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13 UNITED STATES DISTRICT COURT
 14 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 15 SAN FRANCISCO DIVISION

16 AMERICAN FEDERATION OF
 17 GOVERNMENT EMPLOYEES, AFL-CIO,
 18 et al.,

Plaintiffs,

v.

20 UNITED STATES OFFICE OF
 21 MANAGEMENT AND BUDGET, et al.,

Defendants.

Case No. 3:25-cv-08302-SI

**DECLARATION OF RACHEL
 GITTLEMAN IN SUPPORT OF
 PLAINTIFFS' MOTION FOR
 TEMPORARY RESTRAINING ORDER**

DECLARATION OF RACHEL GITTLEMAN

I, Rachel Gittleman, declare as follows:

1. I am over 18 years of age and competent to give this declaration. I am the President of AFGE Local 252 which represents more than 2700 employees at the Department of Education. This declaration is based on my personal knowledge and the records and information available to AFGE Local 252.

2. AFGE Local 252 has not received official notice from the Department of Education that the RIFs were happening. Nor has AFGE received any information from the Department about which employees were affected by the RIF notices that issued on or after October 10, 2025. I have contacted the Labor and Employee Relations Division of the Department of Education requesting information, but I have not received a response.

3. Members told me that, when employees were furloughed on October 1, the Department of Education sent them notices forbidding them from checking their work emails during the shutdown. A true and correct copy of a notice they were sent is attached hereto as Exhibit A. That notice states, on page 3, that “It is a violation of federal law for furloughed employees to perform any further work. You therefore may not check your work email, work voicemail, work teams accounts, etc.”

4. Some employees were even told that they could be disciplined for checking their government email while furloughed. As a result, some employees likely received RIF notices in their work emails but have no way of knowing that they received a RIF notice. Further, some employees were instructed to not take their Government Furnished Equipment (GFE) home during the government shutdown, so they have no way to access their work emails to see if they have been RIFed. Staffers were forced to report to their duty stations on the first day of the shutdown to perform their shutdown activities, and were not permitted to remove their GFE after that.

5. I have been trying, since the announcement late on Friday, October 10 that Department employees were being sent RIF notices, and through the weekend, to obtain information that will enable AFGE to answer employees’ questions, and help them understand who is being impacted by these RIFs. To that end, I’ve been attempting to survey employees and collect as much

1 information as I can about the RIF. I circulated a google form to the membership and many members
2 shared information with me via that google form. Members have also reached out via email, text
3 message, and phone calls to provide the local with information about their RIF. I have also spoken to
4 many employees in the past several days about this. Based on the information being provided to me
5 by employees, I can report the following.

6 6. Within the Office of Elementary and Secondary Education (OESE), employees in the
7 following offices/programs have been subject to RIFs:

- 8 • Office of Innovation and Early Learning Office of School Community Improvement
9 Programs (15 staff received RIF notices);
- 10 • Well Rounded Education Division (Arts Education) (all staff received RIF notices);
- 11 • Charter Schools Program (all staff received RIF notices);
- 12 • Office of Safe and Supportive Schools (10 staff received RIF notices);
- 13 • Program and Grantee Support Services Comprehensive Literacy State Development (all staff
14 received RIF notices);
- 15 • JAVITS (Gifted and Talented) (all staff received RIF notices);
- 16 • School Support and Accountability (all staff received RIF notices);
- 17 • Office of Formula Grants;
- 18 • Office of Migrant Education;
- 19 • Effective Educator Development Program;
- 20 • Innovation and Early Learning Programs;
- 21 • Effective Development Division; and
- 22 • Program and Grantee Support Services.

23 7. Within the Office of Communications and Outreach, the following office/program
24 have been subject to RIFs:

- 25 • State and Local Engagement (8 staff received RIF notices).

26 8. Within the Office of Post Secondary Education, the following offices/programs have
27 been subject to RIFs:

- 28 • Student Support Services (TRIO); and

- 1 • Institutional Service (HBCUs, HSIs, Tribal Colleges, ANAPISI).

2 9. Within Office of Special Education and Rehabilitative Services (OSERS), employees
3 from the following offices/programs have been subject to RIFs:

- 4 • Office of Special Education Programs (OSEP); and
- 5 • Rehabilitation Services Administration (RSA).

6 10. Within the Office of Civil Rights, employees from the following offices/programs
7 have been subject to RIFs:

- 8 • Atlanta Enforcement Office,
- 9 • Metro/DC Enforcement Office;
- 10 • Seattle Enforcement Office;
- 11 • Denver Enforcement Office; and
- 12 • Program legal group.

13 11. Some Department of Education employees are learning that they have been subject to
14 a RIF from a phone call or a text message from their supervisor. Supervisors are generally reaching
15 out via personal phone calls.

16 12. However, not all supervisors have access to information about RIFs. Some
17 employees, upon learning about the RIFs from press reports and public statements by the
18 administration, have contacted their supervisors directly through personal channels, only to be told
19 that their supervisors do not know if they were affected by the RIFs.

20 13. In addition, some employees do not have an immediate supervisor or do not have their
21 supervisor's personal contact information. Some staff who had been on administrative leave have
22 been detailed or reassigned in recent weeks and months and do not have any way to contact their new
23 supervisors. This leaves them with no way to find out about their RIF status. Many employees have
24 informed me that uncertainty about RIF status is causing them and others severe stress and anxiety.

25 14. Some Department of Education employees learned (via a phone call or text message
26 from a supervisor) that they were being separated pursuant to a RIF on Friday, October 10, including
27 employees within the Office of Elementary and Secondary Education, who received notice during the
28 day, and employees within the Office of Special Education and Rehabilitative Services, who received

1 notice on Friday evening. Some employees, including those within the Office of Postsecondary
2 Education, received such notice on Saturday morning, while employees within the Office of Civil
3 Rights did not get notice until Saturday evening.

4 15. Receiving RIF notices has caused many employees enormous stress. A father of two
5 young boys contacted me—he just moved into a new home and relies on his job to support his family.
6 He told me doesn't know what he will do next.

7 16. Others received RIF notices while on maternity or disability leave, forcing them to
8 job-hunt and face financial insecurity while managing newborns or health conditions. One member
9 told me that they just needed instructions of what to do after 40 years of service and another member
10 told me they feel like they are being thrown away like garbage. Others would like to retire instead of
11 be terminated but have not received any information from the Department about how to move
12 forward with retirement.

13 17. These RIFs come on top of an already very difficult year, in which the Department has
14 already been subject to severe workforce reduction and infliction of serious stress. The employees I
15 work with have suffered real trauma from the actions already aimed at this Department. Staff who
16 remained after the March RIF were subject to massive workloads and backlogs, workplace
17 intimidation, details and transfers, difficulty keeping or getting reasonable accommodations, inability
18 to access information required to do their jobs, unclear reporting structures, limbo around whether
19 RIFed and fired employees would be returning, and of course, fear of future RIFs. Even now staffers
20 fear retaliation and disciplinary actions for even checking their work emails to see if they've been
21 RIFed. It's hard to overestimate the amount of stress, anxiety, grief, and hardship Department staffers
22 have faced this past year. Once staffer told me "we were trying so hard to stay on top of things, but I
23 cannot do the job of 8 people." They are now either furloughed or, for a small number, being required
24 to work without pay. The announcement of this layoff, on top of everything else, is truly cruel. The
25 failure of the Department to provide the employees and their labor representatives with basic
26 information is even worse.

27 18. Implementing RIFs during the government shutdown has also harmed the public we
28 serve. Staffers have told me time and time again that they do these jobs for the people and institutions

1 they serve. They pour their hearts into their work because of the children, students and families our
2 Department serves. Ordinarily, employees who are subject to a RIF have time to close out their work
3 and inform their supervisors/directors of work they were responsible for. During the shutdown,
4 furloughed employees cannot transfer their responsibilities, which may leave critical work
5 abandoned.

6 19. Implementing RIFs during the government shutdown has also been harmful to
7 employees. Normally, when an employee receives a RIF notice, the employee has time to collect
8 benefits documentation, performance evaluation documentation, and writing samples for use in
9 applying to other jobs. Furloughed employees who have been subject to a RIF are unable to do any
10 of those things because they are not permitted to log on to their work systems. As a result, as of now,
11 their ability to apply for jobs, maintain their insurance and benefits, and otherwise move forward with
12 their lives will be negatively impacted.

13 20. Additionally, when employees receive RIF notices during normal times, the
14 Department provides career transitioning and counseling, benefits and retirement training, and access
15 to other human resources and employee assistance programs. Employees who have received RIF
16 notices are not receiving those services because the Human Capital Division of the department was
17 seriously impacted by RIFs earlier this year and is still processing RIFs and retirements from earlier
18 this year. It does not seem to have capacity to engage with all the employees who have recently been
19 subject to RIFs.

20 21. This RIF will have catastrophic consequences for our Local's members, the staff at the
21 Department, the agency as a whole, and the American people who rely heavily on the programs and
22 services the Department manages.

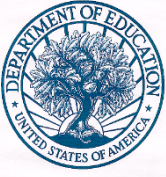
23
24 I declare under penalty of perjury under the laws of the United States that the foregoing is true
25 and correct. Executed October 14, 2025, in Seattle, Washington.

26
27 

28

Rachel Gittleman

EXHIBIT A



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF FINANCE AND OPERATIONS

September 30, 2025

MEMORANDUM

FOR: U.S. Department of Education Non-Excepted Employees

FROM: Jacqueline Clay
Chief Human Capital Officer
Office of Human Resources

SUBJECT: Formal Notification for Non-Excepted Employees Regarding Furlough Due to Lapse of Appropriations

This is to notify you of the absence of either an FY 2026 appropriation, or a continuing resolution, for the Department of Education (ED). No further financial obligations may be incurred by ED, except for those related to the orderly suspension of agency operations or performance of excepted activities as directed by the Office of Management and Budget (OMB).

Certain positions within ED have been designated as “excepted” from the furlough and other positions have been deemed “non-excepted.” **You occupy a position that is identified as “non-excepted”.** This means you are being placed in a non-excepted employee furlough status effective your first regular duty date following September 30, 2025.

- Guidance for furloughed employees regarding what activities are permitted during a lapse in funding:
 - You are to report to duty on your first scheduled workday for a period not to exceed four (4) hours to perform work that is necessary to ensure the orderly suspension (shutdown) of operations.
 - After orderly shutdown activities are complete, you may not perform any further work during the shutdown unless you receive a notice that your status has changed to “excepted.”

- During the orderly shutdown:
 - You may perform up to 4 hours of work as necessary for an orderly shutdown.
 - These orderly shutdown activities should occur on your next regularly scheduled work day following the lapse in funding.
 - ◆ For most employees, this will be 4 hours beginning on the morning of Wednesday, 10/1/2025.
 - ◆ Your POC leadership or supervisor will provide guidance if your orderly shutdown activities should occur at a different date/time
 - You may not conduct regular business between the lapse in funding (midnight on 9/30/2025) and when you start orderly shutdown activities (for most employees, Wednesday, 10/1/2025).

400 MARYLAND AVE., S.W., WASHINGTON, DC 20202
www.ed.gov

- Orderly shutdown activities may be performed at your usual work location (whether remote or in person), unless instructed otherwise by your Principal Operating Component (POC) leadership (for example, if orderly shutdown activities require you to access a resource that is only available in person)
 - Orderly shutdown activities must include:
 - ◆ Submitting and verifying your timesheet for pay period, 2025-21 (September 21 – October 4, 2025).
 - ◆ Providing current contact information to your immediate supervisor.
 - ◆ Setting up your out of office email and voicemail messages with the following language, “Hello, you have reached the [US Department of Education’s Information Resource Center]. We are unable to respond to your request due to a lapse in appropriations for the Department of Education. We will respond to your request when appropriations are enacted. Thank you.”
 - ◆ Canceling any scheduled leave for the next week.
 - ◆ Canceling any scheduled travel for the next week.
 - Your POC leadership will provide further guidance on what additional specific activities you should perform as part of your orderly shutdown activities.
- After orderly shutdown is complete (for most employees, this is the afternoon on 10/1/2025):
- It is a violation of federal law for furloughed employees to perform any further work.
 - You therefore may not check your work email, work voicemail, work teams accounts, etc.
 - Use of government furnished equipment is not authorized during this period. You may not use your government furnished devices for non-work purposes while furloughed. Government-furnished computers and phones automatically connect to the Education Department VPN once powered on, and therefore cannot be used even for non-work purposes while you are furloughed.
 - You may be contacted and required to report to duty during this period as needed to continue the efficient and effective operation of the government. If you are required to report, you will be contacted by an appropriate management official and be advised as to the time you must report.
 - You may never perform work on personal devices. The only work-related function you can perform is receiving a call or email from your supervisor or POC leadership on your personal phone or personal email address telling you that your status has been changed from “non-excepted” to “excepted.” In that instance, you may then power on your work device, confirm that you have received an official letter changing your status to “excepted,” and then perform excepted work as directed by your supervisor/POC leadership.
 - During the furlough period, you will be in a non-pay and non-duty status. Also, during the furlough, you will not be permitted to serve as an unpaid volunteer at ED and must remain away from your workplace unless and until recalled.
 - Any paid leave (annual, sick, court, etc.) approved for use during the furlough period is cancelled.
- Returning to work when the lapse in appropriations has finished:
- This furlough, e.g., non-pay, non-working status, is not expected to exceed thirty (30) days. Therefore, this furlough notice expires no later than October 30, 2025.

- Furloughed employees are responsible for monitoring the news to learn when the lapse in appropriations has finished. You should listen to public broadcasts, news media, and other means for further updates.
- Upon notification that a continuing resolution or a FY 2026 appropriation for ED has been approved, you will be expected to return to work (telework or in person) on your next regular duty day.

This action is being taken because of a sudden emergency requiring curtailment of the agency's activities; therefore, no advance notification is possible. The customary thirty (30)-day advance notice period and opportunity to answer are suspended under the provisions of 5 CFR 752.404 (d)(2). The thirty (30)-day advance notice otherwise required by 5 CFR 359.806(a) for Senior Executive Service (SES) career appointees (other than reemployed annuitants) is likewise suspended.

You may file an appeal with the Merit System Protection Board (MSPB). You must be an "employee" as defined in accordance with 5 U.S.C. 7511 and 5 CFR Part 752 as summarized in relevant part below:

- a) If you are in the competitive service and have completed one (1) year of current continuous employment under other than a temporary appointment, you may appeal this action to the MSPB.
- b) If you are in the excepted service and have veteran's preference, you may appeal to the MSPB if you have completed one (1) year of current continuous service in the same or similar positions as the one that you now hold.
- c) If you are in the excepted service but do not have veteran's preference, you may appeal to the MSPB if you have completed two (2) years of current continuous service in the same or similar positions in an Executive agency under other than a temporary appointment that is limited to two (2) years or less. In addition, with the exception of veterans, you cannot be in a trial or probationary period, whether in a competitive or excepted service position, in order to have appeal rights to the MSPB.
- d) Career SES appointees (except reemployed annuitants) who believe requirements of 5 CFR Part 359, subpart H, or the agency's procedures have not been correctly applied may also appeal to the MSPB. Career SES appointees may review the regulations related to this action at the website listed below:

[5 CFR 359, Subpart H](#)

If you have the right to appeal this action to the MSPB, your appeal must be in writing and within thirty (30) calendar days after the effective date of your furlough. The MSPB's regulations, and instructions for filing an appeal, are available at the following website:

<http://mspb.gov/appeals/appeals.htm>

If your appeal is found untimely, it will be dismissed by an MSPB Administrative Judge unless you can demonstrate a good reason for the delay. The MSPB requires an appeal to be filed with

the MSPB regional or field office serving the area where your duty station was located when the action was taken. If you do not want to utilize the electronic filing feature, you may file a paper appeal by using the following link:

<https://e-appeal.mspb.gov/PDFTemplate/MspbAppealForm.pdf>

If either link is not functioning or if you are otherwise unable to access it, please send an email to fundinglapseinfo@ed.gov for additional instructions.

If you are a bargaining unit employee, you have the right to file an appeal to the MSPB in accordance with the procedures outlined above, or file a grievance using the negotiated grievance procedure outlined in the Collective Bargaining Agreement, but not both.

Once a continuing resolution, or **FY 2026** appropriation, for the Department of Education has been approved, notification of the government status, which includes ED, will be provided via OPM's website and media reports. Employees are encouraged to download OPM's Alert mobile app or OPM's ListServ to receive email updates of operating status. You may access the site through the following links:

[OPM Alert Mobile App](#)

[Operating Status Listserv Subscription](#)

All employees are expected to stay abreast of government status and return to work on the next regularly scheduled workday once notification of the Federal Government being open for business occurs.

ADDITIONAL EMPLOYEE SUPPORT OPTIONS:

The Employee Assistance Program is available to employees who may need additional assistance. Self-help tools and other resources may be accessed through the following contact information:

Toll-free number 24/7: 1-800-222-0364

TTY 24/7: 1-888-262-7848

Website: www.FOH4you.com

We recognize the difficult financial implications of any furlough. We will make every effort to keep you informed as additional information regarding the Agency funding level becomes available.