Co. v. United States*, 162 F.2d 849, 851 (1st Cir. 1947). "A district court can consolidate related cases under Federal Rule of Civil Procedure 42(a) *sua sponte*" when the actions involve a "common question of law or fact." *Devlin v. Transportation Commc'ns Int'l Union*, 175 F.3d 121, 130 (2d Cir. 1999) (quoting Fed. R. Civ. P. 42(a)).

Here, the Consolidated Plaintiffs' claims largely overlap and arise from the same event: the March 11 Directive. On April 4, 2025, Defendants filed a motion seeking leave to file a Consolidated Opposition because Consolidated Plaintiffs "seek similar relief under similar sets of arguments," and granting the motion "would promote judicial efficiency for the related arguments to be addressed simultaneously, on the same schedule, in the same set of briefings." [Doc. No. 88 at 2]. Consolidated Plaintiffs agreed. [*Id.*]. In line with these principles, I find it appropriate to exercise my discretion and consolidate the two cases.

II. BACKGROUND

A. The Creation Of The Department Of Education

The federal government has supported education for over 150 years, addressing gaps in state and local education resources by providing substantial funds, support, and technical assistance to local school districts and educators. [25-cv-10677 Doc. No. 1 at ¶¶ 10–11]. In 1979, Congress established the Department of Education—along with many of its offices—by statute through the enactment of the Department of Education Organization Act ("DEOA"). [Doc. No. 1 at ¶ 46]; *see* 20 U.S.C. §§ 3401–3510. Creating the Department allowed Congress to streamline federal support for education, consolidating programs that were dispersed across several departments "into a single Cabinet-level department." [25-cv-10677 Doc. No. 1 at ¶ 11]. While the primary responsibility for funding and creating policy for elementary and secondary education lies with the States, the Department is responsible "for administering federal elementary, secondary, and postsecondary education programs." [25-cv-10601 Doc. No. 1 at ¶ 47 (quoting Rebecca R. Skinner et al., *A Summary of Federal Education Laws Administered by the U.S. Department of Education* (2024))].

At the direction of Congress, the Department distributes funds to schools in all 50 states. [25-cv-10677 Doc. No. 1 at ¶ 13]. During the 2020-21 school year for instance, the Department distributed $101 billion in federal funds, representing, on average, 11% of all funding for elementary and secondary schools in the country. [*Id.*]. In some states, that number was as high as 20%. [*Id.*]. In particular, this funding notably advances two central aspects of the Department's mission: increasing support for low-income students and students with disabilities. [*Id.* at ¶ 15]. Accordingly, almost 95% of all school districts, and 60% of all public schools, are eligible to receive some level of federal funding to support low-income students, and more than

seven million students with disabilities are supported through the Individuals with Disabilities Education Act. [*Id.*].

Since its creation, Congress has enacted statutes authorizing additional functions for the Department and appropriating additional funds for it to administer. [Doc. No. 1 at ¶ 48]. The major statutes administered by the Department include:

a. The Elementary and Secondary Education Act (ESEA): enacted in 1965 and last reauthorized in 2015 by the Every Student Succeeds Act (ESSA), Pub. L. No. 114-95, 129 Stat. 1802 (codified as amended at 20 U.S.C. § 6301 *et seq.*). Title I-A, the largest ESEA program, provides compensatory grants to local education agencies. Congress appropriates funds for ESEA on an annual basis. [Doc. No. 1 at ¶ 48].

b. The Individuals with Disabilities Education Act (IDEA): enacted in 1975 and last reauthorized in 2004. Pub. L. No. 108-446, 118 Stat. 2647 (codified as amended at 20 U.S.C. §§ 1400–82). IDEA authorizes grant programs that support early intervention and special education services for children (up to age 21) with disabilities. Over 90% of IDEA funds are appropriated for Part B to fund special education services for school-aged children. The appropriations for Part B are permanently authorized. "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." [Doc. No. 1 at ¶ 48].

c. Higher Education Act of 1965 (HEA): enacted in 1965 and last comprehensively reauthorized by the Higher Education Opportunity Act of 2008 (HEOA), Pub. L. No. 110-315, 122 Stat. 3078 (codified as amended at 20 U.S.C. § 1001 *et seq.*). Title IV of HEA authorizes various student aid programs that assist students with postsecondary education expenses, including the Federal Pell Grant program, the William D. Ford Federal Direct Loan

program, and the Federal Work-Study program. The HEA also provides federal support directly to institutions of higher education through Title III and Title V. Appropriations for certain HEA programs are mandatory, while others are discretionary. Mandatory funding for the Direct Loan and Federal Pell Grant programs is permanently appropriated, but funding for other HEA programs is appropriated on an annual basis. [Doc. No. 1 at ¶ 48].

d. Rehabilitation Act of 1973: funds vocational rehabilitation services to assist individuals with disabilities. 29 U.S.C. §§ 701–18. The primary program under the statute is the State Vocational Rehabilitation Services Program, to which Congress appropriates funding on an annual basis. [Doc. No. 1 at ¶ 48].

e. Civil Rights Laws: the Department is responsible for enforcing various civil rights laws that prohibit discrimination in all programs or activities (unless otherwise specified) receiving federal funds. [*Id.*]. These laws include: Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d *et seq.*; Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681–89; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; the Age Discrimination Act of 1975, 42 U.S.C. §§ 16101–07; and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101–03.

f. Privacy Laws: the Department enforces laws protecting student privacy rights, such as the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, and the Protection of Pupil Rights Amendment (PPRA), 20 U.S.C. § 1232h. [Doc. No. 1 at ¶ 48].

Congress granted the Secretary of Education limited discretion to reallocate functions within the Department. [*Id.* at ¶ 49]. Specifically, the Secretary is allowed 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). However, the Secretary's authority 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.* Moreover, under the statute, there are fourteen offices that the Secretary may consolidate, alter, or discontinue, or whose functions the Secretary may reallocate. 20 U.S.C. § 3473(b)(1). However, even with respect to these offices, the Secretary must first give the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives "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 after the committees receive the statement before acting. 20 U.S.C. § 3473(b)(2).

B. The Functions Of The Department Of Education

The Department's programs touch on many aspects and levels of education. [Doc. No. 1 at ¶ 54]. Every year, the Department's elementary and secondary programs serve nearly 18,200 school districts and over 50 million students attending roughly 98,000 public schools and 32,000 private schools. [*Id.*]. In addition, the Department's higher education programs provide services and support to more than 12 million postsecondary students. [*Id.*]. What follows is a description of some of these critical programs and functions.

1. Birth To Grade 12 Educational Programs

The federal government provides 13.6% of the funding for public K–12 education throughout the country. [*Id.* at ¶ 56]. In fiscal year 2024, the Department spent 25.4% of its funds

on state and local governments. [*Id.*]. The two largest sources of federal funding for schools are Title I funding and IDEA funding. [*Id.* at ¶ 57]. The Department distributes over $18 billion under the Title I program to assist schools with high-poverty populations and disburses over $15 billion in IDEA funding to help cover the costs of special education. [*Id.*]. While the amount of funding that K–12 public schools receive in each state varies significantly, every state receives considerable federal funding and services from the Department. [*Id.* at ¶ 58]. The Department's K–12 funding supports a wide variety of educational programs and needs, including but not limited to: "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." [*Id.* at ¶ 59]. Additionally, through initiatives like the Preschool Development Grant Birth through Five program—a $250 million competitive federal grant—the Department "supports early childhood education for children from birth through kindergarten." [*Id.* at ¶ 62].

Under IDEA, "a core obligation of the Department of Education is supporting students with disabilities and the schools, parents, and teachers who educate students with disabilities." [25-cv-10677 Doc. No. 1 at ¶ 91]. Congress passed IDEA to ensure that all children receive a "free [and] appropriate public education." [*Id.* at ¶ 90 (citing 20 U.S.C. § 1412(1))]. Specifically, the office within the Department that was designated by Congress to administer IDEA is the Office of Special Education and Rehabilitative Services ("OSERS"), which designs policies intended to help children with disabilities reach their full potential. [*Id.* at ¶¶ 92–94]. Namely, IDEA authorizes grants to states, institutions of higher education, and non-profit organizations

with the aim of helping children with disabilities by "support[ing] research, pilot programs, technology and personnel development, and centers to provide parents with training and information." [*Id.* at ¶ 95]. Also, the Office of Special Education Programs ("OSEP") within OSERS provides over $13 billion in IDEA grants every year "to support early intervention (birth to age 2), preschool, K-12 education, and other services through age 21 (for students with disabilities who have not earned a regular diploma)." [*Id.*]. In addition, OSEP assists states and localities in complying with obligations under IDEA, and OSEP staff is critical in helping states and other grantees promptly receive and effectively use IDEA funds. [*Id.* at ¶¶ 95, 106]. In fiscal year 2024, at least 10% of the student population in every state was supported by IDEA funds, and in some states that number was as high as 20%. [*Id.* at ¶ 101]. During the 2022-23 school year, one in every five Massachusetts students received some form of IDEA-funded support. [*Id.* at ¶ 102].

As part of its mission, the Department also works to implement "improvements in the quality and usefulness of education through federally supported research, evaluation and sharing of information." [Doc. No. 1 at ¶ 63 (citing 20 U.S.C. § 3402(4))]. The Department does so by collecting and analyzing data, identifying optimal pedagogical practices, and disseminating such research to educators. [*Id.* at ¶ 64].[5] This research guides educators and school districts in meeting academic standards, educating children who are English language learners, improving school safety, bullying, and chronic absenteeism, supporting children with significant behavioral

[5] The Department 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 public on a range of topics aimed at improving academic achievement for children and ensuring the effectiveness of educational programs. *See* 20 U.S.C. §§ 3419, 9511(a) (establishing Institute of Education Sciences); 20 U.S.C. § 9531(a) (establishing National Center for Educational Research); 20 U.S.C. § 9541(a) (establishing National Center for Education Statistics); 20 U.S.C. § 9561(a) (establishing National Center for Education Evaluation and Regional Assistance); 20 U.S.C. § 9567(a) (establishing National Center for Special Education Research). [Doc. No. 1 at ¶ 64].

issues, and in other important areas. [*Id.*]. The Department also has offices to support the needs of specific students and aspects of public education. For instance, the Department's Office of English Language Acquisition, Language Enhancement and Academic Achievement for Limited English Proficient Students addresses the educational needs of linguistically and culturally diverse students. [*Id.* at ¶ 65]. Moreover, the Department's Office of Safe and Healthy Schools works on policy for drug and violence prevention programs, character and civic education, and programs supporting students' physical and mental health. [*Id.* at ¶ 67].

2. Equal Access To Public Education

The Department is also instrumental in safeguarding equal access to public education through transparency and accountability. [*Id.* at ¶ 71]. Congress created the Department's Office for Civil Rights ("OCR"), which has historically focused on ensuring that diverse student bodies receive equal access to education. [*Id.* (citing 20 U.S.C. § 3413)]. OCR was created primarily to enforce landmark federal civil rights laws that ban discrimination based on race, sex, and disability, in schools that receive federal funds under the following: Title VI of the Civil Rights Act of 1964, which bans race discrimination and race-based harassment; Title IX of the Education Amendments of 1972, which bans sex discrimination and sexual harassment; Section 504 of the Rehabilitation Act of 1973, which bans disability discrimination; and Title II of the Americans with Disabilities Act, which bans disability discrimination by public entities. [25-cv-11042 Doc. No. 1 at ¶¶ 2, 17].[6] Title VI and Title IX expressly direct the Department to enforce

[6] On April 21, 2025, the Victim Rights Law Center ("VRLC"), a nonprofit legal organization representing student victims of discrimination in schools, along with students and parents that VRLC represents ("VRLC Plaintiffs"), filed a related lawsuit in this action against Defendants, as well as Craig Trainor, in his official capacity as Acting Assistant Secretary for Civil Rights, arising out of the mass terminations that have resulted in the termination of half of the OCR's staff and closure of seven of its twelve regional offices. To describe the statutory functions of the OCR and the impacts of the RIF on the OCR, I cite to the VRLC's Complaint as [25-cv-11042 Doc. No. 1 at ¶ __]. Plaintiffs' Motion for Preliminary Injunction, seeking similar relief as Consolidated Plaintiffs, is currently pending. [25-cv-11042 Doc. No. 18].

their anti-discrimination mandates. [*Id.* at ¶ 18 (citing 42 U.S.C. § 2000d-1; 20 U.S.C. § 1682)]. Federal regulations also require OCR to investigate and resolve potential violations of Title VI, Section 504, Title IX, and Title II. [*Id.* at ¶ 19]. These requirements include ensuring that there is a Department official that can "make a prompt investigation wherever a compliance review, report, complaint, or any other information indicates a possible failure to comply" with regulations implementing Title VI, and initiate "periodic compliance reviews" to assess whether recipients are compliant with Title VI regulations. [*Id.* (citing 34 C.F.R. § 100.7(a), (c))]. These requirements are incorporated by reference in the regulations implementing Title IX and Section 504. [*Id.* (citing 34 C.F.R. § 104.61; 34 C.F.R. § 106.81)]. The regulations implementing Title II also require OCR to investigate Title II complaints. [*Id.* (citing 28 C.F.R. § 35.171)].

OCR's Case Processing Manual requires OCR to ensure that "the actions it[] takes in investigations are legally sufficient, supported by evidence, and dispositive of the allegations." [*Id.* at ¶ 20 (citing Case Processing Manual at 15)]. Once OCR concludes its investigation, it must issue a letter of finding as to whether there has been a violation. [*Id.* at ¶ 22]. If there has been a violation, OCR must attempt to negotiate a resolution agreement to remedy the discrimination and prevent similar instances in the future. [*Id.*]. The manual sets strict deadlines for the completion of these negotiations. [*Id.*]. When OCR resolves a case through a voluntary resolution agreement, it must monitor it to ensure that the recipient complies with the agreement. [*Id.* at ¶ 21]. In the case where there is a violation but OCR is unable to negotiate a resolution within the specified timeframe, OCR must take enforcement action by choosing to either initiate administrative proceedings to suspend, terminate, or refuse to grant or continue and defer financial assistance from the Department to the recipient, or refer the case to the Department of Justice for judicial proceedings. [*Id.* at ¶ 23]. OCR also must provide technical assistance to help

institutions comply with civil rights laws. [*Id.* at ¶ 24 (citing 35 C.F.R. §§ 100.6(a); § 100.12(b))]. This includes providing documents, FAQs, pre-recorded webinars and webcasts, resources for drafting policies that comply with civil rights statutes, and others. [*Id.*].

OCR plays a vital role in enforcing civil rights laws in schools. OCR has designed a process that allows students to file complaints without having to pay for an attorney, and OCR itself assists with the investigation and helps to negotiate a resolution with the schools without the need for costly discovery, motion briefing, or trial. [*Id.* at ¶¶ 27–28]. OCR can also investigate complaints based on claims that students would not otherwise be able to raise in a private lawsuit, including by minimizing the elements that students are required to prove, thereby reducing the burden of fact finding. [*Id.* at ¶¶ 28–31]. OCR has helped make changes to school policies, procedures, and practices to prevent future violations of federal civil rights laws, relief that private litigants often cannot obtain through a private lawsuit. [*Id.* at ¶ 32].

Before the RIF, OCR struggled with a "persistent backlog" of cases. [*Id.* at ¶ 45]. For three consecutive years, from 2022 through 2024, OCR received the highest number of complaints in its history, with a record high of 20,687 complaints in 2024. [*Id.* at ¶ 45]. However, OCR lacked the resources to keep up with demand; from 2021 through 2024, OCR received approximately 14,547 more complaints than it resolved. [*Id.*]. To meet these demands, Congress allocated OCR a budget of $140 million to support 557 employees. [*Id.* at ¶ 46].

However, as a result of the RIF, OCR's staff has been cut in half and seven of its twelve regional offices have been closed. [*Id.* at ¶ 4]. The VRLC Plaintiffs, along with Consolidated Plaintiffs, contend that OCR cannot fulfill its statutory and regulatory mandates with only half of its staff. [*Id.* at ¶ 47]. Indeed, the VRLC Plaintiffs allege it is impossible to do so. [*Id.*]. The closed offices in Boston, Chicago, Cleveland, Dallas, New York, Philadelphia, and San Francisco

cover some of the largest population centers of the country, had an aggregate of 208 full-time and part-time investigators, and the closure of these regional offices make OCR incapable of completing investigations and resolving cases promptly and fairly. [*Id.* at ¶¶ 48–49].

For example, the VRLC's complaint details how the RIF has prevented two students from returning to school. Plaintiff T.R., a twelve-year-old child attending school in Falls City, Nebraska, experienced persistent race-based harassment from 2022 to 2023, in which students called T.R. racial slurs, and physically assaulted him at recess. [*Id.* at ¶¶ 10, 59]. One of these incidents resulted in teachers finding T.R. crying in fetal position after a student pushed T.R. to the ground and stomped on his head. [*Id.* at ¶ 59]. The harassment was so severe that T.R.'s mother, Plaintiff Tara Blunt, was forced to pull T.R. out of school. [*Id.*]. In December 2023, OCR opened an investigation into the school's response to the harassment, but due to the RIF, OCR has stopped processing T.R. and Plaintiff Blunt's complaint entirely, making it impossible for OCR to resolve the investigation so that T.R. can return to public school. [*Id.* ¶¶ 61–63]. Similarly, Plaintiff A.J., a ten-year-old child with life threatening allergies, was severely harassed for his allergies throughout school. [*Id.* at ¶ 11]. These incidents included students pulling off A.J.'s glasses, shoving, pushing, and tripping him, and even taunting and surrounding A.J. with food containing life-threatening allergens. [*Id.* at ¶¶ 11, 65]. A.J.'s mother, Plaintiff Karen Josefosky, withdrew A.J. from public school. [*Id.* at ¶ 11]. OCR opened an investigation and was beginning the process of a mediation, but following the RIF, OCR stopped processing the complaint and the mediation did not go forward. [*Id.*].

3. Higher Education: The Federal Student Loan System

The Department additionally plays a vital role in making higher education more affordable for students across the country, including in Plaintiff States, by administering federal

student loan programs under Title IV of the Higher Education Act of 1965 ("HEA"). [Doc. No. 1 at ¶ 76]. Specifically, the Department's Office of Federal Student Aid ("FSA") manages the federal student loan system by handling loan disbursement, servicing, and borrower assistance. [*Id.* at ¶ 77]. Through Pell Grants, work-study programs, and subsidized loans, the Department collectively awards over $120 billion to roughly 13 million students. [*Id.* at ¶ 78]. A significant portion of these funds is sent directly to colleges and universities, including public colleges and universities in the Plaintiff States. [*Id.*].

FSA also manages the Free Application for Federal Student Aid ("FAFSA") form and, alongside vendors, processes over 17.6 million FAFSA forms each year. [*Id.* at ¶ 79]. The deadline for FAFSA applications is June 30, 2025, but many students apply earlier given that their decisions about which colleges they will attend hinges on the amount of financial aid they are able to receive. [*Id.*]. The Department is also tasked with ensuring that institutions receiving such funds are financially responsible and avoid wasteful spending. [*Id.* at ¶ 80]. As required under the HEA, the Secretary of Education determines and enforces the standard of financial responsibility. [*Id.*].

In addition to distributing federal aid to higher-education institutions, the Department collects and monitors large amounts of data from colleges and universities and enforces their reporting and compliance obligations under Congressional Acts that pertain to campus safety, drug and alcohol use, and sexual violence or harassment. [*Id.* at ¶¶ 82–85]. The Department also works with educational institutions, states, and third-party accreditation authorities to ensure that accredited institutions meet certain quality standards and furnish degrees with value in the workplace. [*Id.* at ¶ 88]. Department-informed accreditation standards help discourage institutional practices that put profits above long-term student welfare and success. [*Id.*].

4. Vocational Education And Rehabilitation

The Department also helps individuals prepare for and maintain employment through its vocational education and vocational rehabilitation programs. [*Id.* at ¶ 89]. For instance, the Department's Office of Vocational and Adult Education assists adults with obtaining a high school diploma (or equivalent) and pursuing postsecondary, career, or technical education. [*Id.* at ¶ 90]. Moreover, 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. [*Id.* at ¶ 91]. Through grant programs under the Carl D. Perkins Career and Technical Education Act, OCTAE's Division of Academic and Technical Education ("DATE") prepares adult students for high-skill, high-wage, or high-demand occupations by providing career and technical education. [*Id.* at ¶¶ 92-93]. OCTAE's Division of Adult Education and Literacy ("DAEL") also operates programs that help adults acquire basic skills like reading, writing, math, English language proficiency, and problem-solving. [*Id.* at ¶ 95]. In addition, OCTAE improves access to postsecondary education by bolstering community colleges and enhancing their ability to provide high-quality and affordable education. [*Id.* at ¶¶ 97–98].

Regarding vocational rehabilitation services, the Department supports individuals with disabilities through its Rehabilitation Services Administration ("RSA")—a component of OSERS—helping such individuals become more independent and competitive in the labor market. [*Id.* at ¶ 99]. The RSA runs and funds programs such as disability employment programs, an independent living program, technical assistance centers, training programs, and disability innovation fund programs. [*Id.* at ¶ 100]. For example, one such program funds the use of evidence-based practices in state agencies aimed at transitioning individuals with disabilities into high-quality employment opportunities. [*Id.* at ¶ 109].

5. Impact Aid

The Department is also the primary agency charged with distributing payments to local school districts under the Impact Aid program. [*Id.* at ¶ 111]. The Impact Aid program was created to ensure the financial viability of school districts who cannot rely on local property taxes for funding due to their location near non-taxable federal land. [*Id.* at ¶ 110]. School districts seeking Impact Aid can submit applications to the Department, which reviews the applications and processes payments based on congressional appropriations each fiscal year. [*Id.* at ¶ 111]. Many school districts within Plaintiff States rely heavily on Impact Aid funding and receive hundreds of millions of dollars each year used for construction, special education, maintenance, and operations. [*Id.* at ¶ 112]. Therefore, any delay in Impact Aid funding threatens to immediately disrupt these school districts' day-to-day operations, including utility payments and payroll. [*Id.* at ¶ 113].

C. The President's Directive And The RIF

President Trump has made his intention to dismantle the Department of Education publicly well-known, referring to the Department as a "a big con job" and saying he would "like to close it immediately." [*Id.* at ¶ 114]. In a campaign video from September 2023, President Trump claimed that "very early in the administration" he would be "closing up the Department of Education in Washington, D.C." [25-cv-10677 Doc. No. 1 at ¶ 45]. On March 12, 2025, after President Trump was inaugurated, he said, "[w]e're going to move the Department of Education, we're going to move education into the states . . . so that the states can run education." [*Id.* at ¶ 46 (omission in original)]. Moreover, he told the new Secretary of Education, Defendant Linda McMahon, to put herself "out of a job." [Doc. No. 1 at ¶ 114]. For her part, Secretary McMahon has been steadfast in her support of President Trump's mission, affirming during her

confirmation process that she "wholeheartedly support[s] and agree[s]" that "the bureaucracy in Washington should be abolished," [25-cv-10677 Doc. No. 1 at ¶ 48 (alterations in original)], and asking Department employees to join her in "perform[ing] one final, unforgettable public service to future generations of students" by dismantling the Department. [Doc. No. 1 at ¶ 115]. 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, [to] the maximum extent allowed by law." [*Id.* at ¶ 116].

Five days later, on March 11, 2025, pursuant to what Secretary McMahon characterized as its "final mission," [25-cv-10677 Doc. No. 1 at ¶ 52], the Department announced that its workforce was being cut in half via a vast reduction in force initiative affecting "[a]ll divisions within the Department." [Doc. No. 1 at ¶ 117]. According to Department figures, the RIF was set to place approximately 1,378 employees on administrative leave, relieving them of all duties, beginning on March 21, 2025. [*Id.* at ¶ 118; 25-cv-10677 Doc. No. 1 at ¶ 69]. Pursuant to the RIF, those affected staff would be terminated by June 2025. [25-cv-10677 Doc. No. 1 at ¶ 69]. When combined with the 259 employees who accepted resignation as part of the "Fork in the Road" initiative,[7] as well as the 313 employees who accepted a "Voluntary Separation Incentive Payment,"[8] the Department's total numbers after the RIF is estimated at 1,950 employees—

[7] On January 28, 2025, the U.S. Office of Personal Management ("OPM") sent an email to federal employees presenting a deferred resignation offer, also known as the "Fork in the Road" offer. The offer presented federal workers with a choice of remaining in their position without "assurance regarding the certainty of [their] position or agency" or to resign and "retain all pay and benefits . . . until September 30, 2025." U.S. OFFICE OF PERSONNEL MANAGEMENT, https://www.opm.gov/fork/original-email-to-employees (last visited May 21, 2025).

[8] The Voluntary Separation Incentive Payment Authority allows agencies that are restructuring or downsizing to offer employees payments up to $25,000, also known as voluntary separation incentive

roughly a 50% reduction from the Department's 4,133 employees at the beginning of President Trump's second term. [Doc. No. 1 at ¶ 118]. For context, the mass terminations on March 11, 2025, occurred after the Department fired 65 probationary employees the previous month, though those employees have since been reinstated pursuant to a court order. [25-cv-10677 Doc. No. 1 at ¶ 60].

Secretary McMahon claimed that the mass firings were meant to improve "efficiency, accountability, and ensuring that resources are directed where they matter most." [*Id.* at ¶ 54]. Similarly, President Trump maintained that his administration only "want[ed] to cut the people that aren't working or . . . doing a good job" and "keep[] the best people." [*Id.* at ¶ 55]. Yet Secretary McMahon also admitted that the terminations were intended to dismantle the Department, explaining that "[President Trump's] directive to [her], clearly, is to shut down the Department of Education." [*Id.* at ¶ 58]. Moreover, on the same day that the RIF was initiated, Secretary McMahon told Laura Ingraham of Fox News that the workforce reductions were the first steps in shutting down the Department. [Doc. No. 1 at ¶ 119].

On March 20, 2025, President Trump went further to sign an Executive Order entitled "Improving Education Outcomes by Empowering Parents, States, and Communities," which directs the Secretary of Education to "take all necessary steps to facilitate the closure of the Department of Education." [25-cv-10677 Doc. No. 1 at ¶ 63]. However, the Executive Order also maintains that the Department should only be closed "to the maximum extent . . . permitted by law," and instructs the Secretary to ensure the "effective and uninterrupted delivery of services,

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payments ("VSIP") "as an incentive to voluntarily separate." With authorization from the Office of Personnel Management, agencies may offer VSIP to certain employees who volunteer to separate from the agency, allowing agencies to minimize or avoid involuntary separations. U.S. OFFICE OF PERSONNEL MANAGEMENT, https://www.opm.gov/policy-data-oversight/workforce-restructuring/voluntary-separation-incentive-payments (last visited May 21, 2025); *see* 5 U.S.C. § 3521.

programs, and benefits on which Americans rely." [*Id.* at ¶ 64]. The next day, President Trump gave an interview in which he publicized plans to move key programs out of the Department. [*Id.* at ¶ 75]. He explained that "the student loan portfolio" would be "coming out of the Department of Education immediately" and "moved to the Small Business Administration." [*Id.* at ¶ 76]. He also claimed that the Department of Health and Human Services would replace the Department of Education's role in "handling special needs." [*Id.* at ¶ 77].

D. Impacts Of The RIF On Department Functions

Before the RIF, the Department of Education had the smallest staff compared to the 15 other cabinet-level executive Departments [*Id.* at ¶ 65 ("[C]ompare just over 4,000 employees at the Department of Education with the approximately 80,000 employees at the Department of State, for example")]. As a result of the layoffs after the RIF, Consolidated Plaintiffs allege that key components of the Department have been effectively gutted, thus leaving the agency incapable of performing many of its core, statutorily mandated functions. [Doc. No. 1 at ¶¶ 120, 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.")].

For instance, Consolidated Plaintiffs allege that the Office of General Counsel ("OGC") has been devastated, as "every single division [within the OGC] except for the division of post-secondary education was abolished" and nearly three-quarters of its staff removed. [25-cv-10677 Doc. No. 1 at ¶ 66; Doc. No. 1 at ¶ 124]. All OGC attorneys specializing in K–12 grants, IDEA grants, and equity grants have been fired, along with the majority of OGC attorneys handling privacy issues. [Doc. No. 1 at ¶ 125]. Moreover, all attorneys who advise on regulations or informal guidance, elementary and secondary education, civil rights, legislation, ethics obligations, contract issues, labor and employment issues, and the Freedom of Information Act,

were fired. [25-cv-10677 Doc. No. 1 at ¶ 66]. Consolidated Plaintiffs claim that the OGC's gutting will interfere with the Department's statutory duties of advising many units and offices across the Department on this wide array of topics. [Doc. No. 1 at ¶ 124].

Consolidated Plaintiffs also contend that the RIF has significantly harmed the Department's Financial Student Aid ("FSA") programs and functions, which provide financial assistance to almost 12.9 million students across approximately 6,100 postsecondary educational institutions. [*Id.* at ¶ 128]. Consolidated Plaintiffs argue that before the RIF, the agency was already unable "to provide any communication to schools, servicers, or borrowers about how to navigate the changes that [were] coming" under the Trump administration. [*Id.* at ¶ 129 (quoting *Dismantling of Education Department Puts Future of Trillions of Dollars in Student Loans in Question*, CNN (Mar. 7, 2025, 2:51 PM), https://edition.cnn.com/2025/03/07/politics/student-loans-education-trump)]. Additionally, many employees with institutionalized knowledge about FSA programs had quit or been fired. [*Id.*].

After the RIF, many Department employees in various units under the FSA umbrella were terminated, which has further hamstrung the Department's ability to carry out its student-aid-related duties. [*Id.* at ¶¶ 131-33]. For instance, many employees in the FSA's School Eligibility and Oversight Services Group—"responsible for administering a program of eligibility, certification, financial analysis, and oversight of schools participating in [FSA] programs"—were fired, thus diminishing the Department's ability to ensure that schools remain compliant with Title IV requirements for federal funding. [*Id.* at ¶ 131]. Furthermore, the FSA's Vendor Oversight Division has been effectively eliminated. [*Id.* at ¶ 132]. The Vendor Oversight Division ensures that loan servicers meet contractual and Departmental obligations and is key in verifying compliance with the requirements of the Public Service Loan Forgiveness (PSLF)

program and the Income-Based Repayment plan before student debt under these programs is discharged. [*Id.*]. The RIF has also removed employees in FSA's Product Management Group who managed various tools and applications that assisted borrowers in tasks such as certifying their qualifying employment for the PSLF Program. [*Id.* at ¶ 133]. Additionally, the entire team that supervises FAFSA was eliminated. [25-cv-10677 Doc. No. 1 at ¶ 66].

Other parts of the Department which Consolidated Plaintiffs allege the RIF has effectively abolished or materially impacted include: OSERS, including the entire staff that provides IDEA-implementation guidance to states and other grantees, and the entire communications staff that sends key information to students, parents, schools, and states, [Doc. No. 1 at ¶ 126; *see also* 25-cv-10677 Doc. No. 1 at ¶ 66]; 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," [Doc. No. 1 at ¶ 127]; the Institute of Education Sciences, where "almost the entire staff . . . has been eliminated," [*Id.* at ¶ 121]; the entire staff of the Office of English Language Acquisition, [25-cv-10677 Doc. No. 1 at ¶ 66]; the entire staff responsible for managing grant operations, grant-related fiscal risk, and contract procurement across the Department, [*Id.*]; and the entire Office of International and Foreign Language Education, [*Id.*].

E. Harm To Plaintiff States

Plaintiff States allege that the Department's effective dismantling will cause serious harm to them and their residents. [Doc. No. 1 at ¶ 135]. To begin with, Plaintiff States claim that the RIF will lead to the loss of or delay in funds intended to support many aspects of K–12 education within their borders, such as salary funding, support for students with disabilities, and afterschool programs. [*Id.* at ¶ 136]. Schools in Plaintiff States use federal funding to pay the salaries of

teachers, special education teachers, paraprofessionals, reading specialists, physical therapists, speech therapists, and social workers. [*Id.*]. Therefore, any RIF-induced loss of funding threatens to reduce school staff, increase class sizes, exacerbate teacher shortages, diminish educational opportunities for students, terminate afterschool programs, and erode support services for students with disabilities. [*Id.*]. Despite whatever alternative sources of support are substituted for the Department, Plaintiff States contend that by itself its "dismantling will create and has created chaos, disruption, uncertainty, delays and confusion for [them] and their residents." [*Id.* at ¶ 137]. For instance, states expecting federal funds do not know who to contact about those disbursements, and students at state universities are left in the dark about the status of their federal student aid packages, including whether the packages will be processed and available before the Fall 2025 semester begins. [*Id.*].

Plaintiff States point to updates on one of the Department's websites following the RIF as an example of the type of chaos likely to ensue. [*Id.* at ¶ 138]. Immediately after the RIF, the Department's website for administering federal funds (referred to as the "G6" system) was shut down. [*Id.*]. G6 "allowed schools to request payments, adjust drawdowns, and return cash to the Department for many Title IV programs." [*Id.*]. On March 12, 2025, the day after the RIF was announced, the G6 website 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." [*Id.*]. Users who subsequently navigated to the G5.gov system to get funds disbursed then encountered an alert on the G5 website warning them to "expect delays in connecting to a live help desk agent for assistance with G5." [*Id.* at ¶ 139]. Here in Massachusetts, a G5-user working for the state's Department of Elementary and Secondary Education tried to access the G5 system

to request disbursements of anticipated federal funds but was unable to access the system for hours due to a "system glitch." [*Id.* at ¶ 140].

Plaintiff States also allege that the impacts to and eliminations of the various Department units and offices discussed above will each produce their own forms of harm [*Id*. at ¶ 141]. With an incapacitated OCR for instance, Plaintiff States fear that equal access to quality education may be restricted within their states. *See supra*, Section II.B.2; [*Id.* at ¶ 142]. Moreover, student complaints of discrimination, sexual harassment, and sexual assault may be ignored, and students with pending complaints are likely to be deprived of meaningful and timely resolutions of their cases due to the reduction in OCR staff. [*Id.*]. The hollowing out of OGC is also likely to have adverse effects, depriving employees of ethical guidance and interfering with the Department's ability to award K–12 grants, IDEA grants, and equity grants to Plaintiff States. [*Id.* at ¶ 144]. Furthermore, the effective elimination of the Office of Elementary and Secondary Education's State and Grantee Relations Team will result in Plaintiff States losing a critical partner in their mission to support and educate their students. [*Id.* at ¶ 145]. Higher education is also likely to become more expensive for students in Plaintiff States as the RIF will put federal funding for Pell grants, work-study programs and subsidized loans at risk, reducing the pool of students able to attend college and posing an existential threat to many state university systems such as those intended to serve first generation college students. [*Id.* at ¶ 143]. Even if these programs and grants were to remain fully funded, Plaintiff States claim that the RIF will prevent the Department from effectively operating these programs. [*Id.*].

The RIF's impacts on FSA will also harm student aid programs in multiple respects. [*Id.* at ¶ 146]. For instance, with the loss of 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." [*Id.*]. With the elimination of the FSA's Vendor Oversight Division, Plaintiff States are also hindered in their ability to ensure that loan servicers are complying with their contractual requirements, and the process by which loan servicers discharge student debt will be crippled as this division gives instructions to the loan servicers about discharging student debt under FSA programs. [*Id.* at ¶¶ 146, 148]. Additionally, the administration of FAFSA applications will be disrupted, resulting in "mass uncertainty regarding whether and how FAFSA applications will be processed" and therefore leaving students in limbo regarding their plans for attending college. [*Id.* at ¶¶ 79, 147]. As the college admissions process is presently in full swing—with the FAFSA application deadline less than six weeks away—the harm which will result from delays in application processing is imminent. [*Id.*].

F. Harm To Somerville Plaintiffs

A description of the Somerville Plaintiffs is in order before discussing their alleged harm.

a. *Plaintiff Somerville Public Schools ("Somerville")*, a public school district located in Massachusetts, operates eleven schools serving about 5,000 students and employing roughly 440 full-time teachers. [25-cv-10677 Doc. No. 1 at ¶ 20]. Federal funds (including from the Department) provide approximately 6% of Somerville's total budget. [*Id.*]. Nearly $3.5 million of this funding comes from federal grants administered by the Department. [*Id.*].

b. *Plaintiff Easthampton Public Schools ("Easthampton")*, another public school district in Massachusetts, operates two schools serving approximately 1,400 students and employing about 118 full-time teachers. [*Id.* at ¶ 21]. During the 2024-25 school year, the Department provided Easthampton with more than $800,000 in federal funding. [*Id.*].

c. *Plaintiff the American Federation of Teachers ("AFT")* is an AFL-CIO-affiliated organization headquartered in Washington, D.C., representing 1.8 million members residing

in every U.S. state, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands. [*Id.* at ¶ 22]. AFT members include "pre-K through 12th-grade teachers, early childhood educators, paraprofessionals, and other school-related personnel; higher education faculty and professional staff; federal, state, and local government employees; and nurses and other healthcare professionals." [*Id.*]. By securing fair pay and benefits for its workers and fighting for safe working conditions, AFT furthers its mission of "promot[ing] fairness, democracy, economic opportunity, and high-quality public education, healthcare, and public services for students, their families, and communities." [*Id.*].

d. *Plaintiff American Federation of Teachers Massachusetts ("AFT Massachusetts")*, a labor union in Massachusetts, is an independent nonprofit organization created under Section 501(c)(5) of the Internal Revenue Code. [*Id.* at ¶ 23]. Representing over 25,000 public school employees, higher education faculty and staff, and public librarians, AFT Massachusetts works to further "collaborative education reform" for the benefit of students and educators. [*Id.*]. Its members include "teachers, paraprofessionals, guidance counselors, school nurses, social workers, and other school employees," roughly 22,500 of whom work in public school districts across Massachusetts for pre-K through 12th-grade students. [*Id.*].

e. *Plaintiff AFSCME Council 93* is a council of labor unions in Maine, Massachusetts, New Hampshire, and Vermont. [*Id.* at ¶ 24]. The organization is headquartered in Boston, Massachusetts and is affiliated with the American Federation of State, County and Municipal Employees, AFL-CIO. [*Id.*]. AFSCME Council 93 represents thousands of public-school employees in Massachusetts, including paraprofessionals, instructional aides, counselors, cafeteria workers, bus drivers, safety officers, and maintenance and administrative staff. [*Id.*]. Its members work in at least 12 school districts and 27 institutions of higher education in Massachusetts. [*Id.*].

f. *Plaintiff the American Association of University Professors ("AAUP")* is a nonprofit membership association incorporated in Washington, D.C., representing over 43,000 faculty, librarians, graduate students, and academic professionals working at institutions of higher education in every state. [*Id.* at ¶ 25]. Its purpose is to "advanc[e] academic freedom and shared governance, defin[e] fundamental professional values and standards for higher education, promot[e] the economic security of academic workers, and ensur[e] higher education's contribution to the common good." [*Id.*].

g. *Plaintiff the Service Employees International Union ("SEIU")* is a labor union representing about two million workers in the public-service, property-service, and healthcare spaces throughout the United States, Canada, and Puerto Rico. [*Id.* at ¶ 26]. Among its members are public school employees in K-12 districts, such as "professionals, paraprofessionals, administrative employees, janitors, bus drivers, food service employees, and other educational support staff;" as well as "higher education employees, including faculty, librarians, counselors, student workers, administrative employees, and janitors." [*Id.*]. In Massachusetts alone, SEIU represents around 7,000 education workers. [*Id.*]. SEIU aims to provide quality public services and secure equitable access to education for all students. [*Id.*].

Regarding the harm alleged by Somerville Plaintiffs, the RIF has led to uncertainty with respect to the availability of federal funds, which risks disrupting services for students and programs within Somerville and Easthampton. [*Id.* at ¶¶ 81–85]. In addition to reducing staff and programs, the ability of these school districts to engage in long-term planning is in jeopardy as the result of budget uncertainty. [*Id.* at ¶ 84]. Federal funds amount to almost 6% of Somerville's school budget, helping to pay for at least 28 staff members, keep class sizes smaller, run summer schools to maintain learning gains for students over the summer, provide services to children with disabilities, offer free preschool, pay for low-income students to take advanced placement

classes, and more. [*Id.* at ¶ 79]. Federal funds similarly play an important role within Easthampton's budget, helping the district pay for staff and student transportation, keeping class sizes smaller, and funding extracurricular activities such as art, music, and athletics, among other things. [*Id.* at ¶¶ 80, 85]. School districts tend to make important planning decisions months in advance, and without assurance that federal funds will be available to support their plans, they are left in a precarious position. [*Id.* at ¶ 81].

Take Somerville's summer programs for instance: decisions involving food-nutrition services and city-run parks and recreation programs are finalized as early as March. [*Id.* at ¶ 82]. Moreover, by early May, Somerville schools must establish summer staffing and programming, typically relying on previously approved federal funds in the process. [*Id.*]. Unsure whether federal funds will be readily available, Somerville may be unable to plan for and provide certain essential summer services. [*Id.*]. Somerville's plans for the full academic year are also disrupted as the result of federal-funds uncertainty. [*Id.* at ¶ 83]. Decisions for the full academic year, including staffing commitments, must be made by May 15. [*Id.*]. If federal funding is uncertain, cuts may have to be made to educators and staff who provide vital student services. [*Id.*].

Furthermore, Somerville Plaintiffs will be impacted by the loss of IDEA funding stemming from the RIF. [*Id.* at ¶¶ 115–16]. For instance, many members of AFT and AFT Massachusetts are special education teachers who rely on IDEA funding to pay their salaries. [*Id.* at ¶ 116]. IDEA also funds the provision of assistive technologies—including text-to-speech and word-prediction devices, Braille displays, and talking calculators—that support students with visual impairments. [*Id.*]. Without such technologies, AFT members will experience difficulty effectively communicating with and teaching students with disabilities. [*Id.*]. Moreover, AFT members risk losing other support provided by the Department, such as professional development assistance and guidance on technology and instructional methods, further

interfering with their ability to educate students with disabilities. [*Id.*]. Members of AFSCME Council 93 and SEIU likewise rely on IDEA funding. [*Id.* at ¶ 117]. School districts employing the paraprofessionals and instructional aides represented by these organizations use IDEA funding to pay for these educators' salaries, professional development and continuing education, as well as critical classroom resources and technology. [*Id.*].

School districts themselves will also be impacted by the loss of IDEA funding. [*Id.* at ¶ 118]. Somerville uses the nearly $1.8 million it receives in IDEA funds to support special education teachers, paraprofessionals, and other specialists, as well as to support students with disabilities directly via summer school, smaller class sizes, special-education-oriented supplies and materials, translation services, and individualized student education plans, among other things. [*Id.* at ¶ 119]. Given the wide array of IDEA-supported special education services in Somerville, any reduction or delay in IDEA funds risks impairing the district's ability to adequately support students with disabilities. [*Id.*]. Similarly, Easthampton uses the approximately $550,000 it receives in IDEA funds for many purposes, including staff salaries, direct services to students, summer programming, staff trainings, and extended-year special education—a disruption in such funds will therefore harm the district's ability to support students with disabilities. [*Id.* at ¶ 120].

The lack of adequate staff to administer Title I funds—relied on by school districts around the country to benefit students via increased resources and instructional support—will also have an adverse effect on Somerville Plaintiffs, resulting in funding delays, an absence of advice to states on how to spend the funds effectively, and barriers to obtaining the waivers which allow for greater flexibility in how the funds are spent. [*Id.* at ¶¶ 172–77]. Department staff work with states to help them submit the state plans required by statute to receive Title I funds, and they also provide technical assistance, advice, and support to the states on effectively

spending those funds to ensure that the state's educational goals are satisfied. [*Id.* at ¶¶ 174–75]. Interference with these functions will hamstring the use of Title I funds, thereby diminishing the ability of AFT, AFT Massachusetts, AFSCME Council 93, and SEIU members to optimally serve their students as educators. [*Id.* at ¶ 178]. Members of these organizations leverage the Title I program to access training and development to support the needs of their students. [*Id.*]. Moreover, states and schools utilize Title I funds to help pay teacher salaries. [*Id.* at ¶ 179]. As funds are denied or delayed, larger class sizes, less instructional support, increased workloads, and job losses will harm educators and make their jobs more difficult. [*Id.*].

School districts like Easthampton and Somerville also depend on the availability of Title I funds to plan their budgets and pay their bills, so disruptions in the availability and timing of these funds will affect their ability to plan for future programing and avenues of student support. [*Id.* at ¶¶ 179, 181]. Somerville, for instance, receives $1.1 million dollars in Title I funding, which it uses to support reading teachers, math interventionists, pre-kindergarten educators, tutors, and professional-development services for staff. [*Id.* at ¶ 181]. Meanwhile, Easthampton receives more than $250,000 in Title I funding, using it to support reading specialists, intervention services, and K-8 school-wide programming. [*Id.*].

Somerville Plaintiffs allege they will further be harmed by the RIF's impact on the Department's federal student aid services. [*Id.* at ¶ 141]. A core mission of school districts like Somerville and Easthampton is to support their students in attending higher education, and they rely on the support of FSA services to accomplish that goal. [*Id.*]. Without services like FAFSA and the student loan and grant programs, college will become unaffordable for many of these districts' students. [*Id.*]. FSA services also benefit AFT, AFT Massachusetts, AFSCME Council 93, and SEIU members. [*Id.* at ¶ 142]. For instance, thousands of AFT, AFT Massachusetts, and SEIU members have received federal student loans or grants through the student aid program,

and they use repayment programs to manage loan repayment while working as teachers and in other essential professions. [*Id.* at ¶ 143]. Similarly, many AFSCME Council 93 members rely on federal student loans and grants to fund their education and training, using FSA programs and resources to identify repayment options that make sense for them. [*Id.* at ¶ 148]. FSA and its loan servicers support the operation of these programs by providing technical assistance to guide students on optimal repayment options. [*Id.* at ¶ 143]. Delays in the provision of such assistance, or "in any aspect of loan administration, including processing repayments and applications for deferral or forbearance," risks harming the members of these organizations who count on the smooth operation of FSA programs to effectively manage their loans. [*Id.*].

AFT and SEIU also support their members in receiving loan forgiveness through the PSLF program, which allows government or nonprofit employees to have their student loans forgiven after ten years of repayment. [*Id.* at ¶¶ 144–46]. AFT and SEIU host clinics to educate their members about repayment options like PSLF, and rely heavily on Department resources like guidance documents, loan repayment calculators, and instructions to advise borrowers on which student loan forgiveness program is best for them. [*Id.* at ¶¶ 145–47]. Thus, a reduction in Department assistance and resources threatens to harm these organizations by interfering with their ability to support their members effectively through the loan repayment process. [*Id.* at ¶ 147]. Moreover, the fact that the entire office tasked with supervising the contractors processing PSLF payments was eliminated will disable AFT, AFT Massachusetts, AFSCME Council 93, and SEIU members from leveraging the PSLF program to reduce their debt burdens. [*Id.* at ¶ 150].

The mass OCR office closures and terminations of OCR employees further risk harming Somerville Plaintiffs, hindering the Department's ability to effectively enforce civil rights laws and provide guidance to schools regarding compliance with these laws. [*Id.* at ¶ 159]. The significant reduction in OCR resources will render the timely review of complaints filed by

students, parents, and teachers much more difficult, thus diminishing the protections of student rights and potentially propelling students, parents, teachers, and schools into costly litigation. [*Id.* at ¶ 160]. Students, educators and staff—including AFT, AFT Massachusetts, AFSCME Council 93, AAUP, and SEIU members—benefit from effective OCR enforcement of civil rights. [*Id.* at ¶ 161]. For example, an educator facing retaliation for acting as a whistleblower can file a complaint with OCR to prevent the school from further retaliating. [*Id.*]. Moreover, graduate students—including AAUP and SEIU members—experiencing issues like sexual harassment at universities are also protected by OCR. [*Id.* at ¶ 162]. School districts like Somerville and Easthampton will also be harmed by the dismantling of OCR given that they rely on OCR guidance to remain compliant with civil-rights obligations, distributing OCR resources to help their students and families navigate civil-rights protections. [*Id.* at ¶ 167].

The incapacitation of various other Department functions risks creating additional harm for the students, schools, and teachers represented by Somerville Plaintiffs [*Id.* at ¶ 182]. These other functions include: programs designed to support rural school districts, which are sparsely populated and typically less resourced than urban and suburban districts; career and technical education ("CTE") services, which provide practical instruction for youth and adult students to prepare them for jobs in critical, well-paying industries like advanced manufacturing, health sciences, and information technology; the Office of English Language Acquisition, Language Enhancement, which supports English learners via grants and educational research; and the Institute of Education Sciences ("IES"), which evaluates the efficacy of federal education programs, collects education statistics, and funds education sciences. [*Id.* at ¶¶ 182–208].

III. RIPENESS

This case is ripe for review. Defendants disagree and argue that Consolidated Plaintiffs' claims are not ripe because the Department has not actually closed, and "cannot be closed absent

action by Congress." [Doc. No. 95 at 24]. They argue that any harms flowing from Defendants' actions are hypothetical and that Consolidated Plaintiffs have only speculated that the Department will cease providing services in the middle of its "reorganization." [*Id.* at 24–25]. But Defendants' attempts to characterize Consolidated Plaintiffs' claims as based entirely on the actual closure of the Department is a red herring. The record "makes plain that Defendants intend to dismantle the Department—and effectively close it—*without* Congressional authorization," [Doc. No. 101 at 11–12], and are using a large-scale RIF to do so. Additionally, Defendants have not provided evidence to meaningfully counter that Consolidated Plaintiffs are already being harmed, thereby establishing a direct and immediate dilemma that is fit for resolution. [25-cv-10677 Doc. No. 41 at 11–12].

"The injunctive and declaratory judgment remedies are discretionary, and courts traditionally have been reluctant to apply them to administrative determinations unless these arise in the context of a controversy 'ripe' for judicial resolution." *Abbott Laboratories v. Gardner*, 387 U.S. 136, 148 (1967), *abrogated on other grounds by Califano v. Sanders*, 430 U.S. 99 (1977). The ripeness doctrine "prevent[s] the courts, through avoidance of premature adjudication, from entangling themselves in abstract disagreements over administrative policies, and also to protect the agencies from judicial interference until an administrative decision has been formalized and its effects felt in a concrete way by the challenging parties." *Id.* at 148–149. A ripeness analysis requires the court to "evaluate both the fitness of the issues for judicial decision and the hardship to the parties of withholding court consideration." *Id.* at 149.

As to the "fitness" prong, the "critical question . . . is whether the claim involves uncertain and contingent events that may not occur as anticipated or may not occur at all." *McInnis-Misenor v. Maine Med. Ctr.*, 319 F.3d 63, 70 (1st Cir. 2003) (citation omitted). "The fact that an event has not occurred can be counterbalanced in this analysis by the fact that a case turns

on legal issues not likely to be significantly affected by further factual development." *Id.* (citation omitted). As to the "hardship" prong, the inquiry "typically turns upon whether the challenged action creates a 'direct and immediate' dilemma for the parties." *Id.* (citation omitted). "This inquiry encompasses the question of whether plaintiff is suffering any present injury from a future contemplated event." *Id.*

Consolidated Plaintiffs meet both the fitness and the hardship prongs. The issues are fit for judicial review because the claims at issue do not involve uncertain or contingent events. Consolidated Plaintiffs' claims are not based on an actual closure of the Department, but on the effective incapacitation of the Department to carry out congressionally mandated functions through the guise of what Defendants argue is a "reorganization." *See* [Doc. No. 95 at 13, 14, 19, 25, 28].[9] Defendants cannot have it both ways. While repeatedly referring to the mass terminations as merely a "reorganization" not ripe for judicial review, Defendants simultaneously sidestep that the mass terminations were *explicitly* implemented to shut down the Department. Section 2 of the Executive Order is titled, "Closing the Department of Education and Returning Authority to the States," and clearly directs the Secretary to "take all necessary steps to facilitate

[9] *See, e.g.*, [Doc. No. 1 at ¶ 156 (Count I – Separation of Powers: "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"); ¶ 163 (Count II – Take Care Clause: "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"); 25-cv-10677 Doc. No. 1 at ¶ 227 (Count III – *Ultra Vires*: "Defendant[s]' actions to dismantle the Department, including the March 11 mass termination, the Executive Order, plans to transfer portions of the Department to other federal agencies, and subsequent steps to implement that Order, are outside of Defendants' authority to act"); ¶ 232 (Count IV – Actions Contrary to Constitutional Right under the APA: "Defendants' actions to dissolve the Department of Education, including by effectuating mass terminations of the Department's staff and planning to transfer portions of the Department to other federal agencies, usurp legislative authority conferred by the Constitution to Congress, in violation of the separation of powers"); ¶ 239 (Count V – Excess of Statutory Authority under the APA: "Defendants lack authority to dismantle the Department, in whole or in part, including by effectuating mass terminations of the Department's staff or otherwise implementing the Executive Order's directive")].

the closure of the Department of Education."[10] *See* [Doc. No. 71-1]; *see also* [Doc. No. 71-9 (Reporting on President Trump's "desire to do away with the department entirely," his hope that "Ms. McMahon would effectively put herself out of a job," and his desire "to close [the Department] immediately")].

As explained in further detail with relevance to the parties' standing and irreparable harm arguments, the Consolidated Plaintiffs have demonstrated that this is a case "in which the impact of the [terminations] upon the petitioners is sufficiently direct and immediate as to render the issue appropriate for judicial review at this stage." *Abbott*, 387 U.S. at 152; *see id.* at 153 ("Where the legal issue presented is fit for judicial resolution, and where a regulation requires an immediate and significant change in the plaintiffs' conduct of their affairs with serious penalties attached to noncompliance, access to the courts under the Administrative Procedure Act and the Declaratory Judgment Act must be permitted, absent a statutory bar or some other unusual circumstance, neither of which appears here"). A department without enough employees to perform statutorily mandated functions is not a department at all. This court cannot be asked to cover its eyes while the Department's employees are continuously fired and units are transferred out until the Department becomes a shell of itself.[11]

[10] That this directive is qualified by the statement "to the maximum extent appropriate and permitted by law" does not make Defendants' actions lawful.

[11] The cases Defendants cite do not support them. *F.T.C. v. Standard Oil Co. of California*, 449 U.S. 232 (1980) (discussing finality of agency action as opposed to ripeness); *City of New York v. United States Dep't of Def.*, 913 F.3d 423 (4th Cir. 2019) (same). In *Roman Cath. Bishop of Springfield v. City of Springfield*, 724 F.3d 78, 90–91 (1st Cir. 2013), the First Circuit held that "enactment of the [challenged] Ordinance itself" showed there was "no doubt that the City intend[ed] to enforce the Ordinance," and that claim was ripe, but that the "claim concerning the potential future results of the application process" was not ripe because there were "further factual developments that could be relevant to the outcome of this case." Like *Roman Catholic*, the enactment of the RIF itself demonstrates Defendants' intentions of enforcing it. Further factual development is not necessary to make this issue ripe for resolution.

IV. STANDING

To establish standing, a "plaintiff must have suffered an 'injury in fact,'" . . . "the injury has to be 'fairly traceable to the challenged action of the defendant,'" and the injury must be likely redressable through a favorable decision of a court. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992) (cleaned up). Article III standing requires that a plaintiff "suffered an injury in fact that is concrete, particularized, and actual or imminent." *TransUnion LLC v. Ramirez*, 594 U.S. 413, 423 (2021). The injury must be "real, and not abstract." *Id*. at 424 (cleaned up). "Central to assessing concreteness is whether the asserted harm has a close relationship to a harm traditionally recognized as providing a basis for a lawsuit in American courts"—such as physical harm, monetary harm, or various intangible harms. *Id.* at 414 (cleaned up). Furthermore, "[a]lthough imminence is concededly a somewhat elastic concept, it cannot be stretched beyond its purpose, which is to ensure that the alleged injury is not too speculative for Article III purposes—that the injury is *certainly* impending." *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 409 (2013).

Contrary to Defendants' assertion, Consolidated Plaintiffs—who can be divided into three groups: Plaintiff States, School Districts, and Union Plaintiffs—have shown concrete, imminent harm sufficient to establish standing. Below, I list just a few examples of Consolidated Plaintiffs' harms due to the RIF. *See infra* Section VI.B (providing comprehensive summary of irreparable harms to Consolidated Plaintiffs as a result of the RIF, including financial uncertainty and delay, impeded access to vital research upon which students, districts, and educators rely, and loss of essential services provided by the Office for Civil Rights and Federal Student Aid.).

A. Plaintiff States And School Districts

As a result of the RIF, Plaintiff States have already experienced delays and disruptions in their receipt of primary and secondary education funding from the Department. [Doc. No. 71-29

at ¶ 25 (As of March 18, 2025, the New Jersey Department of Education ("NJDOE") "received a notice to expect delays in connecting to a live help desk agent because of severe staffing restraints" when attempting "to view and withdraw federal funds to use for its programs and to pay vendors.")]. I believe this delay and uncertainty in educational funding constitutes an injury in fact directly harming Plaintiff States, whose vital function is to provide quality education to their citizenry. *Brown v. Bd. of Ed.*, 347 U.S. 483, 493 (1954) ("[E]ducation is perhaps the most important function of state and local governments.).

Additionally, both Plaintiff States and School Districts have shown that such uncertainty and delay stemming from Defendants' actions are harming State Education Agencies ("SEA"s), Local Education Agencies ("LEA"s), colleges, and universities by making it extraordinarily difficult to plan, budget, and hire educators. For example, Somerville Public Schools "do not know whether [they] will be able to add staff before the 2025-26 school year, or whether [they] . . . will be able to provide summer school, or whether [they] will be able to retain staff . . . [w]ithout timely and predictable funding, Somerville would be forced to make cuts – including possibly premature cuts – to staff and programs, disrupting services for students and families. This instability makes long-term planning nearly impossible and weakens the district's ability to provide high-quality education and support." [25-cv-10677 Doc. No. 27-7 at ¶ 48]. RIDE, "a department and the operating arm of the Rhode Island Council on Elementary and Secondary Education," receives federal funding totaling over $60 million, which "are allocated to state education agencies which then subgrant directly to eligible entities. 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." [Doc. No. 104 at ¶¶ 4, 15–16].

Given these uncontested declarations, School Districts have shown injury in fact sufficient to establish standing. *Food & Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. 367, 395 (2024) (Standing found where a defendant's actions "directly affected and interfered with [plaintiff's] core business activities."). Plaintiff States have shown additional grounds for standing through injury in fact to their SEAs and LEAs. *Biden v. Nebraska,* 600 U.S. 477, 489 (2023) (finding injury sufficient to confer standing to Missouri, where the Secretary of Education's plan harmed a nonprofit government corporation of the state, which performed the essential public function of helping Missourians access student loans to pay for colleges). It is also important to note that these injuries to Plaintiff States and School Districts would not have occurred in the absence of the RIF that they challenge. *Compare Simon v. E. Kentucky Welfare Rts. Org.*, 426 U.S. 26, 45 n.25 (1976) (fairly traceable element of standing not met where "respondents' injuries might have occurred even in the absence of the IRS Ruling that they challenge").

B. Union Plaintiffs

"[A]n association has standing to bring suit on behalf of its members when: (a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333, 343 (1977). Here, Union Plaintiffs assert concrete injury on behalf of their members, who rely on federal student aid to afford their education and on positions created through federal work study, without which Union Plaintiffs' members would be forced to forgo higher education, default on existing loans, or potentially opt out of careers in

public service. [25-cv-10677 Doc. No. 27-13 at ¶¶ 3, 18–23 (The labor union SEIU is guided by a "vision for a just society where all workers are valued and all people are respected." SEIU's local chapter, CSUEU represents a bargaining unit of student assistants at California State University," and "[t]housands of these student assistants rely on aid via federal work study positions" as well as "to afford tuition, food, rent, other living expenses, and transportation off-campus internships.")]. Thus, taken together, Consolidated Plaintiffs have shown sufficient injury traceable to Defendants' actions to establish standing.

I am not convinced by Defendants' assertion that Consolidated Plaintiffs admit that they lack understanding of the Department's reorganization. In support of their contention, Defendants point to Consolidated Plaintiffs' statement that the Dear Education Stakeholders letter provided little detail about the cuts to OESE, OELA, and OSERS. To say that Consolidated Plaintiffs lack understanding of the reorganization based on a description of a Department communication ignores the numerous declarations from former Department employees, which describe in great detail the RIF's impact to specific offices within the Department. [Doc. No. 71-58; Doc. No. 71-61; Doc. No. 71-67; Doc. No. 71-68; Doc. No. 71-69; Doc. No. 102-8 (detailing impacts to FSA); Doc. No. 102-10 (detailing impacts to OESE); Doc. No. 71-64 (detailing impacts to IES); 25-cv-10677 Doc. No. 27-6 (detailing impacts to OGC); Doc. No. 71-48 (detailing impacts to OCR)].

Finally, Defendants argue that even if Consolidated Plaintiffs could show an imminent, actual harm, Defendants have exercised appropriate discretion in conducting a reorganization. I agree that there is "wide latitude traditionally granted to the government in dispatching its own internal affairs." *Gately v. Com. of Mass*., 2 F.3d 1221, 1234 (1st Cir. 1993). But Consolidated Plaintiffs are not disputing that the Department has the authority to reorganize the Department

and implement an RIF *so long as such reorganization allows the Department to fulfill its statutory mandates*. [Doc. No. 121 at 10:7–25]. Here, Consolidated Plaintiffs allege that the Department has been effectively dismantled, through the RIF, resulting in a failure by the Department to meet its statutory mandates. Consolidated Plaintiffs have provided an extensive record, particularly through supporting declarations from former Department employees, that their harms stem from the Department's inability to effectuate vital statutory functions specifically tasked to it. Thus, Consolidated Plaintiffs have standing to challenge the Department's actions.

V. JURISDICTION

Another preliminary issue for resolution is whether the Civil Service Reform Act ("CSRA"), Pub. L. No. 95-454, § 701, 92 Stat. 1111, 1191–216 (1978) (codified at 5 U.S.C. §§ 7101–35), divests this court of jurisdiction. The CSRA "provides for the original and exclusive administrative review of certain labor- and employment-related claims brought by federal employees and/or their unions." *Maryland v. United States Dep't of Agric.*, No. cv 25-0748, 2025 WL 973159, at *15 (D. Md. Apr. 1, 2025).

Defendants argue that the CSRA precludes Consolidated Plaintiffs' claims challenging the mass terminations, because the "essential nature of Plaintiffs' challenge" is the "employment at the Department of Education." [Doc. No. 95 at 21, 23]. According to Defendants, had the Department eliminated only a single program office or conducted a more limited RIF, the appropriate challenge would have been brought by aggrieved agency personnel before the Merit Systems Protection Board ("MSPB"), and the Union Plaintiffs' exclusive remedy is review before the Federal Labor Relations Authority ("FLRA"). I would agree with that scenario. But that is not the situation here. Rather, the magnitude and the proportion of the mass terminations accounting for 50% of the Department's workforce has effectively incapacitated the Department.

This case is not about unlawful terminations; this case is about the impact that those terminations have on the Department's ability to fulfill its congressional obligations. In any event, Consolidated Plaintiffs are not "current or former employees of the Department, nor are they labor unions." [Doc. No. 101 at 11]. Plaintiffs are "local school districts and teachers' unions that represent educators who work in state and local schools. They do not represent any federal employees at the Department of Education." [25-cv-10677 Doc. No. 41 at 18-19]. As such, the CSRA does not apply.

The CSRA "established a comprehensive system for reviewing personnel action taken against federal employees." *United States v. Fausto,* 484 U.S. 439, 455 (1988). Under the CSRA, aggrieved "federal employees may obtain administrative and judicial review of specified adverse employment actions," including "removal, suspension for more than 14 days, reduction in grade or pay, or furlough for 30 days or less." *Elgin v. Dep't of Treasury*, 567 U.S. 1, 5-6 (2012) (citing 5 U.S.C. § 7512). Employees and labor unions may appeal decisions of the MSPB or FLRA to the federal courts of appeals. 5 U.S.C. §§ 7101 *et seq*. Consolidated Plaintiffs are not federal employees or labor unions who have access to the MSPB or FLRA under the CSRA. Though Defendants assert that the MSBP and the FLRA are the "exclusive means for federal employees, labor unions, and *other interested parties*" to raise challenges to adverse employment actions, [Doc. No. 95 at 21 (emphasis added)], they do not cite to any authority supporting that "other interested parties" are subject to the CSRA or define who these "other interested parties" are.[12]

[12] None of the cases Defendants cite involve any plaintiff other than an employee or union. *See, e.g.*, *Elgin*, 567 U.S. 1, 6-7 (employees suing over their dismissal for failure to register for the Selective Service); *Am. Fed'n of Gov't Emps. v. Sec'y of the Air Force*, 716 F.3d 633, 635 (D.C. Cir. 2013) (unions and one employee suing over military uniform requirements); *Am. Fed'n of Gov't Emps. v. Trump*, 929 F.3d 748, 75-753 (D.C. Cir. 2019) (unions suing over changes to federal labor-management relations scheme); *Fausto*, 484 U.S. 439 (employee suing over individual disciplinary action); *see also Maryland*, 2025 WL 973159, at *15 (collecting cases).

Rather, the plain text of the statute forecloses its application to any litigant who is not an individual, labor organization, or agency. *See* 5 U.S.C. § 7103(a)(1) (a "person" is an "individual, labor organization, or agency"); §7103(a)(2) (an "employee" is either an individual "employed in an agency" or whose employment "has ceased because of any unfair labor practice," as described in the statute); § 7103(a)(4) (a "labor organization" is "an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose the dealing with an agency concerning grievances and conditions of employment").

Further, Consolidated Plaintiffs' harms are "sufficiently distinct from the employee- and union-focused harms Congress intended to channel away from the district courts." *Maryland*, 2025 WL 973159, at *15.[13] Here too, Consolidated Plaintiffs "have suffered unique harms . . . irrespective of those harms' connection with the agency-employee relationship." *Maryland*, 2025 WL 800216, at *14. In *American Federation of Government Employees*, for example, the court held that it had jurisdiction over claims brought by public-sector unions concerning federal employee terminations. There, the court found that,

> [T]he public-sector unions' ultra vires or separation-of-powers claim is not about each employer agency's purported decision to terminate any or all of its employees. Instead, it is about a prior controlling event: Did the OPM exceed its authority when it directed all federal agencies to terminate their probationers *en masse*? This distinguishes these claims from others that have attacked, substantively or procedurally, one agency's decision about one employee or its own workforce, which are the kinds of claims appellate courts have channeled into the CSRA.

[13] In a closely analogous case, the District Court of Maryland conducted a thorough analysis of the application of the CSRA to States who sued over the government's implementation of a reduction in force that resulted in the mass layoffs of probationary employees. *See Maryland v. United States Dep't of Agric.*, No. 25-cv-0748, 2025 WL 800216, at *13 (D. Md. Mar. 13, 2025); *Maryland*, 2025 WL 973159 (D. Md. Apr. 1, 2025). The Fourth Circuit recently granted the Government's motion to stay the injunction pending appeal. Though the Fourth Circuit granted the stay, stating "[t]he Government is likely to succeed in showing the district court lacked jurisdiction over Plaintiffs' claims, and the Government is unlikely to recover the funds disbursed to reinstated probationary employees," the court did not provide any reasoning for that conclusion. *Maryland v. United States Dep't of Agric.*, No. 25-1248, 2025 WL 1073657, at *1 (4th Cir. Apr. 9, 2025). I am not bound by the unexplained conclusion of the Fourth Circuit, and I rely on the Maryland District Court's reasoning as persuasive here.

No. 25-cv-01780, 2025 WL 900057, at *1, 3 (N.D. Cal. Mar. 24, 2025). (cleaned up). Here, the question is similar: Did Defendants exceed their authority in firing Department employees *en masse* to circumvent Congress's power to dismantle the Department? And, unlike in *American Federation*, Consolidated Plaintiffs here do not represent or purport to be employees of the Department. *See Am. Fed'n of Gov't Emps., AFL-CIO v. Trump*, No. 25-cv-03698, 2025 WL 1358477, at *15 (N.D. Cal. May 9, 2025) ("[T]he Civil Service Reform Act says nothing at all about non-federal employee unions, non-profit organizations, or local governments"); *Winnebago Tribe of Nebraska v. Babbitt*, 915 F. Supp. 157, 165 (D.S.D. 1996) ("In any event, jurisdiction under the CSRA is dependent upon whether the plaintiff is an employee"). As another federal court also recently held in an analogous case, this case is "not simply an employment dispute." *Widakuswara et al. v. Lake et al.*, No. 25-cv-1015, 2025 WL 1166400, at *11 (D.D.C. Apr. 22, 2025) (granting in part preliminary injunction and finding court had jurisdiction over plaintiffs' claims arising out of a RIF dismantling a federal agency).

VI. PRELIMINARY INJUNCTION

Consolidated Plaintiffs seek a preliminary injunction pursuant to Federal Rule of Civil Procedure 65. "A preliminary injunction is an extraordinary remedy never awarded as of right." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). Consolidated Plaintiffs "must establish that [they are] likely to succeed on the merits, that [they are] likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in [their] favor, and that an injunction is in the public interest." *Id.* at 20. Among these four factors, the likelihood of success is the "main bearing wall" of the analysis. *Corp. Techs., Inc. v. Harnett*, 731 F.3d 6, 10 (1st Cir. 2013) (cleaned up). This Court accepts as true "all of the well-pleaded allegations of [Plaintiffs'] complaint and uncontroverted affidavits filed in support of the motion for a preliminary injunction." *Elrod v. Burns*, 427 U.S. 347, 350 n.1 (1976).

A. Likelihood of Success on the Merits

1. Constitutional Claims

Defendants argue that Plaintiffs' constitutional claims are barred as purely statutory. For this proposition, Defendants rely primarily on *Dalton v. Specter*, 511 U.S. 462 (1994). However, *Dalton* is inapplicable here, and Defendants conceded at the motion hearing that the President's actions were not taken pursuant to any statutory authority. *See* [Doc. No. 121 at 49–50].

In *Dalton*, respondents sought to enjoin the Secretary of Defense from carrying out a decision by the President, pursuant to the Defense Base Closure and Realignment Act of 1990 (the "1990 Act") to close the Philadelphia Naval Shipyard. 511 U.S. at 464. Respondents alleged that the Secretary violated the 1990 Act in recommending closure of the Shipyard. *Id.* at 466. The Court held that the President's decision to accept a flawed recommendation "is not a 'constitutional' claim subject to judicial review under the exception recognized in *Franklin v. Massachusetts*, 505 U.S. 788, 801 (1992), but simply a statutory claim." *Id.* at 462 (cleaned up). The Court rejected "the proposition that every action by the President, or by another executive official, in excess of his statutory authority is *ipso facto* in violation of the Constitution," distinguishing "between claims of constitutional violations and claims that an official has acted in excess of his statutory authority." *Id.* at 472. However, the Court distinguished its holding in *Dalton* from its decision in *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 587 (1952), where the Government did not rely on *any* statutory authorization for its actions.

The Court clarified that in *Youngstown*, as opposed to *Dalton*:

> The only basis of authority asserted was the President's inherent constitutional power as the Executive and the Commander in Chief of the Armed Forces. Because no statutory authority was claimed, the case necessarily turned on whether the Constitution authorized the President's actions. Youngstown thus involved the *conceded absence of any statutory authority*, not a claim that the President acted in excess of such authority. The case cannot be read for the proposition that an action

> taken by the President in excess of his statutory authority necessarily violates the Constitution.

Id. at 473 (emphasis added).

I agree with Consolidated Plaintiffs that *Dalton* does not stand for the proposition that "action outside the scope of statutory authority can *never* give rise to a constitutional violation." [Doc. No. 101 at 16 (emphasis in original)]. Nevertheless, Consolidated Plaintiffs' constitutional claims are more akin to *Youngstown*, "where *no* statutory authority supported the President's actions." [*Id.* (emphasis in original)]. Consolidated Plaintiffs assert that "[i]n hobbling the Department, Defendants acted both without any supporting statutory authority and directly contrary to congressional intent. Their constitutional power was thus "at its lowest ebb." [*Id.* at 16–17 (citing *Youngstown*, 343 U.S. at 637–38 (Jackson, J., concurring))]. Unlike in *Dalton*, where the 1990 Act was the ground for plaintiff's challenge, here, Consolidated Plaintiffs challenge the Directives as outside the scope of the executive's authority entirely. They do not allege a violation of the DEOA—rather, the Act simply evidences that the Department was created pursuant to Congress's authority and cannot be dismantled without it. *Am. Forest Res. Council v. United States*, 77 F.4th 787, 797 (D.C. Cir. 2023), *cert. denied*, 144 S. Ct. 1110, 218 L. Ed. 2d 348 (2024) ("*Dalton*'s holding merely stands for the proposition that when a statute entrusts a discrete specific decision to the President and contains *no limitations* on the President's exercise of that authority, judicial review of an abuse of discretion claim is not available.") (cleaned up).

a. <u>Separation of Powers And Take Care Clause</u>

By "eliminating the staff required to meet Congress's requirements," Consolidated Plaintiffs argue that the Executive Branch is unlawfully abolishing the Department and its statutorily mandated components. [Doc. No. 70 at 38]. Amici members of Congress state that,

"Defendants' actions violate the Constitution's separation of powers under which Congress holds the sole power to make laws and the Executive faithfully executes those laws." [Doc. No. 106-1 at 8, citing U.S. Const. art. I; id. art. II, § 3). I find that Consolidated Plaintiffs are likely to succeed in showing that Defendants are effectively disabling the Department from carrying out its statutory duties by firing half of its staff, transferring key programs out of the Department, and eliminating entire offices and programs.

"All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." U.S. Const. art. I, § 1. "To Congress under its legislative power is given the establishment of offices, the determination of their functions and jurisdiction, the prescribing of reasonable and relevant qualifications and rules of eligibility of appointees, and the fixing of the term for which they are to be appointed and their compensation—all except as otherwise provided by the Constitution." *Myers v. United States*, 272 U.S. 52, 129 (1926). The President "shall take Care that the Laws be faithfully executed," U.S. Const. art. II, § 3, but the "repeal of statutes, no less than enactment, must conform with Art. I." *INS v. Chadha,* 462 U.S. 919, 954 (1983). "There is no provision in the Constitution that authorizes the President to enact, to amend, or to repeal statutes." *Clinton v. City of New York*, 524 U.S. 417, 438 (1998) "Under Article II of the Constitution and relevant Supreme Court precedents, the President must follow statutory *mandates* so long as there is appropriated money available and the President has no constitutional objection to the statute." *In re Aiken Cnty.*, 725 F.3d 255, 259 (D.C. Cir. 2013) ("Executive must abide by statutory mandates and prohibitions").

The DEOA recognized 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, and therefore declared that "the establishment of a Department of Education is in the public interest, will promote the general welfare of the United States, will help ensure that education issues receive proper treatment at the Federal level, and will enable the Federal Government to coordinate its education activities more effectively." 20 U.S.C. § 3402. The Executive Order's direction to "facilitate the closure of the Department of Education and return authority over education to the States and location communities" goes directly against Congress's intent in creating the Department 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." *Id.* While it may be true that the President has the power to remove executive officers, *see Myers*, 272 U.S. at 119, Defendants cite to no case that this power includes the power to dismantle Congressionally created departments and programs through mass terminations.[14] These actions violate the separation of powers by violating the executive's

[14] Defendants' cases cited in support of their argument that they were merely making permissible enforcement decisions with respect to the changes to the Office for Civil Rights do not apply. *See, e.g., Heckler,* 470 U.S. at 829 (FDA agency's decision not to institute enforcement proceedings under the Food, Drug, and Cosmetic Act with respect to drugs used for lethal injections was within agency's discretion); *United States v. Nixon*, 418 U.S. 683, 693 (1974) (Executive Branch has absolute discretion to decide whether to prosecute a case, and thus, "President's decision is final in determining what evidence is to be used in a given criminal case"). Here, Consolidated Plaintiffs do not challenge a "specific decision by Defendants regarding whether to pursue an enforcement action, or which enforcement actions to pursue." [Doc. No. 101 at 17]. "Rather, Plaintiffs argue that Defendants' actions to reduce OCR staff amount to an incapacitation of the Department's ability to meet its statutory obligations to begin with. The Department cannot, on its own, decide to render OCR incapable of performing the duties Congress established." [*Id.* (citing 20 U.S.C. § 3413)]. Defendants' cases supporting the idea that that "implementation of such policy priorities is plainly within the purview of Defendants" also are inapposite, as they do not speak to Defendants' power to unilaterally dismantle a Congressionally created Department. *See Lujan v. Defs. of Wildlife*, 504 U.S. 555, 577 (1992) (refusing to find that an individual has standing merely by asserting a take care clause claim); *Chicago & S. Air Lines v. Waterman S. S. Corp.*, 333 U.S. 103, 111, 114 (1948) (finding that "the very nature of executive decisions as to foreign policy is political, not judicial," and therefore holding that the matters at issue were "political matters beyond the competence of the courts to adjudicate").

duties to take care to faithfully execute laws enacted by Congress, as well as its duties to expend funds that Congress has authorized it to appropriate.[15] [16] *See Clinton*, 524 U.S. at 438 (President's actions in canceling provisions of certain budget and tax acts "in both legal and practical effect . . . amended two Acts of Congress by repealing a portion of each. Statutory repeals must conform with Art. I, but there is no constitutional authorization for the President to amend or repeal") (citation omitted).

b. Ultra Vires[17]

"To act *ultra vires* a government official is either acting in a way that is impermissible under the Constitution or acting outside of the confines of his statutory authority." *Mesa Hills Specialty Hosp. v. Becerra*, 730 F.Supp. 3d 342, 352 (W.D. Tex. 2024). "[A] claim alleging that the President acted in excess of his statutory authority is judicially reviewable even absent an applicable statutory review provision." *Am. Forest Res. Council*, 77 F.4th at 796. "Even when the Congress gives substantial discretion to the President by statute, we presume it intends that the President heed the directives contained in other enactments." *Id.* at 797. "The Congress can and

[15] The Supreme Court in *Myers* recognized that "the President alone and unaided could not execute the laws. He must execute them by the assistance of subordinates. This view has since been repeatedly affirmed by this court." *Myers*, 272 U.S. at 117; *Aiken Cnty.*, 725 F.3d at 259 ("[T]he Executive must abide by statutory mandates and prohibitions. Those basic constitutional principles apply to the President and subordinate executive agencies"). If Defendants were correct that the Take Care clause only applies to the President, a President could evade Article II review by simply delegating the task to subordinates.

[16] Count IV of the Somerville Plaintiffs' Complaint alleges a separate claim under the APA that Defendants' actions are contrary to a Constitutional right. Under the APA, a court shall "hold unlawful and set aside agency action . . . found to be . . . contrary to constitutional right." 5 U.S.C. § 706(2)(B). For the same reasons that I find a likelihood of success on the merits of Consolidated Plaintiffs' constitutional claims, I also find a likelihood of success on this count.

[17] As explained above, *Dalton* does not preclude judicial review of the constitutional claims. *See Trump*, 2025 WL 1358477, at *18 (enjoining large-scale RIF, holding that "defendants misread plaintiffs' *ultra vires* theory against President Trump. Plaintiffs' claim is not that the President exceeded his statutory authority, as the *Dalton* plaintiffs claimed. Instead, Claim One is about the President acting without *any* authority, constitutional or statutory.") (emphasis in original).

often does cabin the discretion it grants the President, and it remains the responsibility of the judiciary to ensure that the President act within those limits." *Id.* "[W]here the officer's powers are limited by statute, his actions beyond those limitations are considered individual and not sovereign actions. The officer is not doing the business which the sovereign has empowered him to do or he is doing it in a way which the sovereign has forbidden. His actions are ultra vires his authority and therefore may be made the object of specific relief." *Larson v. Domestic & Foreign Com. Corp.*, 337 U.S. 682, 689 (1949). "[F]ederal courts may in some circumstances 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).

Defendants argue that any analysis of an *ultra vires* claims must be "confined to 'extreme' agency error where the agency has stepped so plainly beyond the bounds of [its statutory authority], or acted so clearly in defiance of it, as to warrant the immediate intervention of an equity court[.]" *Fed. Express Corp. v. United States Dep't of Com.*, 39 F.4th 756, 764 (D.C. Cir. 2022) (cleaned up). "Only error that is patently a misconstruction of the Act, that disregard[s] a specific and unambiguous statutory directive, or that violate[s] some specific command of a statute will support relief." *Id.* (cleaned up). Even under the extreme agency error standard, Defendants have likely acted *ultra vires*. As *Amici* Members of Congress explain, "no statute grants the Executive the authority to dismantle the Department because Congress has passed no 'statute that expressly authorizes' the Executive to dissolve the Department or transfer its congressionally mandated responsibilities to other agencies." [Doc. No. 110, at 35–36 (citing *Youngstown*, 343 U.S. at 585)]. As mentioned, the Agency Defendants have the authority to reorganize the Department how they see fit, so long as it can carry out Congress's mandates. However, as has been established, the Defendants have not made it a secret that their goal is to do away with the Department entirely; they have publicly and repeatedly stated so. These actions

are plainly beyond the bounds of what Defendants can do, and Defendants do not point to any authority to the contrary. Indeed, "[t]he simple proposition that the President may not, *without Congress*, fundamentally reorganize the federal agencies is not controversial." *Trump*, 2025 WL 1358477, at *18 (granting TRO arising from large-scale RIF) (emphasis in original).

2. APA Claims

a. Final Agency Action

As an initial matter, I find that the Agency Defendants' actions are final such that judicial review is available. "The APA, by its terms, provides a right to judicial review of all 'final agency action for which there is no other adequate remedy in a court,' § 704, and applies universally except to the extent that—(1) statutes preclude judicial review; or (2) agency action is committed to agency discretion by law,' § 701(a)." *Bennett v. Spear*, 520 U.S. 154, 175 (1997) (citing 5 U.S.C. §§ 701(a), 704). "As a general matter, two conditions must be satisfied for agency action to be 'final': First, the action must mark the 'consummation' of the agency's decisionmaking process . . . it must not be of a merely tentative or interlocutory nature. And second, the action must be one by which 'rights or obligations have been determined,' or from which 'legal consequences will flow.'" *Id.* at 177 (citation omitted).

As to the first condition, Defendants argue that the RIF "marks the initiation, not the consummation, of the agency's decision-making process" and that "Plaintiffs are unable to identify any concrete, final decision by the Department of Education to shut itself down." [Doc. No. 95 at 28]. But the record is clear that Defendants have made their decision: they intend to close the Department, without Congress's approval. Defendants do not purport to reverse the mass terminations, reinstate programs or offices that it closed, or bring back programs that it transferred out of the Department. *See Trump*, 2025 WL 1358477, at *21 (granting TRO and finding that defendants' actions in implementing the RIF "are done and final" because defendants

do not assert that actions are "subject to change" or that they may be "modified or rescinded," even though the "ultimate impacts of the RIFs may yet be unknown"). Nor do Defendants argue that they are still stewing on whether the Department is a "bureaucratic bloat," or that the Department is "inefficien[t] and [a] waste." [Doc. No. 95 at 12, 33]. Defendants' goal is clear, and their actions in furtherance of that goal are not subject to change.

As to the second condition, I find that there are "legal consequences [that] will flow" from the Agency Defendants' actions. *Bennett*, 520 U.S. at 177. "[A]ny agency's decision to dismiss an employee effects self-evident legal consequences for both parties and plainly marks the end of the agency's decision-making with respect to the employee involved." *Maryland*, 2025 WL 800216, at *11; *cf. Am. Fed'n of Gov't Emps., AFL-CIO v. OPM*, No. 25-cv-1780, 2025 WL 660053, at *5 (N.D. Cal. Feb. 28, 2025) ("OPM's direction to the other agencies [to dismiss probationary employees] constituted a final agency action for the purposes of the APA."). Here, Agency Defendants have already terminated half of the Department, shut down entire programs and offices, and transferred Congressionally mandated programs out of the Department. To the extent there is any room to argue that the Department may "reverse these actions at some unidentified point in the future . . . does not change the fact that the agency has made decisions, communicated them to their employees . . . and thereby altered their rights and obligations." *Widakuswara*, 2025 WL 1166400 at *12 (finding that "*final* does not mean *permanent*") (emphasis in original).

Contrary to Defendants' assertions, Consolidated Plaintiffs are not challenging some broad, abstract policy; they challenge the mass terminations designed to get rid of the Department. This case is not like *Lujan v. Nat'l Wildlife Fed'n*., where the Court rejected a challenge to an agency's "land withdrawal review program." 497 U.S. 871 (1990). There, the Court held that the claims did not challenge a final agency action because the program is not "a

single [Bureau of Land Management] BLM order or regulation, or even a completed universe of particular BLM orders and regulations." *Id.* at 890. Rather, because the program "extends to . . . 1250 or so individual classification terminations and withdrawal revocations," the Court held that respondent "cannot seek *wholesale* improvement of this program by court decree, rather than in the offices of the Department or the halls of Congress, where programmatic improvements are normally made." *Id.* at 890-891 (citation omitted). Here, unlike in *Lujan*, Consolidated Plaintiffs' challenge is addressed squarely at a discrete set of final actions: the mass terminations of half the Department of Education, and the transfer of certain programs out of the Department. Issuing an injunction to that effect would not require this court to manage the day-to-day affairs of the Department, it would simply restore the status quo until this court can determine whether Defendants acted unlawfully.

b. Agency Action Committed To Discretion By Law

Defendants' actions cannot be fairly categorized as mere managerial or staffing decisions that are typically afforded discretion. The APA provides that "[a] person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof," 5 U.S.C. § 702, "except to the extent that . . . agency action is committed to agency discretion by law." 5 U.S.C. § 701(a)(2). "The Administrative Procedure Act creates a basic presumption of judicial review for one suffering legal wrong because of agency action." *Weyerhaeuser Co. v. U.S. Fish & Wildlife Serv.*, 586 U.S. 9, 22 (2018) (cleaned up). "Congress rarely intends to prevent courts from enforcing its directives to federal agencies. For that reason, this Court applies a 'strong presumption' favoring judicial review of administrative action." *Mach Mining, LLC v. E.E.O.C.*, 575 U.S. 480, 486 (2015) (cleaned up).

This presumption may be rebutted if an agency action is committed to agency discretion by law. *Weyerhaeuser*, 586 U.S. at 23. "A court could never determine that an agency abused its discretion if all matters committed to agency discretion were unreviewable." *Id*. "To give effect to § 706(2)(A) and to honor the presumption of review, [the Supreme Court] ha[s] read the exception in § 701(a)(2) quite narrowly, restricting it to 'those rare circumstances where the relevant statute is drawn so that a court would have no meaningful standard against which to judge the agency's exercise of discretion.'" *Id.* (citing *Lincoln v. Vigil,* 508 U.S. 182, 191 (1993)).

The Court has applied the exception in decisions involving allocation of funds from a lump-sum appropriation, *Lincoln*, 508 U.S. at 191, and reconsideration of a final action, *ICC v. Locomotive Engineers,* 482 U.S. 270, 282 (1987).[18] *Weyerhaeuser*, 586 U.S. at 23. In *Weyerhaeuser*, the Court held that an action challenging the Fish and Wildlife Service's designation of their land as a critical habitat for the dusky gopher frog under the Endangered Species Act "involves the sort of routine dispute that federal courts regularly review: An agency issues an order affecting the rights of a private party, and the private party objects that the agency did not properly justify its determination under a standard set forth in the statute." *Id.* at 23–24.

Defendants do not point to any analogous case holding that an agency's implementation of a RIF to dismantle itself falls within the narrow exception to judicial review under the APA.[19]

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[18] *See also Lincoln*, 508 U.S. at 191 ("Over the years, we have read § 701(a)(2) to preclude judicial review of certain categories of administrative decisions that courts traditionally have regarded as 'committed to agency discretion'"); *see Heckler v. Chaney,* 470 U.S. 821, 829 (1985) (FDA agency's decision not to institute enforcement proceedings under the Food, Drug, and Cosmetic Act with respect to drugs used for lethal injections was presumptively unreviewable); *Webster v. Doe*, 486 U.S. 592, 599-600 (1988) (decision of Director of Central Intelligence to terminate an employee in the interests of national security was barred from judicial review under APA).

[19] To find that these actions fall within the narrow exception would greatly expand it—which I am unwilling to do. Further, the fact that the Department's actions prevent the effectuation of Congressionally mandated obligations itself demonstrates that these actions are not discretionary.

Defendants' cases cited in support of their arguments are inapposite, [20] especially where Courts read the "exception for action committed to agency discretion 'quite narrowly.'" *Dep't of Com. v. New York*, 588 U.S. 752, 772 (2019) (citing *Weyerhaeuser*, 586 U.S. at 23).

c. Beyond Statutory Authority

The Somerville Plaintiffs allege that the Secretary lacks the authority to abolish, reorganize, or alter offices within the Department except in narrow circumstances provided by the reorganization statute. *See* 20 U.S.C. § 3473. The Somerville Plaintiffs argue that Agency Defendants exceeded their authority by abolishing offices that the reorganization statute specifically prohibits, including: OESE, 20 U.S.C. § 3414; OSERS, 20 U.S.C. § 3417 (establishing OSERS), 20 U.S.C. § 1402 (requiring that OSEP, within OSERS, administer IDEA); OCTAE, 20 U.S.C. § 3416; OCR, 20 U.S.C. § 3413, and others.

Under the reorganization statute in the DEOA, 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, but the authority of the Secretary under this subsection 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.

[20] *See Markland v. Off. of Pers. Mgmt.*, 140 F.3d 1031 (Fed. Cir. 1998) (no APA claim, and Federal Circuit did not conclude that an agency's decision to institute an RIF was unreviewable, but rather that the RIF was implemented in accordance with its regulations); *Union of Concerned Scientists v. Wheeler*, 954 F.3d 11, 17-18 (1st Cir. 2020) (First Circuit reversed district court's decision that a statute did not provide meaningful standards that a reviewing court could apply because EPA "pointed [] to nary a case that would suggest" that the agency decision in that case was "traditionally left to agency discretion"); *see also Drake v. F.A.A.*, 291 F.3d 59, 70 (D.C. Cir. 2002) (FAA's decision to dismiss complaint brought by flight attendant who alleged that airline violated drug testing regulations was not reviewable because this decision "was equivalent to a decision not to commence an enforcement action"); *de Feyter v. Fed. Aviation Admin.*, No. 10-cv-358, 2011 WL 1134657, at *5 (D.N.H. Mar. 25, 2011) (finding "the decision not to impose civil penalties is generally the type of action committed to agency discretion").

20 U.S.C. § 3473(a)(1)–(3). The Secretary may alter or discontinue some entities within the Department for other entities created by statute, including,

> (A) the Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students; (B) the Teacher Corps; (C) the Community College Unit; (D) the National Center for Education Statistics; (E) the National Institute of Education; (F) the Office of Environmental Education; (G) the Office of Consumers' Education; (H) the Office of Indian Education; (I) the Office of Career Education; (J) the Office of Non-Public Education; (K) the bureau for the education and training for the handicapped; (L) the administrative units for guidance and counseling programs, the veterans' cost of instruction program, and the program for the gifted and talented children.

20 U.S.C. § 3473(b)(1)(A)–(L). To the extent that the Secretary has discontinued offices that she is not permitted to under the statute, such as the Office for Civil Rights, [Doc. No. 71-48 at ¶¶ 22, 29], I find that the Somerville Plaintiffs are likely to prevail on this claim. To the extent that the mass terminations are an effective dismantling of the entire Department, I also find that Somerville Plaintiffs are likely to prevail. Defendants fail to cite to a single case that holds that the Secretary's authority is so broad that she can unilaterally dismantle a department by firing nearly the entire staff, or that her discretion permits her to make a "shell" department.

d. <u>Arbitrary And Capricious</u>

The APA requires that a court "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). Under the APA, the arbitrary and capricious standard "is quite narrow: a reviewing court 'may not substitute its judgment for that of the agency, even if it disagrees with the agency's conclusions.'" *Atieh v. Riordan*, 797 F.3d 135, 138 (1st Cir. 2015) (citing *River St. Donuts, LLC v. Napolitano*, 558 F.3d 111, 114 (1st Cir. 2009)). An agency action is arbitrary and capricious only if the agency has "relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation

for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Motor Vehicle Mfrs. Ass'n of the U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). In making this determination, the reviewing court considers "whether the [agency] examined 'the relevant data' and articulated 'a satisfactory explanation' for [its] decision, 'including a rational connection between the facts found and the choice made.'" *Dep't of Commerce*, 588 U.S. at 773 (quoting *State Farm*, 463 U.S. at 43); *see also Amerijet Int'l, Inc. v. Pistole*, 753 F.3d 1343, 1350 (D.C. Cir. 2014) ("[A] fundamental requirement of administrative law is that an agency set forth its reasons for decision; an agency's failure to do so constitutes arbitrary and capricious agency action." (cleaned up)). At bottom, this deferential standard requires that "agency action be reasonable and reasonably explained." *FCC v. Prometheus Radio Project*, 592 U.S. 414, 423 (2021). That "reasoned explanation requirement . . . 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*, 588 U.S. at 785.

"Deciding whether agency action was adequately explained requires, first, knowing where to look for the agency's explanation." *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 20 (2020). "It is a 'foundational principle of administrative law' that judicial review of agency action is limited to 'the grounds that the agency invoked when it took the action.'" *Id*. (quoting *Michigan v. EPA*, 576 U.S. 743, 758 (2015)). Here, I look to the March 11 Directive and the March 21 Directive for the Defendants' explanation. The March 11 Directive states that the 50% RIF was taken "[a]s part of the Department of Education's final mission." [Doc. No. 71-5 at 2]. The March 11 Directive also states that the RIF "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." [Doc. No. 71-5 at 2]. The Secretary also stated that the RIF was "a significant step toward restoring the greatness of the United States education system." [*Id.*]. As Defendants concede, the Secretary's March 14 "Dear Education Stakeholders" letter sent a few days after the announcement of the RIF also "includes only a cursory explanation." [Doc. No. 95 at 35]. The March 21 Directive was announced orally at a press conference by President Trump. There, President Trump stated that he has "decided that the SBA, the Small Business Administration, headed by Kelly Loeffler … will handle all of the student loan portfolio," that it will be "coming out of the Department of Education immediately," and that the "Health and Human Services Department, will be handling special needs and all the nutrition programs and everything else," explaining that it "will work out very well."[21]

None of these statements amount to a reasoned explanation, let alone an explanation at all. Indeed, the March 11 Directive contains two contradictory positions. It states that the goal of the RIF is to improve the Department's "efficiency" but also states that the RIF has been taken to further the Department's "final mission"—which is, incontrovertibly, its closure. Beyond that, Defendants have not shown how the RIF furthers its goals of "efficiency, accountability, and ensuring that resources are directed" to "parents, students, and teachers." *Dep't of Commerce*, 588 U.S. at 773 (a court must determine whether there is "a rational connection between the facts found and the choice made"). For instance, Defendants have not attempted to demonstrate that cutting a certain program in half has somehow made that program more efficient or returned necessary resources to the States. There is no indication that Defendants conducted any research to support why certain employees were terminated under the RIF over others, why certain offices

[21] 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.

were reduced or eliminated, or how any of those decisions further Defendants' purported goals of efficiency or effectiveness of the Department. This is especially so where Consolidated Plaintiffs have built a record demonstrating that those decisions have actually done the opposite. *See infra* Section VI.B; *See Amerijet*, 753 F.3d at 1350 ("[C]onclusory statements will not do; an agency's statement must be one of reasoning.") (cleaned up). To the extent that the Department's goals of efficiency and accountability or directing resources back to the States can amounts to an explanation, it is "incongruent with what the record reveals about the agency's priorities and decision-making process." *Dep't of Commerce*, 588 U.S. at 785. [22] Thus, I "cannot ignore the disconnect between the decision made and the explanation given." *Id.*

Additionally, Consolidated Plaintiffs have demonstrated that the Agency Defendants "failed to consider . . . important aspect[s] of the problem." *State Farm*, 463 U.S. at 43. The Agency Defendants "entirely failed to grapple with the potential disruption to operations and interference with statutory and non-statutory functions a sudden elimination of nearly 50% of the Department's entire workforce would cause." [Doc. No. 70 at 35]. Nothing in the record indicates a consideration of the "substantial harms and reliance interests for students, educational institutions, Plaintiffs, and others." [*Id.* at 35–36]; *See Michigan v. E.P.A.*, 576 U.S. 743, 753 (2015) ("[R]easonable regulation ordinarily requires paying attention to the advantages and the disadvantages of agency decisions." (emphasis in original)). Defendants do not dispute this.

Rather, they suggest that the proper remedy is to remand the decision to the Department for additional explanation. This argument disregards a reviewing court's discretion to take any steps it deems necessary to prevent irreparable injury before a final judgment is reached. *See* 5

[22] The same is true as to the March 21 Directive, which provides no explanation, for example, how Congressionally mandated programs governing the facilitation of the federal student loan portfolios are made more efficient by being transferred to the Small Business Administration.

U.S.C. § 705 ("[T]o prevent irreparable injury, the reviewing court . . . may issue all necessary and appropriate process to postpone the effective date of an agency action or to preserve status or rights pending conclusion of the review proceedings."). As discussed below, Consolidated Plaintiffs are likely to suffer irreparable harm should the status quo not be restored. While remand for further explanation by the agency is the typical remedy when the agency's actions are held arbitrary and capricious specifically because the agency fails to provide an adequate explanation for its actions, *Florida Power & Light Co. v. Lorion*, 470 U.S. 729, 744 (1985), Defendants' failure to provide a reasonable explanation is not the only ground for holding its actions unlawful. As discussed below, it is also likely that Defendants acted contrary to law. Such grounds for holding Defendants' actions unlawful are not necessarily contingent on a further development of the record or a more thorough explanation of Defendants' actions, and thus, remand for further explanation is not appropriate here. Moreover, courts have vacated and set aside agency action upon successful APA challenges. *See Massachusetts v. Nat'l Institutes of Health*, No. 25-cv-10338, 2025 WL 702163, at *34 (D. Mass. Mar. 5, 2025) (cleaned up), *judgment entered*, No. 25-cv-10338, 2025 WL 1063760 (D. Mass. Apr. 4, 2025) ("The normal remedy for a successful APA challenge is vacatur of the rule and its applicability to all who would have been subject to it").

e. Contrary To Law

Under the APA, a court must "hold unlawful and set aside" agencies actions that are "not in accordance with law." 5 U.S.C. § 706(2)(A); *see also F.C.C. v. NextWave Pers. Commc'ns Inc.*, 537 U.S. 293, 300 (2003) (Contrary to law "means, of course, any law, and not merely those laws that the agency itself is charged with administering"). The Agency Defendants' actions are contrary to law because "the Mass Termination amounts to a wholesale reorganization and

reduction in the size and scope of the Department in violation of 20 U.S.C. § 3473," the DEOA's reorganization statute. [Doc. No. 70 at 36]. The Agency Defendants' actions in dismantling the Department are further contrary to the DEOA inasmuch as it creates the Department, and contrary to federal statutes that require the Department to carry out mandated functions including implementing K–12 educational programs, disbursing funds, conducting mandatory data collection and research, providing technical assistance, facilitating student loan programs, implementing vocational education and rehabilitation programs, and enforcing civil rights laws.

Consolidated Plaintiffs are likely to succeed on the merits of this claim. First, Defendants have not pointed to any case that indicates that the Secretary's effective dismantling of the Department is within her reorganization powers under § 3473. *See supra,* Section VI.A.2.c (discussing Somerville Plaintiffs' claim that Secretary's actions exceed statutory authority). Second, there are numerous federal laws that require the Department to carry out certain functions. For example, the IDEA requires Defendants to "ensure" that children with disabilities have access to educational opportunities, that their rights are protected, to "assist" states, localities and other entities in providing effective and coordinated services to those children, "support[]" coordinated research, technical assistance, technology development, and other supports, and "assess, and ensure the effectiveness of, efforts to educate children with disabilities." 20 U.S.C. § 1400(d)(1); [25-cv-10677 Doc. No. 26 at 31]. Congress also mandated that the Department operate the OCR, which is charged with "identifying significant civil rights or compliance problems," 20 U.S.C. §3143(b), employing staff "necessary to carry out the functions" of the OCR, 20 U.S.C. § 3143(c), and review complaints from students and "make a prompt investigation" of such complaints," 34 C.F.R. § 100.7; [25-cv-10677 Doc. No. 26 at 31]. Other statutes vest the Department with the responsibility to implement federal student aid, *see*

20 U.S.C. §§ 1018, 1087a(a), 1087b(a), 1087b(c), 3441(2)(C), administer mandatory formula funds for K-12 education and provide technical assistance to grantees, *see id.* §§ 6301, *et seq.*, and direct the Department to support English language learners, *see id.* § 3423d.

Finally, to the extent that the Agency Defendants' actions are an effective dismantling of the Department, I find that those actions are contrary to the DEOA's mandate that the Department itself must exist—not just in name only, but to carry out the functions outlined in the DEOA and other relevant operating federal statutes.

B. Irreparable Harm

"'District courts have broad discretion to evaluate the irreparability of alleged harm and to make determinations regarding the propriety of injunctive relief.'" *Vaqueria Tres Monjitas, Inc. v. Irizarry*, 587 F.3d 464, 485 (1st Cir. 2009) (citing *K–Mart Corp. v. Oriental Plaza, Inc.*, 875 F.2d 907, 915 (1st Cir.1989)). Importantly, "the measure of irreparable harm is not a rigid one; it has been referred to as a sliding scale, working in conjunction with a moving party's likelihood of success on the merits." *Id.*, 587 F.3d at 485. Nonetheless, "[a] finding of irreparable harm must be grounded on something more than conjecture, surmise, or a party's unsubstantiated fears of what the future may have in store." *Charlesbank Equity Fund II v. Blinds To Go, Inc.*, 370 F.3d 151, 162 (1st Cir. 2004). Rather, a plaintiff must "demonstrate that irreparable injury is *likely* in the absence of an injunction." *Winter*, 555 U.S. at 22.

An "'[i]rreparable injury' in the preliminary injunction context means an injury that cannot adequately be compensated for either by a later-issued permanent injunction, after a full adjudication on the merits, or by a later-issued damages remedy." *Rio Grande Cmty. Health Ctr., Inc. v. Rullan*, 397 F.3d 56, 76 (1st Cir. 2005). The movant has "the burden of demonstrating that a denial of interim injunctive relief would cause irreparable harm." *Ross-Simons of Warwick, Inc.*

v. Baccarat, Inc., 102 F.3d 12, 18 (1st Cir. 1996). Here, the Consolidated Plaintiffs have met their burden of showing that they are likely to suffer irreparable harm in the form of: (1) financial uncertainty and delay harming student education; (2) impeded access to vital knowledge upon which students, districts; and educators rely; and (3) loss of essential services provided by the office of Federal Student Aid and the Office for Civil Rights. Defendants do not dispute the veracity of the declarations submitted by Consolidated Plaintiffs, other than to say that they are speculative in nature.

1. Financial Uncertainty and Delay

a. Plaintiff States

According to supporting declarations, Plaintiff States are experiencing financial delays and uncertainty relating to the Department's administration of funds, resulting in harm to Plaintiffs States, including its student populations. [Doc. No. 71-29; Doc. No. 71-31]. For example, the New York State Education Department ("NYSED"), which is currently administering $15.7 billion in federal funding from the Department, is experiencing drawdowns delays for Education Stabilization Fund ("ESF") reimbursements since the RIF announcement, and "are awaiting on additional guidance and instructions for the approval of drawdown requests." [Doc. No. 71-31 at ¶¶ 6, 7]. The New Jersey Department of Education ("NJDOE") "received a notice to expect 'delays in connecting to a live help desk agent' because of 'severe staffing restraints'" when attempting "to view and withdraw federal funds to use for its programs and to pay vendors." [Doc. No. 71-29 at ¶ 25]. The Illinois State Board of Education ("ISBE") has been unable to access certain categories of funding since March 1, 2025. [Doc. No. 71-22 at ¶ 12]. Regarding Title I funds, the Office of Elementary and Secondary Education "provides preliminary allocation figures to States a few weeks after a continuing resolution is passed by Congress," which is important for States and local education agencies to plan their budget for the

upcoming year. [Doc. No. 102-10 at ¶ 12]. An employee at the OESE stated "[t]his 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." [*Id*.].

Plaintiff States ensure that federal funding is allocated to educational programs and services relating to special education, career readiness and technical education, bilingual education, early childhood education programs, and more. [Doc. No. 71-31; Doc. No. 104]. Absent an injunction, financial delay and uncertainty will irreparably harm Plaintiff States' SEAs, LEAs, students, and even payroll. *See* [Doc. No. 71-13 at ¶ 70 ("Untimely approvals and drawing of funds will significantly impact the State. Not only will that harm [California's] LEAs and students, but it will impact State payroll."); Doc. No. 104 at ¶¶ 4, 15–16 (RIDE, "a department and the operating arm of the Rhode Island Council on Elementary and Secondary Education", receives federal funding totaling over $60 million, which "are allocated to state education agencies which then subgrant directly to eligible entities. 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.")].

Plaintiff States have a clear interest in ensuring and protecting the education of its citizens. *See Brown*, 347 U.S. at 493 ("[E]ducation is perhaps the most important function of state and local governments."). I am convinced that the asserted harm to Plaintiff States' citizenry, particularly their student populations, constitutes irreparable injury to Plaintiff States for purposes of the preliminary injunction. *See Mediplex of Massachusetts, Inc. v. Shalala*, 39 F.

Supp. 2d 88, 99 (D. Mass. 1999) (finding that owner of a nursing facility had "an interest in protecting the health of its residents and [could] assert harm to them as irreparable harm for the purpose of [the] motion [for preliminary injunction]"); *see also Nieves-Marquez v. Puerto Rico*, 353 F.3d 108, 121–22 (1st Cir. 2003) (cleaned up) (finding irreparable harm where "developmentally delayed and hearing-impaired teenager" experienced gap in interpreter services because even "a few months can make a world of difference in harm to a child's development"); *see also Plyler v. Doe,* 457 U.S. 202, 221 (1982) (noting the "lasting impact of [education's] deprivation on the life of the child," that "education has a fundamental role in maintaining the fabric of our society," and "the significant social costs borne by our Nation when select groups are denied the means to absorb the values and skills upon which our social order rests.").

b. <u>School Districts</u>

School Districts have also suffered financial uncertainty hindering long term planning and undermining their mission to provide high quality education to students. [25-cv-10677 Doc. No. 27-7; 25-cv-10677 Doc. No. 27-9]. For example, Somerville Public Schools "do not know whether [they] will be able to add staff before the 2025-26 school year, or whether [they] will be able to provide summer school, or whether [they] will be able to retain staff . . . Ultimately without timely and predictable funding, Somerville would be forced to make cuts – including possibly premature cuts – to staff and programs, disrupting services for students and families. This instability makes long-term planning nearly impossible and weakens the district's ability to provide high-quality education and support." [25-cv-10677 Doc. No. 27-7 at ¶ 48; *cf.* 25-cv-10677 Doc. No. 27-9 at ¶ 29 (Easthampton School District facing similar challenges as Somerville Public Schools)].

As here, "[a]ctions by a defendant that 'make it more difficult' for' an organization 'to accomplish [its] primary mission . . . provide injury for purposes . . . irreparable harm.'" *Nat'l Treasury Emps. Union v. Vought*, No. 25-cv-0381, 2025 WL 942772, at *15 (D.D.C. Mar. 28, 2025) (citing *League of Women Voters of U.S. v. Newby*, 838 F.3d 1, 9 (D.C. Cir. 2016)); *see also City & Cnty. of San Francisco v. U.S. Citizenship & Immigr. Servs*., 408 F. Supp. 3d 1057, 1126 (N.D. Cal. 2019), aff'd sub nom. *City & Cnty. of San Francisco v. U.S. Citizenship & Immigr. Servs*., 981 F.3d 742 (9th Cir. 2020) (finding irreparable injury where the goals of providing healthcare and legal services were frustrated and that plaintiffs' changes to their programs and other diversions of resources constituted irreparable harm).

Furthermore, the detriment to Plaintiffs' organizational missions and to student education cannot be remedied through retroactive relief. [25-cv-10677 Doc. No. 27-7 at ¶ 46]. "[A]s students fall behind, it becomes harder to bring them back up." [*Id.*]; *see John T. v. Delaware County Intermediate Unit*, No. 98-cv-5781, 2000 WL 558582, at *8 (E.D. Pa. May 8, 2000) ("Compensation in money can never atone for deprivation of a meaningful education in an appropriate manner at the appropriate time."). In Easthampton, without certainty regarding funds for IDEA and Title I, "the District would need to make several detrimental changes to programming[,]" including "cutting personnel and increasing class sizes," "instituting cuts in the District's discretionary spending, particularly arts, music, extracurricular activities, athletics, and other programs" and "cutting transportation funding, most notably high school busing." [25-cv-10677 Doc. No. 27-9 at ¶ 23]. Furthermore, "[t]here would additionally need to be cuts to professional development programming for staff, hindering the District's ability to support new teachers. If the funding situation got dire enough, the District would also need to close its preschool programming. All of these cuts would have profoundly negative effects on students, staff, and the teaching culture (i.e., pedagogical methods) of the District." [*Id.*].

Significantly, the School Districts have demonstrated that they lack sufficient financial resources to weather delays in funding. *See* [25-cv-10677 Doc. No. 27-7 at ¶ 42 (Somerville Public Schools "do not have sufficient financial resources to endure long periods of time without reimbursement, nor do [they] have the funds that would be required for us to spend money in [their] budget without knowing when or if [they] will receive reimbursement for those expenditures."); 25-cv-10677 Doc. No. 27-10 at ¶ 20 ("If the reimbursement were interrupted, it would be very difficult to fund [classroom aide] positions as the [Worcester Public School] District would not have other abilities to provide funding."); 25-cv-10677 Doc. No. 27-9 at ¶ 20 ("[The Easthampton School District"] do[es] not have sufficient financial resources to endure long periods of time without reimbursement, nor do[es] [it] have the funds that would be required [it] to spend money in [its] budget without knowing when or if [it] will receive reimbursement for those expenditures.")].

c. <u>Union Plaintiffs</u>

Union Plaintiffs' members, who serve as educators or education workers, are experiencing funding uncertainty, which will likely result in job loss and loss of employment benefits. [25-cv-10677 Doc. No. 27-11 at ¶¶ 10, 28 ("AFT members occupy a broad range of positions in education, including but not limited to: pre-K through 12th-grade teachers, early childhood educators, classroom aides, counselors, school nurses, paraprofessionals, and other school-related personnel; higher education faculty and professional staff at community colleges, colleges, and universities" and "delays or problems disbursing IDEA funds will harm AFT members through exacerbated workforce shortages, increased workloads, and job losses. [W]ithout reliable IDEA funds…money would either have to be reallocated away from other areas to maintain services, services would be reduced, and/or expectations would be placed upon fewer educators."); 25-cv-10677 Doc. No. 27-13 at ¶ 16 (Many SEIU members "whose salaries

are subsidized by the Department of Education's funding streams will be at risk of losing their jobs (and, accordingly, the salaries and health benefits they rely on to support themselves and their families)" if federal funding is delayed or cut); 25-cv-10677 Doc. No. 27-12 at ¶¶ 11, 14, 18 ("Title I funds the salaries" of teachers in "26 Massachusetts school districts that AFT Massachusetts members work in." If funding were cut or redirected, "[i]n Lynn, for example, it could mean the termination of approximately 84 teachers and 74 paraprofessionals.")

Here, "[w]hile [the Union] Plaintiffs' [are likely to] suffer the harm of losing employment, it is well settled that the loss of employment is not considered irreparable for the purposes of an injunction." *Massachusetts Correction Officers Federated Union v. Baker*, 567 F. Supp. 3d 315, 327 (D. Mass. 2021). I am also not convinced that the Union Plaintiffs' loss of associated employment benefits is enough to demonstrate irreparable harm for purposes of a preliminary injunction. Union Plaintiffs' cited cases, *United Steelworkers of Am. v. Textron, Inc.*, 836 F.2d 6, 8 (1st Cir. 1987), which specifically pertained to the benefit needs of 200 retired workers and a dispute regarding contracts outlining medical and life insurance benefits, and *Risteen v. Youth for Understanding, Inc.*, 245 F. Supp. 2d 1, 16 (D.D.C. 2002), which specifically involved a plaintiff who delayed "critical medical attention because he lost his health insurance," are distinguishable from the facts of this case, where Union Plaintiffs allege loss of benefits more generally.

2. Cuts To Vital Research, Data, Accreditation, And Compliance Services

a. Impact To The Institute Of Education Studies At The Department

To understand the harms to Consolidated Plaintiffs, I first outline the lay of the land within the Institute of Education Studies at the Department. As a result of the RIF, three arms of the Institute of Education Studies at the Department, including the National Center for Education and Statistics ("NCES"), the National Center for Education Research ("NCER"), and the

National Center for Education and Evaluation ("NCEE"), which includes programs like What Works Clearinghouse and the Education Resources Information Center ("ERIC"), are unable to fulfill their mandates. [Doc. No. 71-64 at ¶¶ 5, 6, 8, 12]. Already, "cuts at NCES have had a major impact on the Department's collection and analysis of data." [Doc. No. 102-10 at ¶ 10]. With only three employees remaining, the NCES almost surely not be able to complete the National Assessment of Education Progress, "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," and "a congressionally mandated project administered by NCES," which previously thirty people used to work on alone. [Doc. No. 102-9 at ¶ 7a].

At NCER and NCEE, the only remaining employees are the two Commissioners. [Doc. No. 71-64 at ¶ 12]. The reduction also impacts other offices who rely on data provided by IES. For example, the Office of Elementary and Secondary Education ("OESE") within the Department relies on [NCES] data for their work," which cannot be ameliorated because "staff within OESE lack the subject matter expertise of many of the RIF'ed employees." [Doc. No. 102-10 at ¶ 10]. With regard to compliance services, a majority of employees at the Office of General Counsel were terminated and the Department is "[w]ithout legal advice from specialized OGC attorneys." [25-cv-10677 Doc. No. 27-6 at ¶¶ 10, 12].

b. <u>Impact To Plaintiff States</u>

Plaintiff States have demonstrated they are likely to suffer irreparable harm to their educational systems because of cuts to research, data, accreditation, and compliance services at the Department. [Doc. No. 71-19; Doc. No. 71-36; Doc. No. 71-15]. More specifically, *see* [Doc. No. 71-19 at ¶¶ 17–18 ("The University of Hawai'i (UH) depends on IES data and analyses for strategic planning, policy development, program evaluation, and accreditation processes," which

"directly informs UH's initiatives to improve student retention, graduation rates, learning outcomes, and workforce readiness. Any reduction in IES support would not only compromise UH's institutional research and planning effectiveness but also undermine the State of Hawai'i's capacity to develop the competitive, skilled workforce needed for economic success."); Doc. No. 71-32 at ¶ 31 (SUNY relies on NCES and Integrated Postsecondary Education Data System data for benchmarking, which provides "critical context in regard to how SUNY is performing," and without it SUNY "will be less able…to provide its students with the best education possible."); Doc. No. 71-36 at ¶ 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 [Rhode Island Department of Elementary and Secondary Education] ability to comply with the terms of this [statewide longitudinal data system] grant and carry out critical functions of this program."); Doc. No. 71-15 at ¶ 16 (Higher education institutions must report data to NCES by statute, and "with almost every employee working for NCES and IPED having been cut…this will likely lead to delays and issues with the data collection, which could be used to withhold or eliminate federal funding in Colorado institutions.")].

Plaintiff States have also shown that the pace of approval for critical recertification and change requests for Program Participation Agreements has slowed for colleges and universities, resulting in at least one close call shutdown of a campus. *See* [Doc. No. 71-43 at ¶¶ 7-12; Doc. No. 101 at 10 n.9]. After 18.5 weeks of uncertainty, a Washington technical college finally learned that its application had been approved, narrowly avoiding termination of their Tacoma campus lease, associated staffing positions, and program offerings. [Doc. No. 101 at 10 n.9]. Regarding accreditation, Plaintiff States have shown the RIF "jeopardizes the structure and

integrity of institutional accreditation, inflicting a loss of quality control to the detriment of students." [Doc. No. 71-19 at ¶ 18; *see also* Doc. No. 71-15 at ¶ 17].

c. Impact To School Districts

Like Plaintiff States, the School Districts have demonstrated they are likely to suffer irreparable harm because cuts to vital resources and expertise will undermine the School Districts' ability to educate their students. *See* [25-cv-10677 Doc. No. 27-10 at ¶¶ 26–31 (Worcester regularly uses reports from IES to help it understand what types of innovation are effective and relies on technical assistance from the Department "continuously" to design its CTE curricula and to ensure compliance with Titles I through IV. If IES or the What Works Clearinghouse "were no longer available or were not kept current, the loss to school districts like Worcester would be irreparable" because of the constant need to innovate and because of the limited time to achieve results with each student and class year); *see also* 25-cv-10677 Doc. No. 27-7 at ¶¶ 28–31 (Somerville often relies on technical assistance from the Department, particularly through IES, and compromised access to such resources would impede Somerville's ability to provide its students with the "best possible education")]. Importantly, at least one school district has stated that they could not replace the Department's research. [25-cv-10677 Doc. No. 27-10 at ¶ 28 (Worcester "could never replicate the breadth and depth of [IES's] work")].

In particular, students with disabilities will be negatively impacted absent up-to-date data and technical assistance provided by the Department; without the Department's help, these students will be deprived of guidance and expertise essential to offering a quality education. *See* [25-cv-10677 Doc. No. 27-8 at ¶¶ 13–21 (For formula grants under IDEA which are subject to tight deadlines, states have historically worked closely with OSERS staff and relied on their

expertise to submit an application every year that includes assurances of how the state will ensure that schools will provide statutorily required free and appropriate public education, complaint resolution procedures for parent involvement, services for students in private schools, and more. OSERS staff work to correct application errors with states, which "if uncorrected could result in a student not receiving the services which they are entitled"); *see also* 25-cv-10677 Doc. No. 27-7 at ¶ 31 (Resources from the Department help Somerville in a variety of ways like providing "templates to IEP forms, suggestions for high-quality assistive technology; guidance on bullying prevention for students with disabilities; and webinars for helping educators communicate effectively with families through the IEP process")].

Furthermore, the closure of Office of English Language Acquisition will likewise irreparably harm Plaintiffs' ability to serve their English language learners. *See* [Doc. No. 102-12 at ¶ 13 (OELA was completely abolished and staff from the OESE are absorbing statutorily required work); Doc. No. 102-10 at ¶ 10–12 (outlining how the RIF is likely to have significant impacts on OESE's abilities to perform its core functions); 25-cv-10677 Doc. No. 27-7 at ¶ 20 (Title III funding helps pay for Somerville's English Language Learner program, and without access to the program, English learning students "would go without continuity in their language learning for about 10 weeks during the summer, which would cause a huge backslide in their learning."); 25-cv-10677 Doc. No. 27-10 at ¶ 16 (Worcester's Title III funding, amounting to $1.3 million, supports English learners through classroom instruction, programming tailored to English learners, professional development, and instructional coaches and supplemental programs, "both after school and during the summer to extend learning and prevent learning loss")].

Finally, "[w]ithout technical assistance provided by OGC lawyers, [] state agencies will be impeded in their ability to deliver federal funds, including funds appropriated in accordance with IDEA and ESEA, to local schools efficiently and on correct bases," further demonstrating irreparable harm. [25-cv-10677 Doc. No. 27-6 at ¶ 9].

d. Impact To Union Plaintiffs

Union Members also rely on data maintained by the Department for research for teaching in education programs, and to hold institutions and states accountable for meeting the needs of their communities. [25-cv-10677 Doc. No. 27-14 at ¶ 11 (Member of the American Association of University Professors who produces research that helps improve higher education uses data from IES when studying state policy and institutional productivity); 25-cv-10677 Doc. No. 71-64 at ¶ 15 ("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.")]. However, while I acknowledge that Union Plaintiffs engage in important work, I am not convinced the Union Plaintiffs have shown, at least at this stage, that they are likely to be irreparably harmed by the RIF's impacts to research.

3. Essential Services Provided By FSA

a. The RIF's Impact To FSA

Again, to understand the harms to Consolidated Plaintiffs, I first outline the lay of the land within FSA itself. The RIF has resulted in the practical elimination of most, if not all, essential offices within the FSA. [Doc. No. 102-8]. For example, the Vendor Oversight Group ("VOG") was hit hard by layoffs, with almost all staff fired. [*Id.* at ¶¶ 37–38, 45]. For context, VOG previously enforced contractually required service level agreements ("SLA") to fulfill statutorily mandated oversight and compliance work – i.e. to ensure loan servicers issued proper

billing to the FSA and proper servicing to borrowers. [*Id.* at ¶¶ 18–20]. "Depending on the size of the loan servicer, failing a single SLA could cost a servicer and save taxpayers" amounts ranging from $150,000 to $2.5 million per SLA quarter; "VOG reduced the costs of administering student loan programs by tens of millions of dollars each year." [*Id.* at ¶¶ 23, 28].

As a result of the RIF, "all VOG's SLA work for the last quarter was immediately halted, and all of their work to date has been effectively lost." [*Id.* at ¶¶ 49–50]. "FSA's contracting officer will be forced to waive the SLA's requirements for 'interaction quality' and 'processing accuracy' for the previous quarter immediately costing taxpayers millions of dollars." [*Id.* at ¶ 50]. Significantly, **"**FSA will no longer have the capacity to measure interaction quality and processing accuracy, which inevitably results in a decline of customer service to borrowers and a cost increase to administer the student loan program." [*Id.* at ¶ 51].

In the medium term, the dramatic cuts to FSA will undermine FSA's ability to monitor and fix existing and new servicing issues. [*Id.* at ¶ 52]. For example, "VOG was tracking 183 open servicing issues that are no longer being effectively monitored and tracked to resolution." [*Id.*]. And in the longer term, "FSA is now like a house of cards" incapable of withstanding "any coming shocks to the federal student loan system." [*Id*. at ¶ 53]. This will likely materialize by October 2025, when approximately 9.5 million borrowers will be deemed to have defaulted on their student loans. [*Id*. at ¶ 54].

Additionally, six of eight School Participation Sections ("SPS") within the Office of Institutions of Higher Education ("IHE") Oversight & Enforcement have been eliminated. [Doc. No. 71-63 at ¶ 13; Doc. No. 71-52 at ¶ 12]. "IHE Oversight & Enforcement is responsible for administering eligibility, certification, financial analysis, and oversight of over 5,500 schools that participate in loan programs under Title IV," including for example Pell Grants and Federal Work

Study. [Doc. No. 71-63 at ¶ 5; *see also* Doc. No. 71-51 at ¶ 4; Doc. No. 71-52 at ¶¶ 4–6]. "Without staff adept at rooting out fraud, students will be taken advantage of, and taxpayer money will be wasted." [Doc. No. 71-63 at ¶ 16]. These functions are critical for the success of schools, the protection of students, and the safeguarding of taxpayer funds—and they are required by statute and regulation. *See* 20 U.S.C. § 1018(c)(4); 34 C.F.R. § 668.171–77 (2025); *see also* [Doc. No. 71-52 at ¶¶ 6–10]. FSA's Vendor Performance Division and Human Capital Management Division was also eliminated by the RIF. [Doc. No. 71-68 at ¶¶ 7–9; Doc. No. 71-69 at ¶¶ 6, 9–10, 13–16; Doc. No. 71-67 at ¶ 5]. The Office of the Ombudsman Federal Student Aid was also heavily impacted by the Mass Termination. [Doc. No. 71-58 at ¶¶ 19, 20].

Regarding the Product Management Division within the Department, whose flagship product is FAFSA, "the vast majority" of employees are subject to the RIF. [Doc. No. 71-61 at ¶¶ 4, 7, 12]. "[I]t is not possible for the Product Management Division to fulfill its duties following such vast cuts" and as a result "there will be regular technological problems and inaccurate information that will impact schools and borrowers." [*Id.* at ¶¶ 13–14].

Importantly, former employees have stated given the quick termination and immediate disabled access to work files and emails, they have not been able to transition work to others. [Doc. No. 102-8 at ¶ 49; Doc. No. 71-63 at ¶ 11]. Finally, cuts to other offices, like the OGC, impede the FSA's "ability to effectively manage the contracts for the FAFSA and loan servicers, which must operate in accordance with highly specific federal authorities." [25-cv-10677 Doc. No. 27-6 at ¶ 10].

b. <u>Impact To Plaintiff States</u>

As already mentioned, Plaintiff States have also shown that the pace of approval for critical recertification and change requests for Program Participation Agreements has slowed for

colleges and universities, resulting in at least one close call shutdown of a campus. [Doc. No. 71-43; Doc. No. 101 at 10 n.9; Doc. No. 71-16 at ¶ 7, 10 (In Fiscal Year 2024, FSA handled loan disbursement, servicing, and borrower assistance for 14,840 University of Connecticut students. Cuts would cause "substantial financial hardship for students impacted, causing them to discontinue their education…would result in fewer tuition and fee paying students, aided by the support of the FSA programs [], subsequently causing budget shortfalls…impacting potential employment opportunities for tax paying citizens in Connecticut and the United States."); Doc. No. 71-19 at ¶¶ 6–8 (University of Hawai'i "heavily depends on multiple FSA-administered programs," which "provide critical financial support to thousands of UH students annually." Loss of funding "would likely lead to higher student loan debt burdens, increased dropout rates, and potentially force students to work more hours, reducing their academic engagement and extending time to graduation . . . Any threat to [the Pell Grant Program] would have immediate, measurable impacts on enrollment, student success metrics, and economic mobility."); Doc. No. 71-25 at ¶¶ 9–10 ("Thirty-three percent of the Commonwealth [of Massachusetts'] public higher education students receive Pell Grants." Without these federally funded student aid programs, which currently amount to $251 million, the aid-cost gap would further widen and "likely make the Commonwealth's last dollar program in their current form cost prohibitive."); Doc. No. 71-30 at ¶¶ 8, 11 ("In the 2023-24 aid year, Rutgers students received over $491 million in federal aid through Pell Grants, Supplemental Educational Opportunity Grants, Federal Work-Study, and Direct Loans," and "for the current aid year, 2024-25, which is in progress, over $626 million in federal aid has been awarded-to-date to Rutgers students." The RIF "will likely delay the availability of federal financial aid if the [FAFSA] forms are not processed on time, creating cash flow challenges for Rutgers.")].

Additionally, the Department's actions risk the FAFSA system, on which federal student aid and Plaintiffs' public universities rely. [Doc. No. 71-32 at ¶¶ 18–19 (Completing the FAFSA is essential for Pell Grant eligibility and New York State-based financial aid programs, of which more than 100,000 SUNY students rely on and which provide approximately $340 million in financial aid to SUNY students. "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."); Doc. No. 71-16 at ¶ 9 (RIF "is especially concerning in light of recent complications associated with accurate and timely transmission of FAFSA results to higher education institutions in 2024 via the FAFSA Simplification initiative, and even though some staff were reinstated "it is especially troubling that [RIF] included some of the staff who were instrumental in improving upon this critical step and may hold unique knowledge on how to avoid a repeat of the 2024 FAFSA simplification errors.")].

c. Impact To School Districts

Like Plaintiff States, School District Plaintiffs have shown cuts at the FSA are likely to irreparably harm their core mission: providing quality student education. [25-cv-10677 Doc. No. 27-7; 25-cv-10677 Doc No. 27-10]. "Without Federal Student Aid Services, including the FAFSA and student loan and grant programs, college would be out of reach for the vast majority of Somerville's students." [25-cv-10677 Doc. No. 27-7 at ¶ 32]. Furthermore, Somerville college counselors and other staff "rely heavily on materials produced by FSA" to help guide and support their students as they apply for federal student aid, including "guides, videos, checklists, and forms." [25-cv-10677 Doc. No. 27-7 at ¶ 33; *see also* 25-cv-10677 Doc No. 27-10 at ¶¶ 32–33 (Worcester's "work preparing students for college relies heavily on resources from the Department, such as how-to guides on assisting students filling out the FAFSA.")].

d. Impact To Union Plaintiffs

Similarly, regarding the Union Plaintiffs and their members, cuts to FSA will likely result in loss of access to materials that help their members understand loan repayment options. *See* [25-cv-10677 Doc. No. 27-12; 25-cv-10677 Doc. No. 27-13]. For example, AFT Massachusetts has assisted members that rely on the Public Service Loan Forgiveness program through student debt clinics and relies on the Department for technical assistance such as guidance documents, loan repayment calculator, and more. [25-cv-10677 Doc. No. 27-12 at ¶ 27]. Furthermore, Union Plaintiffs and its members rely on federal student aid to afford their education and on positions created through federal work study, without which Union Plaintiffs' members would be forced to forgo higher education, default on existing loans, or potentially opt out of careers in public service. [25-cv-10677 Doc. No. 27-13 at ¶¶ 18–23 ("CSUEU represents a bargaining unit of student assistants at California State University," and "[t]housands of these student assistants rely on aid via federal work study positions" as well as "to afford tuition, food, rent, other living expenses, and transportation off-campus internships.")]. In this instance, where they have shown reliance on federal work study positions and public service loan forgiveness programs, Union Plaintiffs' have demonstrated their members are likely to be directly and irreparably harmed due to cuts at the FSA.

4. Essential Services Provided By OCR

a. RIF Impact To OCR

Again, to understand the harms to Consolidated Plaintiffs, I first outline the lay of the land within OCR. As part of the RIF, OCR staff has been cut by approximately fifty percent. [Doc. No. 71-48 at ¶ 22]. By June 2025, seven of the twelve regional offices—Boston, Dallas, New York, Chicago, Cleveland, San Francisco, and Philadelphia—will be closed. [*Id.* at ¶ 23]. As of March 21, 2025, staff in these offices were put on administrative leave. [*Id.*]. "To remove

seven of the twelve regional offices and approximately half of OCR's enforcement personnel means the office will exist in name but not in actual function." [*Id*. at ¶ 30]. Caseloads, which were already high, will only increase—already the average case load increased from 50 cases per investigator to 80 cases per investigator, and will likely jump as much as 120 cases per investigator. [*Id.* at ¶¶ 25–26].

b. Impact To Plaintiff States

Absent an injunction, Plaintiff States will no longer be able to rely on OCR to investigate civil rights complaints about educational institutions within their jurisdictions. *See* [Doc. No. 71-29 at ¶ 20–23 ("Staff [at the New Jersey Department of Education] tried multiple times to get in touch with the New York Regional Office, but all telephone calls went to voicemail and no response has been received to date.")]. The result will be "an increase in the need for state enforcement of civil rights protections," but already overburdened states will struggle fill the gap. [Doc. No. 71-31 at ¶ 9; *see also* Doc. No. 71-42 at ¶ 20 (In Washington, "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" risking the safety of Washington's students); *see also* Doc. No. 71-22 at ¶ 15 ("ISBE does not have the capacity to also investigate, mediate, or adjudicate claims of discrimination under Section 504 or other claims of educational discrimination that are currently handled by OCR. Already . . . ISBE is experiencing an increase in technical assistance calls from parents and districts seeking help with Section 504 plans.")].

This is not a situation where Plaintiff States are merely being delegated tasks previously handled by the OCR. Rather, this is a case where the Department can no longer effectuate vital statutory functions specifically tasked to it, and which Plaintiff States are scrambling to fill. [Doc. No. 71-48 at ¶ 30 ("Given my experience," [as twice served Assistance Secretary for

Office for Civil Rights], I believe the Department's RIF will render the Department unable to fulfill its statutory functions."); Doc. No. 102-12 ("OCR-Dallas' work is mandated by statutes like the Civil Rights Act of 1964 and the American with Disabilities Act…I, [as a former Civil Rights Attorney at the OCR], do not believe OCR's statutorily mandated work can [be] completed by the few staff remaining in OCR, especially with impossibly heavy caseloads.")].

Cuts to OCR have already resulted in stalled or dropped investigations, further burdening Plaintiff States and its students. [Doc. No. 102-7 at ¶ 7; Doc. No. 110 at 20–21]. For example, in California, a parent of a student with a disability reached out to the California Department of Education's ("CDE") Special Education division about concerns that an OCR decision identifying violations of a LEA would not be enforced due to the RIF. [Doc. No. 110 at 20–21]. Such complaints, historically handled by OCR, "will place an extraordinary additional burden on the CDE" that does not have the requisite staff or budget capacity. [Doc. No. 102-7 at ¶ 8; *see also* Doc. No. 110 at 20 (After recent staff terminations, many parents have not received updates or responses to their inquiries about their children's pending cases); 25-cv-11042 Doc. No. 20-16 at ¶¶ 18–24 (A Michigan student who withdrew from public school due to harassment was informed on February 5, 2025 that OCR had paused its investigation into his complaint. "OCR has not contacted [the student's] family to schedule the mediation since then, nor has it indicated that any progress has been made . . . [The family] has no reason to believe the school will take steps to keep A.J. safe in public school without OCR's intervention. As a result, [the family] cannot send A.J. back to public school this coming fall.").].

Finally, without direct and ongoing guidance about anti-discrimination laws provided by OCR, Plaintiff States will struggle to proactively combat discrimination and harassment. *See* [Doc. No. 71-32]. "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 efforts by SUNY which "would not have been possible without the direct and ongoing guidance from OCR." [*Id*. at ¶ 23]. 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." [*Id.*]; *see also* [Doc. No. 71-48 at ¶ 14 (OCR "provides trainings and technical assistance to state and local educational agencies nationwide" by "answer[ing] questions from schools, community organizations, and parent associations on topics including the laws in OCR's jurisdiction, OCR process, and types of civil rights harms.")]. Such examples further demonstrate that absent an injunction, Plaintiff States will suffer irreparable harm.

Taken together, Plaintiff States have shown that such cuts to the OCR will likely irreparably harm Plaintiff States, absent an injunction. Through supporting declarations, Plaintiff States have shown that their ability to investigate civil rights complaints and adjudicate claims of discrimination are likely to be impeded as a result the RIF. Thus, given the impact to its citizenry, Plaintiff States have demonstrated a sufficient risk of irremediable harm for purposes of the preliminary injunction. *See E.E.O.C. v. Astra U.S.A., Inc.*, 94 F.3d 738, 745 (1st Cir. 1996) (finding irreparable harm "because the Commission's ability to investigate charges of discrimination and to enforce anti-discrimination laws has been and continues to be impeded").

c. <u>Impact To School Districts</u>

Similarly, the School Districts and its students will no longer be able to rely on the OCR, in its current state, for civil rights enforcement, training, and investigation, demonstrating irreparable harm. For example, "the training and information" that Easthampton has "gained from OCR has enabled the District to respond to issues with compassion and empathy, rather than punitive measures…creating a healthier school environment." [25-cv-10677 Doc. No. 27-9

at ¶ 33]. When Easthampton encountered an issue "related to racial bias and discrimination[,]" OCR's assistance "investigating and rectifying the issue was invaluable." [*Id*. at ¶ 31; *see also* 25-cv-10677 Doc. No. 27-8 at ¶¶ 41-43 (describing the benefits of the OCR complaint resolution process)].

Without an injunction, Easthampton will no longer be able to "rely on the guidance put out by the Department of Education to know how to respond legally and adequately." [25-cv-10677 Doc. No. 27-9 at ¶ 34; *see also id*. at ¶¶ 38–39 (describing reliance on OCR's "technical support," "technical assistance" and "guidance, funding, and training"); 25-cv-10677 Doc. No. 27-11 at ¶ 62 (describing the "significant technical assistance to support school districts" that is provided by OCR); 25-cv-10677 Doc. No. 27-8 at ¶ 41 (OCR provides a "critical enforcement mechanism" for students and their families "to vindicate their rights"); *id*. at ¶ 42 ("OCR offers critical resolution processes" that "allow issues to be resolved in a timely manner" and "frequently help[] restore the working relationship between the family and the school and school district.")].

d. <u>Impact To Union Plaintiffs</u>

Union Plaintiffs' members rely on OCR's investigation and resolution processes, without which they will be irreparably harmed. [25-cv-10677 Doc. No. 27-11 at ¶ 61; 25-cv-10677 Doc. No. 27-12 at ¶ 28 ("Shutting down OCR would reduce teacher efficacy to address systemically hostile school environments, harming the workplace and students.")]. For example, AFT members file complaints with OCR on behalf of themselves, in instances of retaliation, or students, in instances of harassment. [25-cv-10677 Doc. No. 27-11 at ¶ 60]. Likewise, Union Plaintiffs' members who are students rely on the investigation and complaint procedures provided by OCR and "will be harmed if these complaint and investigation processes are less effective or less timely." [25-cv-10677 Doc. No. 27-13 at ¶ 20].

5. Irreparable Harm Summary

Here, "[e]ven though, as established above, the likelihood of success on the merits is great, which would allow a movant [to] show somewhat less in the way of irreparable harm and still garner preliminary injunctive relief, the allowance is unnecessary." *Nat'l Institutes of Health*, No. 25-cv-10338, 2025 WL 702163, at *31. Through supporting declarations of former Department employees, universities and colleges, local and state education agencies, union members, and educators, Consolidated Plaintiffs have shown that they are likely to suffer irreparable harm in the form of financial uncertainty and delay damaging student education, (2) impeded access to vital knowledge upon which students, districts, and educators rely, and (3) loss of essential services provided by the office of Federal Student Aid and the Office for Civil Rights.

More specifically, Plaintiff States and Schools Districts are experiencing delays and uncertainty in their receipt of federal educational funding, amounting in the millions, which jeopardize their missions of ensuring an educated citizenry and providing quality education. Such delays and uncertainty raise immediate predicaments about whether there will be sufficient staff and student programming for the 2025-2026 school year and hinder long term planning. Students will feel these effects in the form of lower quality of education, further demonstrating irreparable harm. Regarding cuts to IES, two of the country's most vulnerable student populations, English language learners and students with special needs, will be particularly harmed. Absent an injunction, Plaintiff States and School Districts will no longer have access to data and research that guide student education and educational programming, which can range from bullying prevention for students with disabilities to technical assistance for how to implement IDEA and Title III funding appropriately.

There is more. Consolidated Plaintiffs have overwhelmingly shown that the RIF has resulted in the practical elimination of most, if not all, essential offices within the FSA. The Department's actions have directly impacted the FAFSA system and risk its functionality. It is undisputed that current high school students are applying to and rely on FAFSA to make decisions about their higher education as soon as Fall 2025. Where the majority of employees have been eliminated in the Department division whose flagship product is FAFSA, Consolidated Plaintiffs face imminent harm. Similarly, students and former students, including Union Plaintiffs, and universities alike rely on federal funding through programs like Federal Work Study, Pell Grants, Direct Loans, and Public Service Loan Forgiveness, which are at risk. Finally, Consolidated Plaintiffs will no longer be able to rely on the OCR, in its current state, for civil rights enforcement, training, and investigation, demonstrating irreparable harm. Cuts to OCR have already resulted in stalled or dropped investigations, further burdening Consolidated Plaintiffs.

Taken together, the detriment to state and local educational institutions and to both former and current students cannot be remedied through retroactive relief or money damages. Thus, I am convinced that, absent an injunction, the risk of harm to Consolidated Plaintiffs is immediate and irreparable.

C. Balance Of The Equities And The Public Interest

"A plaintiff seeking a preliminary injunction must establish…that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter*, 555 U.S. at 20. When the Government is the opposing party, as here, the balance of the equities and public interest analyses merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009).

The balance of the equities tips in favor of Consolidated Plaintiffs because "there is a substantial public interest in having governmental agencies abide by the federal laws that govern

their existence and operations." *Newby*, 838 F.3d at 12. Further, Consolidated Plaintiffs have demonstrated a "high likelihood of success on the merits," which "is a strong indicator that a preliminary injunction would serve the public interest." *Id.* On the other hand, Defendants argue that the public is suffering irremediable harm because a preliminary injunction would "displace and frustrate the President's decision" as to how to "set[] his policy priorities for the Department of Education" and that the Government will be harmed if it is "forced to compensate employees for unneeded and unnecessary services." [Doc. No. 95 at 36]. However, "[t]here is generally no public interest in the perpetuation of unlawful agency action." *Newby*, 838 F.3d at 12.

Furthermore, a preliminary injunction would serve the public interest because there is a substantial risk that, without it, there will be significant harm to the functioning of public and higher education, particular in Plaintiff States. It is well established that an educated citizenry provides the foundation for our democracy. As the Supreme Court has articulated:

> [E]ducation is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society . . . It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education.

Brown, 347 U.S. at 493. There exists a reciprocal relationship: the citizens of the Plaintiff States have a right to education under their respective constitutions and the Plaintiff States have an interest in an educated citizenry as evidenced by their compulsory education laws. As stated in Members of Congress's amicus brief, "Congress created the Department in the wake of the Supreme Court's decision in *Brown v. Board of Education,* a time when Congress recognized, from past experience, that 'the enforcement of the civil rights laws' could face 'an inhospitable climate' depending on the executive in power and the politics of the era." [Doc. No. 110 at 17

(citing Legislative History, Pub. L. No. 96-88, 125 Cong. Rec. H14487 (June 12, 1979) (Remarks of Rep. Rosenthal))]. "But now, the Trump administration is engaging in precisely the 'short-circuit[ing] Congress worked to prevent." [*Id.*]. Here, Consolidated Plaintiffs have detailed the consequences that Defendants' actions will have on students, parents, teachers, and core education programs. *See supra* Section VI.B. Thus, the balance of the equities and the public interest strongly favor Plaintiffs. *Neighborhood Ass'n of the Back Bay, Inc. v. Fed. Transit Admin.*, 407 F. Supp. 2d 323, 343 (D. Mass. 2005), *aff'd*, 463 F.3d 50 (1st Cir. 2006) ("[T]he public has an important interest in making sure government agencies follow the law").

VII. BOND

Pursuant to Federal Rules of Civil Procedure 65(c), a "court may issue a preliminary injunction . . . only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained." However, "[t]he First Circuit has recognized an exception to the bond requirement in suits to enforce important federal rights or public interests," as is precisely the case here. *Westfield High Sch. L.I.F.E. Club v. City of Westfield*, 249 F. Supp. 2d 98, 129 (D. Mass. 2003) (cleaned up). Accordingly, I find that no security is necessary under Rule 65(c). *See also, e.g.*, *Nat'l Ass'n of Diversity Officers in Higher Educ. v. Trump*, No. 25-cv-00333, 2025 WL 573764, at *30 (D. Md. Feb. 21, 2025) (cleaned up) (imposing nominal bond of zero dollars where bond would "essentially forestall Plaintiffs' access to judicial review")

* * *

VIII. CONCLUSION

For the reasons stated above, Consolidated Plaintiffs' Motion for Preliminary Injunction, [Doc. No. 69; 25-cv-10677 Doc. No. 25], is GRANTED. The Department must be able to carry out its functions and its obligations under the DEOA and other relevant statutes as mandated by Congress.

It is therefore ORDERED, until further order of this Court, that:

1. The Agency Defendants are enjoined from carrying out the reduction-in-force announced on March 11, 2025; from implementing President Trump's March 20, 2025 Executive Order; and from carrying out the President's March 21, 2025 Directive to transfer management of federal student loans and special education functions out of the Department;

2. The Agency Defendants are enjoined from implementing, giving effect to, or reinstating the March 11, 2025, the President's March 20, 2025 Executive Order, or the President's March 21, 2025 Directive under a different name;

3. The Agency Defendants shall reinstate federal employees whose employment was terminated or otherwise eliminated on or after January 20, 2025, as part of the reduction-in-force announced on March 11, 2025 to restore the Department to the status quo such that it is able to carry out its statutory functions;

4. The Agency Defendants shall provide notice of this Order of Preliminary Injunction within 24 hours of entry to all their officers, agents, servants, employees, attorneys, and anyone acting in concert with them;

5. The Agency Defendants shall file a status report with this Court within 72 hours of the 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; and

6. This Preliminary Injunction shall become effective immediately upon entry by this Court. The Preliminary Injunction Order shall remain in effect for the duration of this litigation and until a merits decision has been issued.

SO ORDERED, this 22nd day of May 2025 at 10:30 A.M.

/s/ Myong J. Joun
United States District Judge

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____

STATE OF NEW YORK, ET AL,

Plaintiffs,

V.

LINDA MCMAHON, ET AL,

Defendants.

_____

Civil Action
No. 25-CV-10601-MJJ

April 25, 2025

BEFORE THE HONORABLE MYONG J. JOUN

UNITED STATES DISTRICT COURT

JOHN J. MOAKLEY U.S. COURTHOUSE

1 COURTHOUSE WAY

BOSTON, MA 02210

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P-R-O-C-E-E-D-I-N-G-S

THE CLERK: All rise.

(The Honorable Court Entered)

THE CLERK: The court is now on the record in the matter of *State of New York, et al v. Linda McMahon, Civil Action 25-10601*. Counsel, please identify yourselves for the record.

MR. HYMAN: Good afternoon, your Honor. Nathaniel Hyman of behalf of the Commonwealth of Massachusetts Attorney General's office.

THE COURT: Good afternoon.

MS. MUQADDAM: Good afternoon. Rabia Muqaddam for the Office of the Attorney General.

THE COURT: How do you say your last name?

MS. MUQADDAM: Muqaddam, like a hard K sound.

THE COURT: Okay, thank you.

MS. SHAVIT: Good afternoon, your Honor. Yael Shavit for the Commonwealth of Massachusetts.

THE COURT: Very nice to meet all of you.

MR. HAMILTON: Good afternoon, your Honor. Eric Hamilton, Deputy Assistant Attorney General for the Federal Programs Branch U.S. DOJ for defendants.

THE COURT: Good afternoon.

MR. BRUNS: Afternoon, your Honor. Michael Bruns for the United States for the Department of Justice.

THE COURT: Nice to meet you as well. We've got some more.

MS. HOMER: Good afternoon, your Honor. Rachel Homer on behalf of the Somerville Plaintiffs.

MS. GOLDSTEIN: Elena Goldstein also on behalf of the Somerville Plaintiffs.

MS. NUGENT: Good afternoon, your Honor. Victoria Nugent for the Somerville Plaintiffs.

THE COURT: Excellent. Also nice to meet you. All right, so who wants to start? Great.

MS. MUQADDAM: Good afternoon. Rabia Muqaddam for the plaintiffs. I will be covering jurisdiction and likelihood of success on the merits. My colleague, Nate Hyman from the Massachusetts Attorney General's office, will cover irreparable harm and the equities, and then counsel for the Somerville Plaintiffs will take over, and we have predecided how we're going to split it up.

So I'd like to take the issues in this order: Standing and ripeness, the APA claims, the constitutional claims, the savings clause arguments and CSRA, C-S-R-A, channeling.

At the outset, I'd like to emphasize the state of the record here which I think underlies a lot of questions before this Court.

A fundamental flaw throughout the Defendants'

arguments is an attempt to characterize the Department's actions here as minor changes that will not affect statutory functions, but this is completely belied by the extensive factual record which is entirely unrebutted.

Declarations from a host of current and former Ed. Employees attest that the actions have stripped the Department of the resources necessary for it to carry out important statutory mandates, and also represented here before you across both sets of Plaintiffs are nearly every actor across the educational systems of the states. So we have frontline educators represented to the state agency education heads, the chancellors of state universities, and they all agree with the current and former Ed. Employees that the Department is no longer functioning and it is getting worse every day.

So turning to standing and ripeness, again, the arguments the defendants have put forth are based on these conclusory mischaracterizations of the record. So they have argued that the chain of harms is too attenuated, that there are not current harms, but this is again belied by the extensive record, and I think that a case that's actually cited by the Defendants, which I think is instructive, is *Roman Catholic Bishop of Springfield*. So, in that case, the court looked at some of the actions and determined they were ripe and some of the actions and determined that they were not ripe, and in the instance of those that were ripe, the court looked at a

particular action that if this is causing sufficient harm, it is actually ripe right now. So I think the action that we're looking at here is much more in that category; whereas the second category that the court looked at were things based on an application that had not yet been filed, events that had not yet occurred.

So all of the facts here go in support of the Plaintiffs' request to enjoin two discrete separate things, and one is the Mass Termination that was effectuated through the RIF and then the second one is this Presidential or the implementation of the Presidential directive on March 21 to transfer functions outside of the Department.

So just speaking a little bit to that factual record, my colleague will get into the harms to the states in particular, but the record reflects a lot of different types of functions that the Department is no longer able to accommodate that are statutorily mandated.

So I point your Honor in particular to Exhibit 2 to the Smith declaration which gets up as the Arne Duncan declaration. Arne Duncan was a very long-serving Secretary of Education, and in his own words, "there is no way that the Department can continue to meet its statutory mandates." So ECF 71-54, the loss of the ability to ensure compliance with Title II. ECF 71-60, the loss of Title III functions that are statutorily mandated. 71-64, ESRA cannot be complied with.

71-66, the OGC is no longer able to satisfactorily articulate to the Department what is legal and what is not. ECF 71-61 through 63, all describing the way that Federal Student Aid cannot accomplish its goals and its statutory mandates, and so on and so on. I won't continue, but I think the record is extremely clear about that and again is totally unrebutted.

So turning to the APA claims, the Defendants have not launched a particularly significant challenge to the merits here. Very little of their opposition addresses it, but I will briefly touch on the arguments that Plaintiffs have raised under the APA.

So first is that these actions are arbitrary and capricious and there are three ways in which they are. The first one is that the reasoning is the Defendants have not offered sufficiently rational explanation as to these actions, and actually they have offered really no explanation. The proposal is that the Department is merely being pared back of unnecessary bureaucracy but there is no explanation as to how that is the case, and I think one of the interesting things that has come out on the record is the testimony of in particular the Tessitore declaration.

So there were members of the Department working on developing this list to put forth to higher management about which functions were in fact statutorily mandated, and that list was not even due to upper management until two days after

the RIF and it's in all the documents associated with the RIF, including the Dear Educator letter that was submitted to attempt to explain it. In no way has the Department articulated why the functions were targeted, how the targeted functions that accomplished Ashford mandates were going to be transferred to others who could accomplish them and so these are arbitrary and capricious actions without reasoning.

And the second reason is the basis for these actions while not rational or reasonable is actually clear and that is that the President and Secretary McMahon do not wish the Department to exist, and there are statements cited throughout our papers that explain the real basis for this is a desire to eliminate it as much as possible, and despite the many conclusory statements across Defendants' opposition, none of the facts explain how this isn't a mere reorganization, these aren't minor changes. The RIF stripped the Department of key functions that allow it to meet its mandates. None of that is rebutted and that also demonstrates arbitrary and capricious action.

And then finally, a failure to consider the impact in full. No consideration of reliance interests, no consideration of how the Department was going to meet its obligations, no consideration about the impact on Plaintiffs or the many people who rely on the Department.

And then finally on the APA, we've also challenged the

actions as contrary to law and that's because they're contrary to the very limited authority of the Secretary of Education articulated in Section 3473 and also contrary to the many, many, many statutes that the Department administers.

So Defendants have raised two APA arguments that go to whether these actions can be adjudicated under the APA.

So the first one of those is that these actions are not final or discrete, and we think that is clearly not the case. So final agency action under the *Bennett* test, the first part is does it mark the confirmation of agency decision-making, and the second is whether it determines rights or obligations from which legal consequences will flow, and Defendants have argued essentially there are too main links between what the challenged actions are and then the consequences, and we think that's just simply not the case.

So here, the massive RIF and the direction and the implementation of the March 21 directive clearly are not interlocutory even if there may be more actions to further destroy the Department, and so we think that for the same reason as actually recently determined in Boy Scouts of America had been dismantled by a final agency action, the same is true here.

The other argument they've raised is that these actions are simply unreviewable under the APA because they are committed to agency discretion by law, and I just want to

emphasize how narrow that exception is to the presumption of reviewability under the APA. So in *Lincoln v. Vigil*, which is the main case on this, the court said that basically there was no statutory way by which to judge the agency action. That program had been created entirely by the agency. There was no specific statutory or other legal standard by which one might judge it. Whereas here, there are many very clear administrative and constitutional standards by which to judge the Defendants' conduct.

So on the constitutional claims, we've raised separation of powers and the Take Care Clause claim. The Defendants have not pushed back much on that except with respect to arguments in *Dalton* and *Heckler*. In *Dalton*, the court is very clear that a statutory claim may not be constitutional but it also may, and here, clearly, the Defendants have chosen to take actions that are contrary to many, many federal statutes and the constitution.

And *Heckler* is a case that really relates only to the ability of an agency to make enforcement decisions, determinations, prioritization. Here, we're talking about the ability of OCR to actually do its job to begin with. We're not talking about discretion to bring a particular action or not.

And finally on the savings clause piece, so Defendants have only raised that "insofar" as we are challenging the executive order. This motion does not seek an injunction

against the executive order.

And then finally on the CSRA channeling, C-S-R-A, so that provides an administrative procedure solely for employees and employee unions. The Plaintiffs are sovereign states, and this channeling does not apply here, and to hold otherwise would actually deny the Plaintiff States a forum entirely. There is no case that says that sovereign states have access to CSRA procedures, and although the Defendants cite a particular section that says an interested party may intervene, there is no basis to think that sovereign states would be such interested parties as might other actors in the employment context, and it's worth raising that even in *National Treasury Employees Union v. Vought*, which is a case that actually did involve employees and unions, the court there also wasn't convinced that CSRA channeling would be appropriate and applied the *Bennett* test.

So I will conclude there unless the Court has questions.

THE COURT: So I just want to be clear that when you say seeking injunctive relief as to two reasons, one of those reasons you mentioned was the mass firings. You're not challenging the Department's discretion to terminate employees. You're not interested in an order, for example, that they reinstate these fired employees. You're just interested in whoever it is that there is enough bodies in the Department to

actually carry out its functions.

MS. MUQADDAM: So the injunction we've sought is just targeted at the March 11 RIF, but we have asked for the employees that were terminated through that RIF to be reinstated such that the Department can meet its mandates, but we are in no way asking the Court to prevent the agency from terminating employees lawfully in the future, solely with respect to this Mass Termination. It may be that the Department can decide to engage in a RIF and do it in a way in which the Department can continue to meet its mandates, but that's not what happened here, and then we're also seeking to enjoin an agency implementation of the transfer directive.

THE COURT: And how do you respond to Defendants' argument that basically this is just a reorganization?

MS. MUQADDAM: I think the answer to that lies in the factual record. So if there was evidence that the Department could meet the statutory mandates that the declarations extensively document are being unmet, they were free to and they have not, and so the only evidence in the record, which is voluminous, explains the Department is unable to meet those mandates.

THE COURT: So to the extent that they have authority to reorganize their Department, they're free to do it as long as it doesn't compromise their ability to carry out its functions?

MS. MUQADDAM: Exactly, and I think it's worth looking at the very, very limited discretion that the Secretary of Education does have under statute. So she can, for example, make changes that are necessary and proper. That's the quote from the statute, and there are also a few functions that she is permitted to even discontinue, but even there she has to provide some notice to Congress. So neither of those attempts -- neither of those forms of discretion were exercised here.

THE COURT: Thank you.

MS. MUQADDAM: Thank you.

MR. HYMAN: Good afternoon, your Honor. Nate Hyman again on behalf of the Commonwealth and on behalf of the Plaintiff States.

My goal today is to discuss irreparable harm to the Plaintiff States at this juncture. As my colleague alluded to a moment ago, we've got 1,100 pages of unrebutted evidence in the record. I am not going to be able to get through all of it, and so my goal today is to put these categories of harm into four broad buckets which I hope are useful for the Court weighting through this material.

The first is knowledge transfer. Broadly speaking, this is technical assistance, training, guidance, knowledge, management and hard data, things that the states rely on every single day to be able to continue to comply with their grant obligations and fulfill their missions as state education

agencies and institutions of higher education; the second is civil rights enforcement, something that the states and the Federal Government have co-jurisdiction over in educational settings; the third is FSA or Federal Student Aid, the important role that that plays, and the fourth are impacts to funding.

So, your Honor, I will start briefly by addressing one item within that knowledge transfer section, knowledge management. One of the less talked about that I think is the fascinating parts of the Education Department is that they've got this group called the IES or Institute For Education Statistics -- Sciences rather, I'm sorry, and what this group does is it promulgates and allows folks to access a wide array of data sets, best practices data. They've got these regional knowledge educational laboratories, and I think the record is replete of state officials testifying about how much they rely on this stuff, all impacted by the RIF, your Honor. These folks are no longer working. They're no longer providing the services to the states. The states can't use this information moving forward, and that is irreparable harm to the states today.

Moving on to civil rights enforcement, your Honor. As your Honor likely knows, the Office for Civil Rights is the preeminent organization within the Federal Government entrusted with enforcing civil rights laws in educational institutions.

The way they've organized this RIF of the twelve regional offices that did this throughout the country, seven of them are gone. So it's not as though they went to each office and said we're going to take 25 percent of this head count and remove these people. They just abdicated responsibility for enforcing civil rights laws in educational institutions in like 27 states across the country, and what you see in the declarations, your Honor, is that the practical impact of that is that our states have to put additional resources, divert resources from other things, and put them towards ensuring a fair and equal experience for students in our school systems. So you've got declarations from California, from Illinois, from Rhode Island testifying to this exact issue, that in light of the fact that OCR San Francisco and OCR Chicago and OCR Boston are closed and there aren't attorneys in those offices investigating and attempting to remediate discrimination, the states are going to have to fill that gap and indeed have begun to do so.

Moving on to FSA, we could spend four hours talking about FSA. I think the analogy that I find most useful in thinking about FSA is that of a bank. So what the Federal Student Aid group does is it allows students to originate funding to go purchase education. It then services that debt at about $1.6 trillion, about the same size as Wells Fargo. The President makes that point in the EO. And then finally, it collects in the event that student borrowers go into default.

Wells Fargo has 250,000 employees. FSA before the RIFs had 1,400. My understanding is that number is now down to 700.

I want to focus on this origination step first because I think it's the place that directly impacts the states the most. In particular, I want to talk about state universities. So in order to qualify for Title IV funding under the FSA, this is things like Pell Grants, direct loans, basically how most people pay for college, you have to go through something called the certification process and that's basically the government kicking the tires on a university and ensuring that it's actually going to provide meaningful education for the students who attend there.

Failure to get certification is the kiss of death for an institution. I think you've got voluminous records before you, your Honor. Denise Barton for the UMass system, for instance, provides this information, Exhibit 26.

So without this information -- without this certification rather, your Honor, universities are not going to be able to provide services.

The group that does certification within FSA has been RIF'ed. So for practical purposes, if you're a state university and you want to open a new program or a new campus, you can't do that because there is not somebody within FSA who can take your certification application, look it over, and allow you to proceed by receiving Title IV funding.

In particular, your Honor, for the Court just to have an example, Evergreen State College in Washington State has a declaration in there, your Honor, and there they remark that they've had this certification for this new program pending for some time, have no idea when it's going to go through but are concerned it's not. They've also got a recertification. Recertification is a process that universities have to go through every one to six years. Again, heavily impacted by this function.

One more data point in the FSA before I will move on, you have before you the declaration of Chris Miller. He's somebody who worked in the Atlanta office before the RIF. Now, Miller ran a team of financial analysts. This was an important, perhaps not particularly outward facing, but an important part of the certification process. These were people who had specialized technical experience looking at financial statements from institutions and determining whether or not they were viable universities moving forward. There were 16 people who worked for this group before the RIF. There is one now. There is something like 5,600 universities in the United States of America. So this one person is going to be responsible for every certification and recertification process that has to go through this financial analysis segment.

And for those reasons, your Honor, the impacts to the FSA directly impact the states that is causing harm today and

it will continue to cause harm moving forward.

Finally, your Honor, I will touch briefly on impacts to funding. Three things I'd like to cover here. The first are conditions precedent, the second is threats to compliance and the third is inherent uncertainty caused by the RIFs so I will take each of those in turn, and just to provide the Court with a concrete example, your Honor is likely familiar with Title I funding. So Title I funding, by dollar amount, one of the largest sources of federal funding. Oregon, for instance, gets $150 million each year in Title I funding, and Title I funding is a formula grant which means that Congress sets out some formula that determines how much each state is going to receive, and then the Department of Education's job is to just allocate the funding that it gets from Congress according to that formula.

In order to allocate those funds though, the group that does Title I grant funding has to go to a group within IES and use a data set that they maintain in order to allocate these funds accordingly, and the problem is that the group that maintains that data set just got RIF'ed. So the next year when it comes time to calculate Title I allocation, the Department of Education is not going to have the underlying data set necessary in order to ensure that the amount that each is receiving is in fact in accordance with Congress' allocation mechanism.

The next category is threats to compliance, your Honor. Every single day state education agencies, local education agencies, state universities pick up the phone and they call people in the Department of Education. They ask them questions. They ask whether they can use their funding for a particular purpose and be consistent with the federal law and regulatory regime. They ask about grant programs, they ask about applications, and more often than not, when that request comes, the program manager might not know the answer right away and so they pick up the phone and they call OGC, Office of General Counsel.

As a result of this RIF, 83 percent of OGC attorneys are gone. They are no longer working in this office, and what this means for practical purposes, and you have record evidence in front of you, this is happening as we speak, the program officers aren't -- they're able to give the advice that they're capable of giving but they're not able to give the fill panoply of advice that they have historically given which dramatically increases the odds that the states inadvertently run afoul of a grant term that might result in termination of funding. That's a real harm that's happening right now.

The final point I'd like to make in terms of irreparable harm, your Honor, and that is uncertainty. Your Honor may have noticed in the declarations there is a couple of references to a funding program that arose out of the COVID-19

crisis, that there were these emergency funds that had been given over to the states as part of a congressionally mandated program, and several of the states were concerned because they'd stopped receiving communications from the Federal Government on these funds. At the time, they believed that that might be caused by the RIF, that Billy or Joe or whoever it was that was supposed to be responding had been RIF'ed and, therefore, wasn't responding. We subsequently learned that that is in fact an effort by the Federal Government to, in our view, unlawfully impound those funds and this seems to be happening over and over again.

What the RIF has done is made it impossible for the states to know whether this is an intentional effort by the Department of Education to impound funds in which case we need to get this team together and file a lawsuit or if it's just that Billy was laid off and his replacement hasn't taken over yet, and so we just need to wait a couple of weeks to get somebody on the line. That is irreparable harm, your Honor. It's happening right now. It will continue to happen moving forward.

With my remaining time, your Honor, I will just briefly speak on the equities. Your Honor, unequivocally in this case the equities favor the Plaintiff States. What we are asking to do is the Department of Education simply has to continue functioning in the way that Congress has dictated that

it should. So Congress has said there shall be a Department of Education; they'd like to dismantle it. Congress has said that Federal Student Aid will be managed by Education; they'd like to move it to SBA. Congress has said that IDEA, you know, programming and funding, should rest in the Department of Education; they are asking that it move to HHS.

We rely on these services every single day. The lack of those services damages us, and so we would respectfully submit, your Honor, that the equities favor us.

With that, your Honor, I will reserve for rebuttal and pass the baton to Democracy Forward.

THE COURT: Thank you.

MS. HOMER: Good afternoon, your Honor. Rachel Homer on behalf of the Somerville Plaintiffs. I have four points to focus on this afternoon briefly: First, the harm to the Plaintiffs; second, the relief that the Somerville Plaintiffs are speaking; third, why these claims are not channelled; and fourth, why the Mass Termination order is arbitrary and capricious.

First, we have provided an extensive record of irreparable harm to our Plaintiffs that is already occurring due to Defendants' illegal Mass Termination order. This evidence is entirely unrebutted in the record. The Defendants have not rebutted that the Mass Termination order is already causing and will continue to cause disruption and delays in the

funds from the Department and a degradation of the support and resources that my colleagues and the states were just talking about that the Department provides.

We have provided an unrebutted expert report by Dr. Linos explaining that the delays and disruption are inevitable in any public agency or even in private corporations when this many staff are fired and that is especially true when there is no time or plan to effectively transition work from the employees who are fired to the remaining employees. That's at Exhibit 5, Pages 10 to 12. And you've just heard from the State Plaintiffs about the difficulty that states are already having in accessing their funds. That's at Exhibits 13, 22 and 31, for example.

This is further supported by the evidence in our case. I would point your Honor to the Leheny declaration at Exhibit 6 which talks about the Office of General Counsel and explains that every single attorney who reviews and advises on all K-12 grants, so that's all Title I grants and the other title grants, and all IDEA grants, that's all grants under the Individuals with Disabilities Education Act, every single one of those attorneys have been fired. Of course that will cause and is already causing delays and disruptions and the degradation of the resources and support that the Department provides, exactly as our expert report describes.

This is also further supported by the declaration from

Katherine Neas which explains that IDEA applications must be reviewed now in the spring for funding to get out in time, and the key staff in the office that administers IDEA, the Office of Special Education Programming and all of the relevant staff in the Office of the General Counsel have been fired. So, again, delays are not only already occurring but they're, of course, inevitable, and that's at Exhibit 8 in our case.

Let me tell the Court about how this is affecting our Plaintiffs who are already right now experiencing irreparable harm. We represent school districts and unions of educators and other school support staff. These schools, Somerville, Easthampton and Worcester, together represent a cross-section of schools in this state. They represent small communities and urban communities, students of all racial backgrounds and income levels, native English speakers as well as English language learners. The School Districts Plaintiffs' mission is to educate students with the best education possible. The harms the school districts are experiencing are happening right now and are already harming students and will continue to harm students.

All three schools have described how right now, in the spring, they need to be making staffing decisions and programatic decisions for the next school year. They can't wait until the fall. If they need to lay off teachers and other staff, that will harm their mission of educating

students. It will lead to larger class sizes, cuts to programs such as summer school, arts education, athletic education, preschool programming. It will also lead to less support for students who need additional supports, especially students with disabilities, and it will lead to cuts for training for teachers.

THE COURT: For these three municipalities, what are the perspective percentage of their funding that comes from the Federal Government?

MS. HOMER: Your Honor, those numbers are in our brief, I don't have them in front of me, but it's approximately 10 percent for each, and without that certainty of federal funding, they can't maintain their current staffing levels and their current programming levels. They will need to make those cuts and once those cuts happen, they can't be easily reversed. Teachers aren't widgets. They can't simply be let go and then re-hired. There is a cycle to teacher hiring. There is a cycle to the school year. And once experienced teachers are lost, the new teachers who replace them typically won't have that same level of expertise.

As the Superintendent of Somerville schools said in his declaration at Exhibit 7, these harms "they are real and they are already happening." Easthampton and Worcester have said the same in Exhibits 9 and 10.

The school districts are also right now and

continuously making curriculum decisions that rely on the Institute of Education Sciences' data that my colleagues and the states were just talking about. For example, the Superintendent of Worcester, Dr. Monarrez, explains that their school relies on data from IES on an ongoing basis as they evaluate curriculum, instructional methods, how to best support and educate students, especially students with disabilities, and in a rapidly changing world, they rely on constantly updated resources from this Institute of Education Sciences, and even any short-term degradation in those resources harms their students at least to learning loss, and once students fall behind, it becomes harder and harder for them to catch up.

Second, your Honor, I'd like to just briefly describe the relief that the Somerville Plaintiffs are seeking. We are only challenging the Mass Termination order of March 11 and we are seeking straightforward relief here. We are seeking a preliminary injunction, a restoring of the status quo to prior to the illegal March 11 Mass Termination order, reinstating the employees that were fired through that Mass Termination order. We are not seeking any kind of order requiring the Department to hire different or new employees and we're not precluding any further RIFs that happen pursuant to the law.

Third, your Honor, I'd like to just very briefly talk about channeling, which, again, my colleagues and the states spoke about as well. The key inquiry for channeling is whether

Congress impliedly intended this type of claim to be channeled. Congress created and administrative review scheme where the MSPB can hear claims brought by federal employees about personnel actions, and the FLRA can hear claims about labor management issues brought by employees, agencies and the federal sector unions representing those employees.

This case does not involve any of those types of claims or those types of plaintiffs. We represent school districts, and we represent unions of teachers and support staff in schools. We do not represent any federal employees or any unions representing any federal employees at the Department. Our claims are simply not about any of those issues whatsoever. In contrast, the Administrative Procedure Act explicitly makes this type of final agency actions reviewable by a federal court.

Finally, your Honor, I would just briefly like to talk about the Administrative Procedure Act and the arbitrary and capricious standard. Your Honor asked about whether -- asked my colleagues and the states about whether a reorganization is authorized and my colleagues and the states explain the statutory limitations on the Secretary's reorganization authority. We, of course, agree with that, and in addition would add the Secretary's decision-making, like all government decision-making, is always constrained by the Administrative Procedure Act requirement that it not be arbitrary and

capricious. Any final agency action needs to be reasoned decision-making. This is simply a core requirement of a functional government in compliance with the law.

Here, the record is unrebutted that they did not engage in the kind of reasoned decision-making when they undertook the Mass Termination order that they are required to do by law. There is no analysis of what work needs to continue to meet the Department statutory obligations. There was no consideration about how to transfer work from the staff who were fired to the remaining staff. There was no consideration of the reliance interests of all of the many people across the country that rely on the Department including the states, including schools, including teachers, including parents, including students.

And importantly, the reason for the Mass Termination that they present in litigation of streamlining is not the real reason because it's not the reason that the Secretary presented in her order announcing the Mass Termination order where she described the reason as the first step towards closing the Department. A government agency is obligated to provide the genuine justification for its action. When it fails to do so, it fails to meet the reasoned decision-making requirement.

With that, your Honor, I will reserve the remainder of my time unless you have any questions.

THE COURT: So with regard to the Union Plaintiffs, if

you could make your best case for your irreparable harm. It seems to me the municipalities have a stronger argument here. There is a more direct line between the reduction in force and harm. If you can make your best case on behalf of the unions.

MS. HOMER: There is -- of course, your Honor. There is two types of irreparable harm that the Union Plaintiffs are experiencing and that their members are experiencing. The first is that the Union Plaintiffs, their jobs, are dependent on the funding that the Department of Education provides. As we have noted in our declarations, and I would be happy to provide you with the citations later, the Union Plaintiffs depend -- their jobs are dependent on Title I funding and IDEA funding, and for Title I in particular, schools need to identify how many jobs, how many educator jobs are dependent on that funding. So we have in the record the exact number of jobs, of educator jobs, that are dependent on that funding. So any delays or disruptions in those funding streams directly affect job loss, and there is case law that we have cited in our brief that job loss and the attended loss of health insurance that comes with job loss is irreparable harm.

In addition, the unions themselves, not just on behalf of their members, they rely on the resources provided by the Department of Education for things like teacher training and for things like advising their members on options for student loans and for grants to attend higher education and for

repayment for student loans.

So the degradation in the resources that Federal Student Aid is able to provide harms union members as well as the unions themselves.

THE COURT: Thank you.

MS. HOMER: Thank you, your Honor.

MR. HAMILTON: Good afternoon, your Honor. This Court should deny Plaintiffs' motion for a preliminary injunction. President Trump campaigned and was elected on a promise to improve education in the United States by returning control of our schools to state and local decision-makers, those who are closest to the children in the United States. His 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.

The Department of Education is one of the newest agencies in the Federal Government established in 1979. Over the years, previous administrations under previous Presidents have expanded the Department of Education beyond its statutory minimum. The trump Administration is going in a different direction, and last month the Department issued a press release announcing progress on its goals of streamlining the Department

of Education. That press release is addressed to no one. It's signed by no one. It is not a Mass Termination order as the Plaintiffs allege. Instead, it announces that some employees in the Department of Education chose to accept early retirement offers, other employees chose to participate in a voluntary resignation program, and other employees had their positions eliminated in a reduction in force.

Plaintiffs want to reverse all of that and take the Department of Education back to what it looked like under our previous President. Their claims are fundamentally flawed, and their motions for a preliminary injunction satisfy none of the four *Winter* factors for that remedy.

I will start with likelihood of success on the merits.

THE COURT: So before you get there, I just want some clarification on what you meant by or I should say what President Trump meant by when he said he is going to return education to the states? What does that mean in terms of what he is doing now with the Department?

MR. HAMILTON: Well, it means -- 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, but we

don't even get to issues with what is going on in the Department of Education because, you know, the questions about that, because the Plaintiffs can't even satisfy the state standing or standing for the Somerville Plaintiffs.

I want to start by --

THE COURT: Sorry to interrupt again. When you say legislative agenda, where in the record can I find support that the administration is working on a legislative agenda?

MR. HAMILTON: 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 of Education more efficient today is separate from that legislative goal.

THE COURT: So when you say there is no agenda, you're basically saying we acknowledge that it has to be an act of Congress to abolish the Department, that's what you're saying, it's not an agenda?

MR. HAMILTON: Exactly. It's a legislative proposal.

Returning to standing, I will start with a case that was decided right about the same time we filed our brief. That's the U.S. Supreme Court's decision in *OPM v. AFGE*. This was on the U.S. Supreme Court's emergency docket. It was decided on April 8, and the theory of the case that the

Plaintiffs proceeded on there is quite similar to the case here. There, a group of entities and organizations that had relationships with different federal agencies sought the reversal of the termination of probationary employees in various agencies, and their theory for relief was downstream injuries. For example, they alleged that the termination of probationary employees in the Department of Veterans Affairs would delay mental health services, they alleged that the termination of probationary employees in the Bureau of Land Management would affect their access to outdoor spaces, and the U.S. Supreme Court in an order on its emergency docket held that the Plaintiffs had not made the requisite showing for standing. The same problem applies to the Plaintiffs' lawsuit here which hang on these downstream injuries that they are speculating could occur in the future.

THE COURT: All of the Plaintiffs or some of the Plaintiffs?

MR. HAMILTON: All of the Plaintiffs, your Honor. All of the Plaintiffs are alleging that the termination of certain employees, certain employees' acceptance of the voluntary resignation programs is going to have -- it's going to cause this chain of events that will end up having an effect on them.

The Plaintiffs aren't seeking, for example, a court order to compel the Department of Education to pay out money under the FSA. They're instead trying to reverse personnel

decisions that the Department of Education has made.

I will start with the injury in fact element. Standing injury elements, of course, requires an actual injury or an imminent injury. There is no actual injury by any of the Plaintiffs. The State Plaintiffs certainly can't show an actual injury. Standing is measured at the time a complaint is filed and the state sued on March 13. The press release that Plaintiffs hold out as a Mass Termination order announces that employees would go on administrative leave starting on March 21 after Plaintiffs even filed their complaint.

They must instead rely on an imminent injury, but before turning to that, I should address the Somerville Plaintiffs which filed their lawsuit so close in time to that March 21 date that they couldn't possibly allege any actual injury from it, but again, none of the Plaintiffs establish an imminent injury to their -- to themselves. Under the *Clapper* case, an injury has to be certainly impending.

Our brief at Page 10 highlights the language that Plaintiffs use to try to establish an injury in fact and they don't allege any certain impending injury. Instead they say things like cuts could or may or will likely cause delays. That does not meet the requirements for standing.

At bottom, your Honor, the types of lawsuits that Plaintiffs have brought in this lawsuit are very strange and not the way that plaintiffs litigate disputes in federal

courts. They're relying on this downstream injury chain of causation and, again, not alleging specific violations of statutes. If the Plaintiffs are concerned about funding delays or if they think that data scientists in the Department of Education are not giving them data that they are owed, someone who has standing needs to bring a lawsuit seeking a court order requiring the Department of Education to produce data or pay out money, but that isn't what Plaintiffs are doing here. They're instead seeking a court order, putting themselves as Chief Human Resources Officer for the Department of Education, and trying to restore 1,900 employees into the Department of Education.

THE COURT: I am not sure that that is accurate. I am just going to push back on that a little bit. Do you drink coffee?

MR. HAMILTON: I do.

THE COURT: I drink coffee every morning. I go to Dunkin' Donuts, and when I walk in, there is a person behind the counter. There is a person making a fresh pot of coffee. If I want a sandwich, there's a person at the sandwich station. I don't think the Plaintiffs are saying that these employees -- let's say one morning there is no one there. I don't think the Plaintiffs are saying that Dunkin' Donuts should hire these three employees back. I think what they're saying is they want their cup of coffee.

MR. HAMILTON: I suppose I understood them to say, and I believe your Honor asked a question to Plaintiffs about this, and I understood their answer to be that accepting their arguments would require the Federal Government to reinstate employees who have been placed on administrative --

THE COURT: Well, I think that's the effect that for them to get their cup of coffee, Dunkin' Donuts will need to hire those employees or some other employees, but the relief that they're seeking is not that employees be hired but that they want their cup of coffee. There is a distinction.

MR. HAMILTON: I agree there is a distinction and it's our position that the way they have structured their complaint, the proposed order is not give us a cup of coffee, it is re-hire the barista, and that sort of framing of their lawsuit we don't think is something that they have standing to litigate. If someone who has actually been denied funding that they are owed, the plaintiff who can make that showing should bring a lawsuit seeking funding, not the re-hiring of an employee who may or may not have worked on that, and that is a separate standing problem. That's a traceability and addressability problem because the Plaintiffs can't show that the termination of any employee, the placement of someone on administrative leave, would actually change what they are speculating could happen into the future.

I will talk about the Evergreen declaration that my

friend on the other side noted because I think it illustrates this. That declaration talks about how the Department of Education received an application for recertification from Evergreen in August of 2024, months before the Department of Education posted the March 2025 press release, and the declaration says that in January of 2025 the Department of Education told Evergreen that its application was under review, and the Evergreen declaration further says that the Department of Education continues to provide access to federal financial aid to students. So we understand the Plaintiffs' complaint to rest on the speculation that into the future something is going to change for Evergreen, not that something has already happened for Evergreen and the other entities involved in Plaintiffs' lawsuit.

I also wanted to touch on jurisdiction. We have argued that Federal District Courts lack jurisdiction over these types of claims because they are precluded by the Civil Service Reform Act. The only entity by Congress' design that can make that remedy of reinstating an employee, taking an employee off administrative leave, would be the Merit Service Protection Board or the Federal Labor Relations Authority. That's Congress' choice. They have made it so that those sorts of claims are not justiciable in Federal District Courts and this is something that courts have recognized in recent months as Plaintiffs have brought cases challenging the work that

officials in the Trump Administration have done to streamline operations in the federal bureaucracy.

For example, the recent *Maryland v. USDA* decision of the Fourth Circuit, that case was a challenge to the termination of a number of probationary employees. The Fourth Circuit there stayed a preliminary injunction entered by the District of Maryland noting the jurisdiction problems with the plaintiff's claim.

Here, in the District of Massachusetts, the *AFL-CIO v. Ezell* case was a challenge to the fork-in-the-road Deferred Resignation Program. There the District Court held that the Civil Service Reform Act precluded the sort of relief that the Plaintiffs were seeking.

And I will also highlight the *NTEU v. Trump* case from D.D.C. That also involved an allegation or rather a challenge to the termination of probationary employees in a reduction in force and the District Court held that those sorts of claims were channelled to the -- it was channelled under the Civil Service Reform Act. Jurisdiction would not be appropriate in a Federal District Court.

I also want to touch on the Administrative Procedure Act because there are multiple defects with the Administrative Procedure Act claims that the Plaintiffs have brought. To start, Plaintiffs haven't challenged any final agency actions. That's a requirement for every claim under the Administrative

Procedure Act. They claim to be challenging a Mass Termination order, but, again, that Mass Termination order is just a press release. It is not addressed to anyone, signed by anyone. It doesn't order anything.

THE COURT: So this is the second time you have said that about press releases. So how should I take those public statements? As nothing?

MR. HAMILTON: No. I think they can be accepted for what they are which is statements about the work that the Department of Education is doing. I think the problem that the Plaintiffs are having is that a decision to put out a press release isn't the same as agency action subject to review under the APA. The problem is also one of discreteness because agency action has to be discrete, and what that press release is doing is it is describing multiple decisions and actions and determinations that have been made within the Department of Education since the Trump Administration transitioned.

For example, there is a discussion of the offer of Deferred Resignation Program participation. The press release notes that some employees chose to accept early retirement offers. It talks about the elimination of roles. The reassignment of tasks would be necessarily involved in that, as would be the redirection of priorities and exercises of enforcement discretion. Now, to be clear, not all of that is discussed in the press release, but that sort of multiplicity

of agency decision-making is implicit in what that press release was announcing which is progress in the Trump Administration's promise to the American people to make the Department of Education as efficient and streamlined as it can possibly be consistent with the statutory obligations that Congress has placed on the Department of Education.

I want to highlight a case cited in our brief, the *Lujan v. Natural Wildlife* case, which says that an ongoing program or policy is not in itself a final agency action. That's exactly the sort of impermissible APA challenge that the Plaintiffs are seeking to bring here.

THE COURT: Before you turn to something else, I just want to explore this a little bit. Usually when somebody says they're going to do something and then they start taking actions to accomplish what they said they were going to do, I can take meaning from that to say they're going to do exactly what they said they're going to do, right, normally?

So there has been public statements, multiple public statements from President Trump, for example, that he is going to close the Department. He told the Secretary that she should I think his words were something like "put herself out of a job" and then she herself has said that her final mission is to close the Department, and I believe there is more than press releases here. I think there was an actual Department memo directing the reduction in force.

So why shouldn't I take from all of that that there was final agency action, the memo, and now this is simply an implementation of that final decision?

MR. HAMILTON: Well, a few points, your Honor. The references to closing the Department of Education are references to working with Congress to enact the laws that would be needed to do that and our brief says that, and I'd also highlight the March 20th executive order. It's an executive order that postdated the March 11th press release that Plaintiffs are calling a Mass Termination order, but that March 20th executive order talks about closing the Department of Education, but in talking about returning authority to the states, it tells the Department of Education's Secretary, Secretary McMahon, to only do so to the maximum extent appropriate and permitted by law and to "ensure the effective and uninterrupted delivery of services."

So the Department is committed to carrying out its statutory obligations until there is an act of Congress that changes the Department's statutory obligations.

THE COURT: So if I understood the Plaintiffs correctly, they would respond in two ways to that: One, which is that the Department says that it is fully committed to ensuring that the Department carries out its function but in reality they're incapable of doing that; and the second thing is it's kind of like when my kids were teenagers and they would

throw a party at the house and say, to the extent that my parents give me permission to, I am throwing this party. It doesn't excuse having thrown the party. They never got permission, but by including that verbiage, it's almost like to the extent that Congress has authorized, but there is nothing in the record that shows that Congress has authorized the closure of the Department. There is nothing in the record to show that the administration is working with Congress to close down the Department, right?

MR. HAMILTON: I mean, I don't think that the legislative work that, you know, the Trump Administration -- I don't think its legislative priorities really fit into Plaintiffs' claims. Our brief comes out and acknowledges that the Department of Education is not closed and it is not closing absent an act of Congress. So I don't think that we could be clearer on our position on that. Instead, what is happening in the Department of Education is that, like other agencies in the Federal Government, the agency is streamlining itself and making it the most efficient version of itself it can be until Congress acts and decides what to do on President Trump's legislative priorities with respect to the Department of Education.

I will touch on the other elements under the *Winter* test and I will start with irreparable harm which is also not satisfied by the Plaintiffs for all of the reasons that they

also lack standing. The balance of the equities and public interest elements also disfavor a preliminary injunction. On the one hand the Plaintiffs have brought this, again, enormously unusual lawsuit based on speculative downstream harms that they claim may befall them, but on the other hand is the enormous expense to the Federal Government of having to reinstate 1,900 employees at the Plaintiffs' urging.

In addition, it would be enormously disruptive to the Executive Branch's management of the federal workforce for Plaintiffs' claims to succeed and for Plaintiffs to place the District Court in the role of superintending the Department of Education's decision-making with respect to human resources, and it would also be enormously disruptive in particular to the 572 employees described in the March press release as having made a decision to accept an early retirement offer or to have chosen to participate in the voluntary resignation program.

Finally, your Honor, I would just note that if the Court does enter preliminary injunctive relief, we have argued that a bond should be required of the Plaintiffs, and under Rule 65 that bond must reflect the enormous expense that injunctive relief would place on the Federal Government, and in addition, we request a stay pending any appeal authorized by the Solicitor General.

If the Court has no further questions, we'd ask that the Court would deny the Plaintiffs' motions for a preliminary

injunction.

THE COURT: Thank you.

MR. HAMILTON: Thank you, your Honor.

MS. MUQADDAM: I'd just like to touch on five points, but briefly first, I think our brief is quite clear that we are not seeking relief as to those who took the voluntary buyouts, only those who were terminated through the RIF or effectuated through that termination, so not the people who took the fork-in-the-road offer, for example, only those that were RIF'ed, and that their terminations were effectuated through that particular action on March 11.

So to the first point, I would bring the Court back to the record. Defendants have described the situation as very strange, unusual, and that is exactly right. It has never happened before this year that the Federal Government has attempted to fire so many people out of an executive agency that it can no longer function. The dismantling of the Department of Education is unfortunately not the only instance we have seen of that thus far in this administration, but Plaintiffs are unaware of another example in the past when something like this has actually occurred. In fact, Presidents in previous administrations have taken action to try and persuade Congress to eliminate the Department of Education and they have failed. So this is strange, and the record is in fact extremely unusual, but that record is a voluminous

testament to how the Department can no longer do what it does. It does not have the resources to maintain compliance with Title II or Title IV. It cannot operate sufficient procedures to protect student borrowers. It cannot get the data it needs to award Formula Title I and IDEA funding.

And so Defendants have said, and the President and Secretary McMahon have articulated, that they would like to close the Department, and the reality is that's exactly what happened, and those declarations have not been rebutted. If Defendants had evidence that the Department was able to meet the mandates that Plaintiffs have explained cannot be met, they have not done so.

So I'd like to touch on the cases that Defendants pointed to as supposedly analogous to the situation. Defendant cited a case about *OPM* probationary employees, the *USDA* case in Maryland, and the *AFL-CIO* case. So all of those are quite different from the situation here. For one, the courts determined that there was not the same kind of direct harm that we have here and also they are cases about the procedures that were used to terminate employees. So those cases involved arguments about whether, for example, the RIF had been procedurally correct. A RIF requires a number of things including notice to states about procedures about protective areas. So those cases touched on those questions.

Here, Plaintiffs are not bringing a challenge to how

the Department engaged in the RIF. The arguments here are that the particular actions, the terminations effectuated through the March 11 RIF, not the acceptance of voluntary buyouts that are also described in the memo and the March 21 directive to transfer functions, those things have caused the Department to be unable to provide direct services to the states, and so there is no attenuation, and the harm is already occurring and it will continue to get worse, especially once the RIF is fully complete, but most of the harms have already manifested and that's because the employees have been on administrative leave since March 21. And just to use the Evergreen example that Defendants touched on. That school needs its certification to operate. The people who could provide that certification no longer exist in the Department. So that is a current harm that is also an irreparable harm and one that is not going to get better.

So I wanted to touch on the scope of the relief here. There were a few questions about reinstatement, and again, Plaintiffs are not seeking to prevent the Department from engaging in a RIF. The Department can engage in a reasoned decision-making process that results in the termination of employees consistent with law. Here, the restatement of the RIF employees is necessary for the Department to continue to function, and I think, as some of your questions got at, your Honor, those employees as yet have not been finally terminated.

They are not fully terminated until the expiration of the RIF period.

So what we're asking for is really just a return to the status quo. So reinstate these employees. We are not saying that the Department needs to keep particular employees. The Department can engage in lawful efforts to terminate employees. It could hire new employees. It can do all of those things, but in order to return to the status quo here, which we think is justified by the irreparable harm, both actual and imminent, is necessary to do that.

So third, I'd like to touch on final agency action. So I think it's worth thinking about how different *Lujan* is to the situation. In *Lujan*, Plaintiffs brought basically what was described as a programatic challenge but the challenge was to the way in which the Bureau of Land Management operated an entire program. So there were arguments that they were acting unlawfully in a lot of different ways. Perhaps they were approving permits that might have been unlawful. They were maintaining the land in a way that Plaintiffs objected to. Here, it's not that we're challenging a whole slew of different actions that are all subject to discretion. We're challenging two particular administrative actions that have had concrete and immediate effects. So the RIF is one action that immediately terminated over 1,000 employees, that is one action, and then the implementation of the March 21 directive

is also a singular action.

And I just want to touch on that March 21 directive as well because I think that's been less developed certainly in Defendants' brief. So that directive, which Secretary McMahon has indicated she plans to implement, would remove FSA entirely to the SBA which on the same day that this directive was announced experienced a 40 percent RIF. The SBA was also a relatively small organization. SBA has no experience or qualification to administer this incredibly complex and incredibly essential program, and so what declarants have said in the record is that if that happens, it's already catastrophic enough that FSA is not functioning, and if that happens, FSA would basically fall apart entirely.

And then secondly, the directive to move what the President described as special needs out of the Department and into HHS, also completely unexplained, and HHS is similarly unqualified and has no relative experience in administering those incredibly essential programs.

And I think just to touch on the savings clause point, I think for one, Plaintiffs are not seeking to preliminarily enjoin implementation of the EO. So any savings clause language in that order is irrelevant, but I think your Honor pointed to something which is that an action cannot be held to destroy itself through a savings clause, and the court and many circuit courts have explained this. So it may say something

like what the directive in these instances says is we are going to eliminate the staff necessary to comply with our statutory mandate. If they include something at the end that says consists with applicable law, that actually cannot rescue this from the reality of this situation.

And on the topic of the bond, I think imposing a bond would be extremely unusual. For one, this is a case relating to an important matter of public concern so that's unusual to begin with, and also Defendants are asserting that they will have to expend money to comply with the relief that we have asked for, but to be clear, Congress has appropriated funds for the government to administer to meet its statutory mandates. So there is no injury to the state from being pressed to merely expend the money including our salaries and other things to comply with that statutory mandate. So we would ask that bond is not imposed.

THE COURT: All right, thank you. I just have one question for Mr. Hyman. I'm sorry, not Mr. Hyman. Mr. Homer. My apologies.

MS. HOMER: I'm Ms. Homer, your Honor.

THE COURT: I've got it all wrong. I'm sorry, you were again?

MR. HAMILTON: My name is Eric Hamilton.

THE COURT: Hamilton, Mr. Hamilton. I guess as I was listening to both of you, it wasn't clear in my mind as to

whether or not the Defendants are claiming that the President was acting under some statutory authority or are you claiming that the President is acting in some inherent powers under Article II?

MR. HAMILTON: It would be inherent authority under Article II supervising the Secretary of Education. That would be the authority for the executive order that he issued, but again, that executive order postdated the press release that Plaintiffs are saying is a Mass Termination order that is subject to the Court's review.

THE COURT: Sure, but that leads me to a second question because I think you alluded to this earlier about the time of the complaint. You're not suggesting that whatever concrete harm comes, let's say even after today, that I cannot consider that?

MR. HAMILTON: Well, I think the Plaintiffs would have to amend their complaint if they want to challenge some other administrative action, and actually, the States Plaintiffs' challenge to what they're calling this transfer of function order fits that description. They're saying that a statement that the President made to the press on March 21 is some sort of a transfer order and that also postdates the filing of their complaint. They haven't amended their complaint. There is no mention of that obviously in the complaint since it didn't exist and so the Court -- we don't think it's part of the case

or something that the Court can review barring an amendment to the complaint, and as Plaintiffs appear to acknowledge, my friend on the other side was speaking in terms of the future, the transfer of any -- you know, the functions that the Plaintiffs are talking about being transferred to the Small Business Association and the Department of Health and Human Services has not happened.

THE COURT: All right. Thank you very much. I will take this under advisement -- I'm sorry, do you want to speak?

MS. HOMER: If your Honor doesn't mind, I just have a few very quick points.

THE COURT: Sure.

MS. HOMER: First, I would like to just clarify that the only relief we are seeking is about the Mass Termination order on March 11. It does not include the employees who were voluntary separated, that 579.

Second, opposing counsel appears to be arguing that this Court is not empowered to consider under the APA, the claim that the Mass Termination order is arbitrary and capricious or violates the APA in a variety of other ways that we have articulated, and we would just like to point your Honor to two cases that might be helpful on this. The first is the *Widakuswara* case that was submitted through a 28(j) letter two days ago. The second is the *NTEU v. Trump* case that we cite, not the *NTEU v. Trump* case that they cite, both of which have a

helpful explanation about how gutting an agency whether through firing all employees or taking some other actions that that itself can be a violation of the APA and is not merely a matter of RIFs or some other narrower consideration. Thank you, your Honor.

THE COURT: Thank you, and sorry about the name mixup. We will stand in recess.

MS. MUQADDAM: Your Honor, could I respond to one thing?

THE COURT: Do want to file something?

MS. MUQADDAM: We could. It's just a very short thing.

THE COURT: All right, sure.

MS. MUQADDAM: I just wanted to respond to the point about amending the complaint. So our complaint does extend to Presidential direction to dismantle the Department, and we think that the scope of the complaint well includes both the RIF and implementation of the directive.

THE COURT: Yes, I will go back to the complaint, but I think to Mr. Hamilton's point, you know, I can only provide relief that's sought in the complaint.

MS. MUQADDAM: We think it covers that.

THE COURT: All right, great. All right, thank you very much.

(A-D-J-O-U-R-N-E-D)

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CERTIFICATION

I certify that the foregoing is a correct transcript of the record of proceedings in the above-entitled matter to the best of my skill and ability.

/s/Jamie K. Halpin_____ April 27, 2025

Jamie K. Halpin, CRR, RMR, RPR Date

Official Court Reporter

UNITED STATES DISTRICT COURT
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

ORDER ON DEFENDANTS' MOTION TO STAY

May 23, 2025

JOUN, D.J.

On May 22, 2025, the Court issued a Preliminary Injunction Order that enjoined the Government from carrying out the reduction-in-force announced on March 11, 2025; from implementing President Trump's March 20, 2025 Executive Order; and from carrying out the President's March 21, 2025 Directive to transfer management of federal student loans and special education functions out of the Department. [25-cv-10601 Doc. No. 128; 25-cv-10677 Doc No.

45]. The Preliminary Injunction Order additionally reinstated federal employees whose employment was terminated or otherwise eliminated on or after January 20, 2025, as part of the reduction-in-force announced on March 11, 2025 to restore the Department to the status quo such that it is able to carry out its statutory functions. [*Id.*]. Pursuant to the Preliminary Injunction Order, the Court also issued an Order consolidating the two cases, with case number 25-cv-10601 being the lead case. [25-cv-10601 Doc. No. 129; 25-cv-10677 Doc. No. 46]. That same day, the Government filed a Notice of Appeal Consolidated Plaintiffs' Motions for Preliminary Injunction, [25-cv-10601 Doc. 130; 25-cv-10677 Doc. No. 47]. The appeal was docketed in the United States Court of Appeals for the First Circuit under case number 25-1495. Now pending before the Court is the Government's Motion to Stay Preliminary Injunction Pending Appeal. [Doc. No. 133].[1]

In assessing the merits of a motion to stay a preliminary injunction pending appeal, reviewing courts consider four factors: "(1) whether the stay applicant has made a strong showing that [it] is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of a stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies." *Nken v. Holder*, 556 U.S. 418, 426 (2009). For the same reasons stated in my Preliminary Injunction Order, the Government has not demonstrated that they are likely to prevail on the merits and the remaining equitable factors do not favor the Government. The Government has not provided evidence to show that it will be irreparably injured absent a stay; instead, as elucidated in my Preliminary Injunction Order, Consolidated Plaintiffs have demonstrated an imminent risk of irreparable

[1] Consolidated Plaintiffs filed an opposition to the Motion for Stay on the morning of May 23, 2025. [Doc. No. 135].

harm. The Department must be able to carry out its functions and its obligations under the DEOA and other relevant statutes as mandated by Congress. Thus, I DENY Defendants' Motion.

SO ORDERED.

/s/ Myong J. Joun
United States District Judge

United States Court of Appeals
For the First Circuit

Nos. 25-1495
25-1500

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; STATE OF ILLINOIS; STATE OF MAINE; STATE OF MARYLAND; STATE OF MINNESOTA; STATE OF NEVADA; STATE OF NEW JERSEY; STATE OF OREGON; STATE OF RHODE ISLAND; STATE OF WASHINGTON; STATE OF WISCONSIN; STATE OF VERMONT; DANA NESSEL, Attorney General for the People of Michigan; DISTRICT OF COLUMBIA; SOMERVILLE PUBLIC SCHOOLS; EASTHAMPTON PUBLIC SCHOOLS; AMERICAN FEDERATION OF TEACHERS; AMERICAN FEDERATION OF TEACHERS MASSACHUSETTS; AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, COUNCIL 93; AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS; SERVICE EMPLOYEES INTERNATIONAL UNION,

Plaintiffs - Appellees,

v.

LINDA MARIE MCMAHON, in their official capacity as Secretary of the US Department of Education; DONALD J. TRUMP, President of the United States; US DEPARTMENT OF EDUCATION,

Defendants - Appellants.

Before

Barron, Chief Judge,
Kayatta, and Rikelman, Circuit Judges.

ORDER OF COURT

Entered: May 27, 2025

These are consolidated appeals from an order granting a preliminary injunction on May 22, 2025, in the District Court for the District of Massachusetts. We have jurisdiction under 28 U.S.C.

§ 1292(a). Defendant-Appellants have filed in this court an "Emergency Motion for Stay Pending Appeal and Immediate Administrative Stay" (the "Motion"). The Motion contains two requests; the sole request we address in this order is the request for an administrative stay.

After careful review, we conclude that Defendant-Appellants have not met their burden to show the need for an immediate administrative stay. See United States v. Texas, 144 S. Ct. 797, 798 (2024) (Barrett, J., concurring) (discussing considerations relevant to administrative stays); New York v. Trump, No. 25-1138, 2025 WL 455494 (1st Cir. Feb. 11, 2025) (denying without prejudice a request for an administrative stay). Accordingly, the request for an immediate administrative stay is denied. We intend to rule on the request for a stay pending appeal promptly.

By the Court:

Anastasia Dubrovsky, Clerk

cc:
Katherine B. Dirks
Rabia Muqaddam
Nathaniel J. Hyman
Ester Murdukhayeva
Molly Thomas-Jensen
Matthew William Grieco
Jessica L. Palmer
Gina Bull
Anna Esther Lumelsky
Elizabeth C. Carnes Flynn
Yael Shavit
David Dana Day
Kalikoonalani Diara Fernandes
Caityn Babington Carpenter
Ewan Christopher Rayner
Lucia Choi
James Edward Stanley
Natasha Adriana Reyes
Panchalam Seshan Srividya
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David Moskowitz
Patrick Ring
Kathleen M. Roberts
Sarah A. Hunger
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Sean D. Magenis
Keith Jamieson
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Heidi Parry Stern
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Andrew Simon
Elleanor H. Chin
Kathryn Gradowski
Spencer Wade Coates
Cristina Sepe
Charlotte Gibson
Jonathan T. Rose
Donald Campbell Lockhart
Mark R. Freeman
Melissa N. Patterson
Steven A. Myers
Brad P. Rosenberg
Michael Benjamin Bruns
Neil Giovanatti
Kathleen Ann Halloran
Steve W. Berman
Raffi Melanson
Stephanie Verdoia
Abigail Pershing
Breanna Van Engelen
Dana A. Abelson
John Grant
Victoria S. Nugent
Rachel F. Homer
Elena Goldstein
Adnan Perwez
Kali J. Schellenberg
Will Bardwell

United States Court of Appeals
For the First Circuit

No. 25-1495

SOMERVILLE PUBLIC SCHOOLS; EASTHAMPTON PUBLIC SCHOOLS; AMERICAN FEDERATION OF TEACHERS; AMERICAN FEDERATION OF TEACHERS MASSACHUSETTS; AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, COUNCIL 93; AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS; SERVICE EMPLOYEES INTERNATIONAL UNION,

Plaintiffs, Appellees,

v.

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

Defendants, Appellants.

No. 25-1500

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; STATE OF ILLINOIS; STATE OF MAINE; STATE OF MARYLAND; STATE OF MINNESOTA; STATE OF NEVADA; STATE OF NEW JERSEY; STATE OF OREGON; STATE OF RHODE ISLAND; STATE OF WASHINGTON; STATE OF WISCONSIN; STATE OF VERMONT; DANA NESSEL, Attorney General of Michigan; DISTRICT OF COLUMBIA,

Plaintiffs, Appellees,

v.

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

Defendants, Appellants.

APPEALS FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

[Hon. Myong J. Joun, U.S. District Judge]

Before

Barron, Chief Judge,
Kayatta and Rikelman, Circuit Judges.

Steven A. Myers, Attorney, Appellate Staff, Civil Division, Yaakov M. Roth, Acting Assistant Attorney General, Leah B. Foley, U.S. Attorney, Eric D. McArthur, Deputy Assistant Attorney General, Mark R. Freeman and Melissa N. Patterson, Attorneys, Appellate Staff, Civil Division, for appellants.

Andrea Joy Campbell, Attorney General 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, Letitia James, Attorney General of New York, Barbara D. Underwood, Solicitor General, Ester Murdukhayeva, Deputy Solicitor General, Matthew W. Grieco, Senior Assistant Solicitor General, Anne E. Lopez, Attorney General of Hawai'i, David D. Day, Special Assistant to the Attorney General, Kaliko'onālani D. Fernandes, Solicitor General, Ewan C. Rayner, Caitlyn B. Carpenter, Deputy Solicitors General, Rob Bonta, Attorney General of California, Lucia J. Choi, Deputy Attorney General, Michael L. Newman, Senior Assistant Attorney General, Srividya Panchalam, James E. Stanley, Supervising Deputy Attorneys General, Natasha A. Reyes, Megan Rayburn, Deputy Attorneys General, Kristin K. Mayes, Attorney General of Arizona, Clinten N. Garrett, Senior Appellate Counsel, Kathleen Jennings, Attorney General of Delaware, Ian R. Liston, Director of Impact Litigation, Vanessa L. Kassab, Deputy Attorney General, Phil Weiser, Attorney General of Colorado, David Moskowitz, Deputy Solicitor General, Brian L. Schwalb, Attorney General of the District of Columbia, Andrew Mendrala, Assistant Attorney General, Public Advocacy Division, William Tong, Attorney General of Connecticut, Michael Skold, Solicitor General, Patrick Ring, Assistant Attorney General, Kwame Raoul, Attorney General of Illinois, Jane Elinor Notz, Solicitor General, Sarah A. Hunger, Deputy Solicitor General, Aaron M. Frey, Attorney General of Maine, Sean D. Magenis, Assistant Attorney General, Keith Ellison, Attorney General of Minnesota, Liz Kramer, Solicitor General, Joseph R. Richie,

Special Counsel, Rule of Law, Anthony G. Brown, Attorney General of Maryland, Julia Doyle, Solicitor General, Keith M. Jamieson, Assistant Attorney General, Aaron D. Ford, Attorney General of Nevada, Heidi Parry Stern, Solicitor General, Dana Nessel, Attorney General of Michigan, Neil Giovanatti, Kathleen Halloran, Assistant Attorneys General, Matthew J. Platkin, Attorney General of New Jersey, Jessica L. Palmer, Andrew Simon, Deputy Attorneys General, Dan Rayfield, Attorney General of Oregon, Leigh A. Salmon, Assistant Attorney General, Nicholas W. Brown, Attorney General of Washington, Spencer W. Coates, Assistant Attorney General, Cristina Sepe, Deputy Solicitor General, Peter F. Neronha, Attorney General of Rhode Island, Kathryn T. Gradowski, Special Assistant Attorney General, Joshua L. Kaul, Attorney General of Wisconsin, Charlotte Gibson, Assistant Attorney General, Charity R. Clark, Attorney General of Vermont, and Jonathan T. Rose, Solicitor General, for state appellees.

Rachel F. Homer, Elena Goldstein, Victoria S. Nugent, and Adnan Perwez, for appellees Somerville Public Schools, Easthampton Public Schools, American Federation of Teachers, American Federation of Teachers Massachusetts, American Federation of State, County, and Municipal Employees, Council 93; American Association of University Professors, and Service Employees International Union.

June 4, 2025

BARRON, Chief Judge. On March 13, 2025, two days after the U.S. Department of Education (the "Department") announced a reduction in force (RIF) that impacted approximately half of its employees, twenty-one states sued the Secretary of Education (the "Secretary"), the Department, and the President in the District of Massachusetts. Soon after, five labor organizations and two school districts did the same. The plaintiffs in the two cases then moved for a preliminary injunction against the Secretary and the Department, contending that the RIF violated the U.S. Constitution and the Administrative Procedure Act (APA). The plaintiffs also sought an injunction against the transfer of certain functions out of the Department, which was announced by the President on March 21, based on the same alleged violations. The District Court consolidated the two cases and, after making extensive factual findings, issued an order that granted the motions. The appellants now move for a stay pending appeal of the District Court's order granting the preliminary injunction. The stay is denied.

I.

The District Court determined that the plaintiffs were likely to succeed on the merits of their claims. It concluded that the "mass terminations" effected by the RIF and transfer of congressionally mandated functions to other agencies likely violated the separation of powers and were ultra vires in

consequence of the statute establishing the Department. See 20 U.S.C. §§ 3401-3510. The District Court also determined that the challenged actions likely violated the APA as being contrary to law, see 5 U.S.C. § 706(2)(A), in light of the Department's enabling statute as well as the "numerous federal laws that require the Department to carry out certain functions."

In addition, the District Court concluded that the challenged actions likely violated the APA because they were arbitrary and capricious. See id. It explained that the announcement of the RIF as well as the decision to transfer certain functions outside of the Department were not accompanied by "a reasoned explanation, let alone an explanation at all," and that nothing in the record demonstrated consideration of the substantial harms that would result for a variety of stakeholders including students, educational institutions, and the states.

The preliminary injunction provides as follows. First, it enjoins the Department and Secretary "from carrying out the [RIF] announced on March 11, 2025; from implementing [the President's] March 20, 2025 Executive Order[, Improving Education Outcomes by Empowering Parents, States, and Communities, Exec. Order No. 14242, 90 Fed. Reg. 13679 (Mar. 20, 2025)]; and from carrying out the President's March 21, 2025 Directive to transfer management of federal student loans and special education functions out of the Department." Second, it enjoins the same

defendants "from implementing, giving effect to, or reinstating" these directives "under a different name." Third, the order provides that the Department and Secretary "shall reinstate federal employees whose employment was terminated or otherwise eliminated on or after January 20, 2025, as part of the RIF announced on March 11, 2025, to restore the Department to the status quo such that it is able to carry out its statutory functions." Finally, it requires the Secretary and Department to provide notice of the preliminary injunction to their "officers, agents, servants, employees, attorneys, and anyone acting in concert with them" and file regular status reports with the District Court.

II.

The appellants bear the burden of satisfying the well-established four-factor test for obtaining the extraordinary relief that is a stay of a preliminary injunction pending appeal. See Nken v. Holder, 556 U.S. 418, 433-34 (2009). We thus must consider whether the appellants have made: (1) a "strong showing that [they are] likely to succeed on the merits" in challenging the preliminary injunction on appeal; (2) a showing that they "will be irreparably injured absent a stay" pending the appeal's resolution; (3) a showing that the "issuance of the stay will [not] substantially injure the other parties interested in the proceeding"; and (4) a showing that the stay would serve "the

public interest." Id. at 426 (quoting Hilton v. Braunskill, 481 U.S. 770, 776 (1987)). The first and second factors are the "most critical" ones. Id. at 434.

III.

A.

The appellants argue that the "likelihood of success" factor favors them because the plaintiffs lack Article III standing to pursue their claims. They do not dispute that the plaintiffs would suffer a cognizable injury under Article III if the Department were unable -- in consequence of actions taken to close it down -- to perform its statutorily assigned functions. Instead, they argue, in part, that, in contravention of Clapper v. Amnesty International USA, 568 U.S. 398 (2013), the plaintiffs' Article III standing rests on "speculation that, contrary to the Secretary['s] . . . judgment, the Department's remaining 2,183 employees will be unable to perform the Department's statutory functions."

In support of this argument, the appellants assert that the RIF did not -- and would not -- prevent the Department from carrying out its statutorily assigned functions, given the remaining employees' capacity to carry them out. But the District Court found, based on the evidence submitted by the plaintiffs, that the RIF, which it found was "explicitly implemented to shut

down the Department"[1] and "eliminat[ed] entire offices and programs," has "made it effectively impossible for the Department to carry out its statutorily mandated functions."[2] And, insofar as the appellants mean to challenge that factual finding, they have submitted no evidence to support a contrary one.

The appellants do point to specific parts of the District Court's opinion as support for their argument that the District Court "principally focused on harms that could or might occur" in finding that harms to the plaintiffs are "certainly impending" under Clapper, 568 U.S. at 402. Insofar as the appellants mean

[1] In finding that the RIF was implemented for the purpose of closing down the Department, the District Court relied in part on the executive order issued on March 20, which provided that "the Secretary [] shall, to the maximum extent appropriate and permitted by law, take all necessary steps to facilitate the closure of the Department of Education." Improving Education Outcomes by Empowering Parents, States, and Communities, 90 Fed. Reg. at 13679. The District Court also relied on the President's statements prior to the RIF that he would "like to close [the Department] immediately." Even though the RIF preceded the executive order, the appellants do not dispute the relevance of the executive order to assessing the impact or lawfulness of the RIF.

[2] We highlight some of the District Court's specific findings about how the extent and nature of the RIF impacted particular functions within the Department. For example, as to the Institute for Education Sciences (IES), which is the Department's main office for education research, the District Court found that the RIF had left it "unable to fulfill [its] mandates" to collect and analyze data because one of its subdivisions had "only three employees remaining" and, at two other subdivisions, "the only remaining employees are the two Commissioners." As to the Department's Office of Federal Student Aid (FSA), the District Court found that "the entire team that supervises [the Free Application for Federal Student Aid (FAFSA)] was eliminated," such that "the administration of FAFSA applications will be disrupted."

to suggest, in pointing to those passages, that the District Court did not in fact find that the Department was already unable to carry out statutorily assigned functions in consequence of the RIF, we are not persuaded. The District Court's detailed and extensive factual findings to the contrary throughout its opinion show that it did so find. And insofar as the appellants mean to suggest, in pointing to those passages, that the District Court drew impermissibly speculative inferences in finding that the RIF made it effectively impossible for the Department to carry out its statutorily assigned functions, the appellants do not identify evidence in the record to counter the District Court's contrary findings about the impact of the RIF.

Thus, on the record before us, we see no basis on which to conclude that the appellants have made a "strong showing" that the District Court likely clearly erred in finding that the RIF made it effectively impossible for the Department to carry out its statutory obligations.[3] See Me. People's All. & Nat. Res. Def. Council v. Mallinckrodt, Inc., 471 F.3d 277, 283 (1st Cir. 2006)

[3] The stay motion's discussion of Article III standing focuses on the District Court's RIF-based findings, but the motion also contains a footnote in the merits section that states without elaboration that "[the] plaintiffs have identified no basis to conclude that any transfer of the Department's handling of student loans or special education is imminent." As the District Court noted, however, the plaintiffs introduced evidence of the President's statement that the transfer of responsibilities would be happening "immediately." The appellants identify no evidence to suggest that was not the case.

("When . . . the trial court's standing determination rests on findings of fact, we must honor those factual findings unless they are clearly erroneous."). That being so, the appellants also have not made a strong showing that they are likely to succeed on appeal in challenging the District Court's determination that the plaintiffs have Article III standing under Clapper because their injuries are certainly impending.

The appellants' citation to OPM v. American Federation of Government Employees, No. 24A904, 2025 U.S. LEXIS 1451 (U.S. Apr. 8, 2025), does not convince us otherwise. There, a district court entered a preliminary injunction that required six federal agencies to reinstate all their probationary employees who had been terminated in February 2025. Am. Fed'n of Gov't Emps. v. OPM, No. C 25-01780, 2025 WL 820782, at *1 (N.D. Cal. Mar. 14, 2025). The Supreme Court of the United States then stayed that ruling on the ground that, "under established law," the allegations of the nonprofit plaintiffs "are presently insufficient to support the organizations' standing," and cited Clapper, 568 U.S. 398, for that proposition. OPM, 2025 U.S. LEXIS 1451, at *1.

The district court in American Federation of Government Employees did conclude that "the unlawfully directed terminations disable[d] the federal agency services on which [the plaintiffs] or their members depend." 2025 WL 820782, at *7. But, unlike the plaintiffs in that case, the plaintiffs here are not challenging

an action to terminate the employment of only the newest and most inexperienced employees at an agency. Moreover, the termination of probationary employees at issue in that case did not have the effect, as the District Court found the RIF here has had, of "eliminating entire offices and programs." Nor did American Federation of Government Employees involve a situation in which a district court found, as the District Court found here, that the relevant defendants were "using a large-scale RIF" to "dismantle [an agency] -- and effectively close it." So, even if the Supreme Court's grant of the stay in American Federation of Government Employees rested on a determination that a strong showing had been made that the district court in that case likely clearly erred in finding that the challenged terminations had the effect of disabling the relevant agencies from performing their statutory functions, it does not follow that the appellants here have made a strong showing that they are likely to succeed in demonstrating that the District Court erred in determining that the challenged RIF causes the plaintiffs injuries that are imminent under Clapper. See Dep't of Com. v. New York, 588 U.S. 752, 785 (2019) ("Our review is deferential, but we are 'not required to exhibit a naiveté from which ordinary citizens are free.'" (quoting United States v. Stanchich, 550 F.2d 1294, 1300 (2d Cir. 1977))).

Our reasons for rejecting the Clapper-based arguments that the appellants advance as to the "likelihood of success"

factor also require us to reject the other Article III-based argument that they advance as to that factor. In that argument, the appellants contend that they are likely to succeed in showing that the plaintiffs' bid for Article III standing impermissibly depends on an "abstract and generalized" interest in "vindicating the separation of powers" or a "programmatic injury" that turns federal courts into "continuing monitors" of the soundness of administration. But, as we have just explained, the appellants have not made a strong showing that the District Court likely clearly erred in finding, consistent with Clapper, that the plaintiffs face imminent injury from the challenged RIF precisely because that action has made it impossible for the Department to carry out statutorily assigned functions on which the plaintiffs directly rely. That being so, we do not see how the appellants have made a strong showing that their appeal likely will reveal that the plaintiffs' imminent injuries are properly characterized as merely "abstract and generalized" or "programmatic" rather than cognizable.

The appellants separately seek to satisfy the "likelihood of success" factor based on a non-Article-III-based jurisdictional ground. They argue that the District Court was barred from considering the plaintiffs' constitutional and APA claims challenging what the appellants call "the Department's personnel decisions" because the Civil Service Reform Act (CSRA)

provides "an exclusive procedure for challenging federal personnel decisions." Berrios v. Dep't of the Army, 884 F.2d 28, 31 (1st Cir. 1989).

The CSRA cases that the appellants cite do not hold, however, that when, as the District Court found here, "mass terminations [a]re explicitly implemented to shut down [an agency]," federal courts lack the power to hear non-CSRA claims brought by parties who will be imminently injured by the agency's effective inability to provide them with the services to which they are entitled.[4] See Thunder Basin Coal Co. v. Reich, 510 U.S. 200, 212-15 (1994) (considering "whether petitioner's claims are of the type Congress intended to be reviewed within this statutory structure"). We do appreciate the appellants' concern that the CSRA may not be bypassed by the mere recharacterization of a challenge to a termination of employment. Still, we are loath at this juncture of the proceedings to attribute to Congress the intention in enacting the CSRA that the appellants appear to attribute to it. The appellants appear to be of the view that Congress intended to bar every challenge to an unlawful effort by the Executive to shut down a statutorily created agency by

[4] United States v. Fausto, 484 U.S. 439, 441, 448 (1988); Rodriguez v. United States, 852 F.3d 67, 74, 84 (1st Cir. 2017); González v. Vélez, 864 F.3d 45, 48 (1st Cir. 2017); and Berrios, 884 F.2d at 31, all involved suits brought by discharged federal employees.

summarily firing its employees en masse -- including, on the appellants' seeming view, even by terminating the employment of every single one of the agency's employees -- except for those specific challenges that the terminated employees themselves may choose to bring. Cf. Axon Enter., Inc. v. FTC, 598 U.S. 175, 189 (2023) (noting that it would be "surprising" if claims raising questions about an agency's "structure or very existence" could not be heard in district court).

The appellants do invoke Block v. Community Nutrition Institute, 467 U.S. 340 (1984), as support for their position regarding the CSRA. But Block held that a statute that permitted dairy handlers -- but not consumers -- to obtain review of "milk market orders" reflected Congress's intent to foreclose the ability of consumers to obtain judicial review of such orders. Id. at 341-42. It did not hold, as the appellants contend, that a comprehensive statutory scheme authorizing review of an agency action by one category of plaintiffs always forecloses claims by other plaintiffs regardless of the nature of those claims. Thus, Block does not provide us with a reason to attribute to Congress the seemingly self-defeating -- and therefore "surprising," Axon Enter., Inc., 598 U.S. at 189 -- intention in enacting the CSRA that the appellants appear to assert that we must attribute to it.

Finally, the appellants rely on an order in which a divided panel of the Fourth Circuit granted the request to stay a

preliminary injunction that required the government to reinstate terminated employees. See Maryland v. USDA, Nos. 25-1248, 25-1338, 2025 WL 1073657 (4th Cir. Apr. 9, 2025). The summary order in that case does not make clear, however, whether the jurisdictional ground for granting the stay was based on the contentions that the government made about the CSRA or those that it made about Article III. Id. at *1. In addition, that case, like American Federation of Government Employees, concerned the termination of only probationary employees. Id. Thus, unlike this case, there was no allegation or finding by the district court in that case that mass terminations of employees at all levels of an agency were being used to shut it down.

B.

The appellants also take aim at the District Court's merits determinations in contending that they can meet their burden as to the "likelihood of success" factor. They do not dispute, however, that, to meet that burden, they must show that both the District Court's constitutional ruling and its APA ruling are likely not to hold up. So, we may bypass the appellants' contentions about the District Court's constitutional ruling because we conclude that the appellants have not met their "strong showing" burden as to the District Court's APA ruling.

The appellants assert that "[i]t violates neither the Constitution nor any other law for the government to endeavor to

operate as efficiently as possible or for politically accountable officials to make and implement their own judgments about staffing levels needed to carry out any statutory mandates." They may mean by that assertion to contest the District Court's determination that the RIF and transfer of functions violated the APA. But if so, that contention does not itself constitute a "strong showing" that the District Court's APA ruling is likely wrong.

Notably, in making that assertion, the appellants do not even attempt 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. Nor do the appellants in making that assertion acknowledge, let alone meaningfully dispute, the District Court's record-based findings about the disabling impact of those actions on the Department's ability to carry out statutorily assigned functions. Rather, the assertion merely favorably characterizes the actions found to have been contrary to law and arbitrary and capricious as run-of-the-mill personnel decisions.

The appellants separately assert that the plaintiffs "do not challenge reviewable agency action" under the APA. That contention is premised, however, on the contention that the appellants are likely to succeed in showing that the RIF is reviewable only through the CSRA. This contention thus fails for the same reasons as does their contention regarding whether the

CSRA imposes a jurisdictional bar to the APA claims concerning the RIF.

The appellants do invoke Carter v. U.S. Department of Education, 2025 WL 1453562 (D.D.C. May 21, 2025), in pressing their challenge in their stay motion to the District Court's APA ruling. In that case, a district court rejected a challenge to the same RIF at issue in this case insofar as the RIF impacted the Department's Office of Civil Rights (OCR). Id. at *1.

Carter involved a situation, however, in which the district court found that the "plaintiffs ha[d] not offered sufficient evidence demonstrating that OCR [failed] to perform its statutory and regulatory duties," id. at *6, such that their challenge was really to the Office's "general operations and the speed at which OCR [would] be able to process civil rights complaints in the future," id. at *9. Thus, we do not understand the district court in that case to have held that a reduction in force -- in its nature -- is not a discrete agency action subject to review under the APA, such that the APA's "agency action" requirement stands as an independent bar to an APA challenge to a specific reduction in force even when the CSRA does not stand as a bar to it.

By contrast, the District Court found here that "the massive reduction in staff has made it effectively impossible for the Department to carry out its statutorily mandated functions."

And the appellants fail to explain why a reduction in force that effects mass terminations and is implemented to effectively shut down a cabinet department fails to constitute a "discrete" agency action under the cases that they cite. See Norton v. S. Utah Wilderness All., 542 U.S. 55, 62 (2004); see also Lujan v. Nat'l Wildlife Fed'n, 497 U.S. 871, 899 (1990); Fund for Animals, Inc. v. U.S. Bureau of Land Mgmt., 460 F.3d 13, 20 (D.C. Cir. 2006). The appellants instead just assert that such a reduction in force is not a "discrete" agency action. Thus, we cannot say that the appellants have made a strong showing that the plaintiffs here challenge "flaws in the entire 'program'" and request "wholesale correction under the APA," Carter, 2025 WL 1453562, at *9 (quoting Lujan, 497 U.S. at 892-93), which Lujan and Norton would bar them from doing, see id. at *10-11.

The appellants separately assert that, even if the RIF is an agency action, it is the kind of agency action that is "committed to agency discretion by law," and so not subject to judicial review under the APA. 5 U.S.C. § 701(a)(2). But, in support of this assertion, the appellants cite only to Sampson v. Murray, 415 U.S. 61, 83-84 (1974), which did not concern § 701(a)(2) and explicitly held that a district court could issue injunctive relief in cases where a plaintiff challenges an agency's decision regarding their employment, id. at 80, 83-84.

c.

The final set of merits-based grounds for satisfying the "likelihood of success" factor that the appellants advance pertains to the remedy. The appellants first contend that "the district court lacked authority to order reinstatement of terminated employees to active status" because "[r]einstatement . . . [was] not a remedy that was traditionally available at equity." See Grupo Mexicano de Desarrollo S.A. v. All. Bond Fund, Inc., 527 U.S. 308, 318-19 (1999).

The appellants appear to be making this contention for the first time in their stay motion to us, notwithstanding our settled practice not to address previously unraised arguments absent "the most extraordinary circumstances." Teamsters, Chauffeurs, Warehousemen & Helpers Union, Loc. No. 59 v. Superline Transp. Co., 953 F.2d 17, 21 (1st Cir. 1992). In any event, the appellants once more cite only to Sampson as support. See 415 U.S. at 83. But Sampson described the relevant historical practice as the "traditional unwillingness of courts of equity to enforce contracts for personal service either at the behest of the employer or of the employee." Id. (citing 5A Corbin on Contracts § 1204 (1964)). We thus do not understand Sampson to have spoken to the situation at hand, which concerns whether 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, just because that disabling was effectuated through the mass termination of the department's employees rather than through, say, an order for the employees not to carry out their duties.

The appellants appear at times separately to contend that the District Court's injunction is unnecessarily overbroad, even to prevent the "unilateral[] clos[ure] [of] the Department." Insofar as the appellants contend that this is so because the preliminary injunction forces them to adhere to "the prior administration's employee count," we disagree with this understanding of the injunction. The injunctive relief that the District Court ordered pertains, in relevant part, only to those employees who were "terminated . . . as part of the [RIF] announced on March 11, 2025" and applies only insofar as it is necessary "to restore the Department to the status quo such that it is able to carry out its statutory functions" (emphasis added), and not for the purpose of ensuring a particular level of staffing as adopted by a prior administration.

If the appellants instead mean that the injunction is overbroad because the reinstatement of certain employees is not necessary to prevent the effective disabling of the Department to carry out its statutorily assigned functions, they do not explain why. Nor do they contest the District Court's evidence-based conclusion "that the Department will not be able to carry out its

statutory functions -- and in some cases, is already unable to do so" with the RIF in place.

IV.

Turning to the remaining Nken factors, the appellants contend that the District Court's order imposes irreparable harm because it "usurp[s]" the Executive's Article II authority to manage the Department according to its own judgment. They cite no authority, however, to support the contention that the Executive Branch suffers irreparable harm by being required to carry out Congress's duly enacted statutes. See New York v. Trump, 133 F.4th 51, 72 (1st Cir. 2025). That omission is concerning, given that it is the government's inability to "effectuat[e] statutes enacted by representatives of [the] people" that we have previously held gives rise to irreparable harm. Int'l Ass'n of Machinists Loc. Lodge 207 v. Raimondo, 18 F.4th 38, 47 (1st Cir. 2021) (quoting Maryland v. King, 567 U.S. 1301, 1303 (2012) (Roberts, C.J., in chambers)).

We also conclude that there is no force to the appellants' assertion that the preliminary injunction causes irreparable injury by "undermining implementation of an important presidential policy." The appellants do not at any point in their stay motion specify what that "policy" is. The District Court, however, identified the "policy" as the appellants' closure of the Department. Yet, we do not understand the appellants to mean to

argue that they would be irreparably harmed by being barred from implementing that policy, as they concede that they may not lawfully carry out such a policy.

The appellants assert that the injunction "requir[es] the government to continue employing individuals whose services it no longer requires" and "forc[es] adherence to a prior administration's judgment about how, and with how many employees, the Department should function." But, for the reason we have already explained, we do not understand the injunction to impose any requirement that the appellants adhere per se to the prior administration's staffing levels.[5]

All that said, we agree with the appellants that, if it were to turn out that the government was erroneously required to continue paying Department employees, then that injury would be irreparable to the extent that the appellants would not be able to recoup those expenditures. It is also the case that the District Court did not impose bond. So, on this basis, we conclude that

[5] The appellants do also make a passing contention that "[e]ndeavoring to comply with th[e] injunction . . . on the ordered timeframe" itself imposes an "extraordinary burden[]" warranting immediate relief. But the injunction itself does not impose any specific timeline apart from the deadlines for providing notice of the injunction and status reports to the District Court. And we do not see how complying with those aspects of the injunction imposes a burden on the government, no less one that is "extraordinary." Moreover, the appellants also do not identify any timeline ordered by the injunction that they contend is unreasonably short or excessively burdensome.

the appellants have identified an irreparable injury. See Dep't of Educ. v. California, 145 S. Ct. 966, 968-69 (2025).

We also must consider, however, the other side of the ledger. And we are not persuaded by the appellants' attempt to argue that, as to the third Nken factor, "issuance of the stay" will not "substantially injure the other parties [to this litigation]." 556 U.S. at 434 (quoting Hilton, 481 U.S. at 776).

The appellants base this assertion in part on arguments that mirror their arguments as to the first Nken factor for concluding that the impact of the RIF identified by the District Court was "speculative." Thus, just as we concluded those arguments were not persuasive with respect to that factor, we conclude that they are not persuasive with respect to this one.

The appellants do contend that the plaintiffs cannot establish an injury that is irreparable because they can "recover any wrongfully withheld funds through suit in an appropriate forum." Dep't of Educ., 145 S. Ct. at 969. But, in Department of Education, the Supreme Court emphasized that the plaintiffs had "represented . . . that they ha[d] the financial wherewithal to keep their programs running" notwithstanding the federal government's failure to pay the funds allegedly due. Id. Here, by contrast, the District Court found that the record sufficed to support the plaintiffs' contention that the disabling of the Department's statutorily assigned functions caused by the

challenged actions would jeopardize their ability to proceed with their programs. Moreover, Department of Education involved the loss of funds that arguably could be "recover[ed]" at a later date, id., whereas the District Court in this case specifically concluded that the harms to the plaintiffs from the Department's inability to provide its statutorily mandated services are of a kind that could not be recompensed. Indeed, even if the plaintiffs ultimately prevail in this case, there is no guarantee that the Department could return to effective staffing levels on a reasonable timeline, given that its employees (including the many senior and experienced ones subjected to the RIF) may well have accepted new positions in the interim.

As to the final Nken factor, the appellants appear to rest their argument about "where the public interest lies," Nken, 556 U.S. at 434 (quoting Hilton, 481 U.S. at 776), on their contention that the public's interests are indistinguishable from the appellants' interests. But "there is generally no public interest in the perpetuation of unlawful agency action." League of Women Voters of the U.S. v. Newby, 838 F.3d 1, 12 (D.C. Cir. 2016); see also New Jersey v. Trump, 131 F.4th 27, 41 (1st Cir. 2025); Newby, 838 F.3d at 12 ("[T]here is a substantial public interest 'in having governmental agencies abide by the federal laws that govern their existence and operations.'" (quoting Washington v. Reno, 35 F.3d 1093, 1103 (6th Cir. 1994))).

v.

In sum, the appellants have failed to make a strong showing that they are likely to succeed in their appeal as to the injunctive relief at issue insofar as that relief is predicated on the plaintiffs' APA claims. They also have failed to show that the plaintiffs would not be substantially injured by a stay of this preliminary injunction during the pendency of this appeal. Nor have they shown that the public's interest lies in permitting a major federal department to be unlawfully disabled from performing its statutorily assigned functions.

Against that backdrop, we cannot say that the mere fact that the appellants have demonstrated some risk of irreparable harm entitles them to a stay. See Does 1-3 v. Mills, 39 F.4th 20, 25 (1st Cir. 2022) ("A stay 'is not a matter of right, even if irreparable injury might otherwise result to the appellant.'" (quoting Nken, 556 U.S. at 427)). Certainly, the appellants make no argument that this risk of harm in and of itself entitles them to a stay, such that they need not pursue the ordinary appellate means of overturning an adverse order. Nor are we aware of any controlling case suggesting that this risk entitles them to such extraordinary interim relief. Cf. Camelot Banquet Rooms, Inc. v. U.S. Small Bus. Admin., 14 F.4th 624, 628 (7th Cir. 2021) ("The other factors are essentially a wash, so the final result is driven by the likelihood of success on the merits.").

What is at stake in this case, the District Court found, was whether a nearly half-century-old cabinet department would be permitted to carry out its statutorily assigned functions or prevented from doing so by a mass termination of employees aimed at implementing the effective closure of that department. Given the extensive findings made by the District Court and the absence of any contrary evidence having been submitted by the appellants, we conclude that the appellants' stay motion does not warrant our interfering with the ordinary course of appellate adjudication in the face of what the record indicates would be the apparent consequences of our doing so.

The appellants' motion for a stay is **denied**.