

EXHIBIT 31

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

LINDA McMAHON, *et al.*,

Defendants.

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

DECLARATION

DECLARATION OF DANIEL MORTON-BENTLEY

I, Daniel Morton-Bentley declare as follows:

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

2. I am Counsel & Deputy Commissioner for Legal Affairs for the New York State Education Department (NYSED). In my role at NYSED, I serve as chief legal advisor and oversee the Department's Office of Counsel, which consists of approximately 30 attorneys and support staff. I have served in this capacity since 2020 and served the Department as an attorney since 2013.

3. I submit this declaration in support of Plaintiff States' Motion for a Preliminary Injunction barring the Department of Education ("the Department") Reduction in Force (the "RIF") announced on March 11, 2025, which is reducing the staff of the Department by 50%. We received correspondence from the Department on March 14, attached as Exhibit A assuring stakeholders that the Department can continue as though nothing has changed. But the facts clearly

believe that assertion and we believe that the RIF poses grave harms to New York's educational system.

4. In implementing education policy for schools across the State, our mission is to raise the knowledge, skill, and opportunity of all the people in New York. Our vision is to provide leadership for a system that yields the best educated people in the world.

5. NYSED has the following main branches:

- Office of P-12 Education (P-12). P-12 Education oversees pre-K through 12th grade programs.
- Office of Higher Education (OHE). OHE oversees colleges, universities, and proprietary schools; is responsible for the certification of teachers and other school professionals; and oversees programs to improve teacher preparation and recruitment.
- Office of Cultural Education (OCE). OCE includes the State Archives, the State Library, the State Museum, Office of Public Broadcasting Office, and the Summer School of the Arts.
- Office of Performance Improvement and Management Services (PIMS). PIMS includes the offices of Information Technology, Facilities and Business Services, State Review, and External Audits.
- Chief Financial Office. CFO includes the offices of Human Resources, Fiscal Services, Budget Coordination, Education Finance, Internal Audit, and Internal Controls.
- Office of the Professions (OP). Since 1891, the Board of Regents and the New York State Education Department have overseen the preparation, licensure, and practice of the professions. Currently, the Office regulates forty-eight professions defined in Title VIII of New York's Education Law.
- Office of Adult Career and Continuing Education Services (ACCES). ACCES focuses on the education and employment needs of New York State's adults: Vocational Rehabilitation (including Independent Living Administration), Adult Education, High School Equivalency (HSE/GED®), and Career Schools.

6. NYSED is currently administering \$15.7 billion in federal funding from the US Department of Education to support educational programming in New York. NYSED subgrants around \$14.8 billion of that total funding to sub-grantees across the state. The major streams of funding from the Department are as follows, and a further breakdown of each category can be found in Exhibit B: Title I-A, Title I-C, Title III, Title IV-A, Title IV-B, Title IV-C, Special

Education, Special Education – Preschool, Education for Homeless Children and Youth, Vocational Education, Vocational Rehabilitation Services, Adult Education.

7. Just days after the announcement of the RIF, we have already had challenges drawing down funds owed to New York by the Department. The drawdowns for Education Stabilization Fund (ESF) reimbursements have been delayed since the RIF announcement. New York received \$9.3 billion through this program and was approved additional time to liquidate \$363,198,981 of the remaining funding. USDOE implemented a requirement for additional sign off from USDOE program staff assigned to the ESF and there was significant impact to this group of employees by the RIF. We have been instructed to send our requests to a new email address but are waiting on additional guidance and instructions for the approval of drawdown requests. See communications attached as Exhibit C.

8. The Department also provides a variety of services beyond financial resources, which New York has utilized in several ways. These services include technical expertise, research support, and other non-financial resources that help shape education policy and enhance educational opportunities for students. Here are some key areas where New York has benefited:

- a. Technical Assistance and Expertise: The Department offers technical assistance to state and local education agencies to support the implementation of federal education programs and initiatives. This includes assistance in areas such as program implementation, data analysis, assessment systems, curriculum development, and teacher professional development. For instance, New York has utilized technical expertise in areas like the development of State Accountability Plans under the Every Student Succeeds Act (ESSA), ensuring that the state's educational goals align with federal guidelines and best practices.

- b. Research and Data Support: The Department, through the Institute of Education Sciences (IES), provides access to valuable research and data on educational practices, student outcomes, and teaching strategies. New York has leveraged this research to inform state policies, such as improving student achievement and addressing achievement gaps. Additionally, through the National Center for Education Statistics (NCES), New York has access to comprehensive data on school performance, graduation rates, and other key metrics to inform decision-making at the state and district levels.
- c. Professional Development and Training: The Department often facilitates professional development programs, offering resources to improve the skills of educators and administrators. New York has taken advantage of these programs to enhance teacher effectiveness and provide training for educators on issues such as closing the achievement gap, student mental health, and blended learning programs. Programs like the Student Support and Academic Enrichment Grant (SSAE) provide formula funding that is intended to improve students' academic achievement by increasing the capacity of states, local education agencies (LEAs), schools, and local communities to (1) provide all students with access to a well-rounded education, (2) improve school conditions for student learning, and (3) improve the use of technology to improve the academic achievement and digital literacy of all students. The Department facilitates a technical assistance center that provides critical support related to New York's implementation of this program.
- d. Policy and Program Guidance: The Department provides guidance on various educational policies and programs that help ensure alignment with federal law, such

as Title I (disadvantaged students), Title II (teacher quality), and Title IV (student support and academic enrichment). New York has benefited from the Department's policy expertise in areas like special education, bilingual education, and college and career readiness, ensuring that state programs comply with federal guidelines and address local needs effectively.

- e. Innovation and Grant Programs: The Department runs several innovation and competitive grant programs, such as the Charter School Program and the School Improvement Grants (SIG), which New York has utilized to fund reform efforts, improve school performance, and foster innovation in education. These programs provide resources and support to implement evidence-based strategies that address the specific challenges faced by New York schools, including enhancing STEM education and integrating technology into the classroom.
- f. National Education Platforms: Through initiatives like the Department's "What Works Clearinghouse": NYSED has access to evidence-based practices and tools that support educational interventions, including strategies for early childhood education, literacy, and improving school climate. Additionally, resources from national education organizations and networks supported by the Department, such as the Regional Education Laboratories (RELs), provide New York with access to collaborative research and tools to address state-specific educational challenges.

These non-financial services from the Department complement the funding that New York State receives, helping the state to implement high-quality education programs and improve outcomes for students across the state.

9. A reduction in Department staffing will also likely lead to an increase in the need for state enforcement of civil rights protections. For example, if the Department is unable to resolve complaints by parents of students with disabilities, those parents will turn to the State complaint process authorized by IDEA. A State complaint is a written, signed statement of an allegation that a local or State educational agency (e.g., school district or other public agency) has violated a requirement of federal or New York State law or regulation relating to the education of students with disabilities. Additional information is available on NYSED's website: <https://www.nysed.gov/special-education/state-complaint>. NYSED is required to issue decisions in such complaints within 60 calendar days (see 34 CFR 300.152 [a]). The New York Regional Office was one of seven OCR offices to close completely. Collin Binkley, *Education Department layoffs gut its civil rights office, leaving discrimination cases in limbo*, Associated Press (March 12, 2025), <https://apnews.com/article/trump-education-department-layoffs-civil-rights-8cbf463cce765f497c10d688ab4d51e1>.

10. A reduction in Department staffing levels within the Office of Special Education Programs (OSEP) will impact NYSED's implementation of IDEA by delaying processing of the annual IDEA grant Part B grant application and corresponding funding.

11. It will also delay processing of the State Personnel Development Grant (SPDG) grant. NYSED currently has a grant extension for the current MOU through September 2026 and submitted a new grant application to fund the scale-up phase of the New York State-Multi Tier Systems of Support (NYS MTSS-I) Center and framework implementation statewide.

12. A reduction in Department staffing levels will delay approval of the State Performance Plan (SPP)/Annual Performance Report (APR), which is required under the IDEA.

13. The RIF will reduce federal guidance, resources, and technical assistance support needed by NYSED to respond to questions and concerns from school districts related to strategies to improve educational outcomes for students with disabilities, as well as delay data submission and calculation systems used by OSEP to measure NYSED progress and compliance with the requirements and purposes of the IDEA.

14. The loss of NCES will also compromise data that we rely on to improve our provision of services and support to New Yorkers as described above. Benjamin Siegel, *Education Department cuts agency that compiles 'Nation's Report Card' and measures student performance*, ABC News (March 12, 2025), <https://abcnews.go.com/Politics/education-department-cuts-agency-compiles-nations-report-card/story?id=119735831>.

15. Any shift in federal level responsibilities to states may impact NYSED's capacity to continue its priority initiatives to improve special education outcomes.

16. A reduction in Department staffing levels within the Office of Career, Technical and Adult Education (OCTAE) will delay vital resources relied on by NYSED to implement the Workforce Innovation Opportunity Act (WIOA) and Adult Education and Family Literacy Act (AEFLA) including:

- a. the allocation of funding for adult education, employment preparation, and apprenticeships;
- b. the federal technical assistance provided to improve adult education and literacy services in New York; and
- c. federal training on policy, laws, and regulations related to NYSED's delivery of services to help adults acquire the basic skills they need including reading, writing,

math, English language proficiency, and problem-solving to be productive workers, family members, and citizens.

17. A reduction Department staffing levels within the Office of Special Education and Rehabilitative Services (OSERS) will also impact NYSED's implementation of the Workforce Innovation Opportunity Act (WIOA) and Rehabilitation Act as follows:

- a. delay funds used by NYSED to provide vocational rehabilitation and other services to individuals with disabilities to maximize their employment, independence, and integration into the community and competitive labor market;
- b. delay data utilized by NYSED to analyze employment outcomes and other trends related to employment opportunities for individuals with disabilities; and
- c. delay federal guidance and technical assistance provided to NYSED to improve its delivery of vocational rehabilitation services to New Yorkers with disabilities.

18. Additionally, the Department supports English Language Learner (ELL) students through the grant program funding, pedagogical professional development, and creation of academic program standards to ensure students can make meaningful academic progress while establishing proficiency in the English language. Approximately 259,829 (11 percent) of New York State public school students are ELLs, and 151,831 (16 percent) of New York City students are ELLs. This population of students is comprised of American citizens, immigrants, and migrant children. To achieve these goals, the Department provided state and local educational agencies with critical academic protocols and shared best practices to promote the prompt implementation and continued success of language programs that serve ELL students.

19. The landscape of ELL student services and supports continues to evolve and gutting the Department stymies education innovation by removing access to technical assistance on the appropriate use of federal grant monies and established budgetary requirements.

20. The provision of ELL services is student-centered and fact-specific, and the loss of critical institutional knowledge through the RIF's reported elimination of the Office of English Language Acquisition cannot be replaced with artificial intelligence or other auto-response technical programming. This loss will undoubtedly slow educational progress of students, remove a parental source of support, and negatively impact school communities by hindering critical feedback and program evaluation meant to ensure compliance.

Executed on March 20th, 2025, at Albany, New York.

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


Daniel Morton-Bentley

EXHIBIT A



UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

March 14, 2025

Dear Education Stakeholders,

Earlier this week, the Department of Education enacted a reduction in force in line with President Trump's commitment to return education to you, the states. These reductions are strategic cuts to offices and programs that will not directly impact students and families but rather empower states and localities.

I want to assure you that critical functions for elementary and secondary education will not be impacted by these cuts. The Office of Elementary and Secondary Education (OESE) employees who oversee the allocation, monitoring, and management of the Elementary and Secondary Education Act's (ESEA) title formula funding and discretionary grant programs were not impacted by the reduction in force. These funds will continue to flow normally, and program functions will not be disrupted. Supporting states in implementing and strengthening these programs continues to be a top priority for this Department.

OESE employees who oversee temporary COVID pandemic relief funds were impacted by the reduction in force. Most of these employees were term appointments or had accepted voluntary resignation opportunities. Many states are still liquidating these funds, and those reimbursements will proceed, under the Department's new February 2025 guidance.¹ I understand the importance of states receiving requested reimbursements in a timely manner and staff are working to provide an update to states on what to expect for reimbursements moving forward. Information on this transition and where states can direct questions is forthcoming.

The Office of English Language Acquisition and management of ESEA's Title III will return to OESE, where it previously resided until December 2023. The Department is committed to fulfilling its statutory obligation to prepare English learners attain English proficiency and develop high levels of academic achievement in English.

Like OESE, the reduction in force will also not affect the Department's critical work supporting individuals with disabilities and their families. No employees in the Office of Special Education Programs or the Rehabilitation Services Administration were part of the reductions in force. The Department is committed to ensuring uninterrupted services to meet the needs and develop the potential of children and youth with disabilities, while also supporting states and other agencies in providing vocational rehabilitation and other services. The Office of Special Education and Rehabilitative Services (OSERS) employees impacted by the reduction were those involved in policy, operations, and administrative functions that were either duplicative or can be reassigned to create a more efficient and accountable organizational structure.

Across the Department, management and operation roles are being streamlined to reduce duplicative functions. For instance, human resources functions such as travel coordinators and timekeepers that can be more efficiently affected by one central office are being consolidated.

These reforms are the first step in removing bureaucratic excesses from the Department. Eliminating the red tape and bureaucratic barriers imposed by the Department will provide more flexibility for state and local education agencies to best serve their students. An effective and deliberate transfer of educational oversight to the states will mean more autonomy for local communities. Teachers, too, will benefit from less micromanagement in the classroom—enabling them to get back to basics and focus their attention on students.

You all will play a critical role in achieving this vision. I look forward to working with you to find ways to get the federal bureaucracy out of your way so you can give parents more choices, improve academic achievement, and ensure students reach their God-given potential.

Sincerely,

A handwritten signature in black ink that reads "Hayley B. Sanon". The signature is written in a cursive style with a large, sweeping "H" and a long, trailing flourish at the end.

Hayley B. Sanon
Principal Deputy Assistant Secretary and
Acting Assistant Secretary
Office of Elementary and Secondary Education
U.S. Department of Education

EXHIBIT B

Program Name	Annual Award Amount	State set aside amount	Local Assistance amount	Purpose
Title I - Part A	\$1,489,259,094	\$115,204,866	\$1,374,054,228	To provide funds to local educational agencies (Public School Districts, Charter Schools, and Special Act Districts) for the purpose of providing all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps among groups of students.
Title I - Part C	\$10,173,064	\$101,731	\$10,071,333	To ensure that all migratory children reach challenging academic standards and graduate with a high school diploma (or complete a HSED) that prepares them for responsible citizenship, further learning, and productive employment.
Title III	\$65,607,677	\$3,280,383	\$62,327,294	To ensure that children and youth who are ELLs develop high levels of academic achievement and proficiency in the English language
Title IV - Part A	\$107,069,046	\$5,353,452	\$101,715,594	To improve student's academic achievement by increasing the capacity of States, local educational agencies, schools and local communities to: provide all students with access to a well-rounded education; improve school conditions for student learning; and improve the use of technology in order to improve the academic achievement and digital literacy for all students.
Title IV - Part B	\$102,682,609	\$7,187,782	\$95,494,827	Supports the creation of community learning centers that operate programs for students, particularly those who attend high-poverty and low-performing schools, and their families.
Title IV - Part C	\$50,072,285	\$6,501,562	\$43,570,723	To support the expansion of high-quality educational opportunities for students in New York State by expanding the number of seats in existing charter schools in New York State that are already providing a significant educational benefit to students, especially those who are at the greatest risk of not meeting State academic standards.
Special Education	\$907,542,158	\$122,286,772	\$785,255,386	Ensures special education and related services to eligible children with disabilities aged 3 through 21 are provided.
Special Education - Preschool	\$37,147,853	\$9,503,419	\$27,644,434	Supports early intervention services for infants and toddlers with disabilities and their families.
Education for Homeless Children and Youth	\$10,436,522	\$2,609,131	\$7,827,391	Primary source of funding for education of children and youth experiencing homelessness.
Vocational Education	\$64,862,646	\$9,729,397	\$55,133,249	To develop more fully the academic knowledge and technical and employability skills of secondary education students and postsecondary

				education students who elect to enroll in career and technical education programs and programs of study.
Vocational Rehabilitation Services	\$63,330,967	\$50,722,925	\$12,608,042	Help individuals with disabilities prepare for, obtain, and maintain employment through training, job placement, and other support services.
Adult Education	\$52,353,796	\$9,161,913	\$43,191,883	Funding for adult education programs as part of a broader workforce development system, helping adults gain skills and training for employment.

EXHIBIT C

Edward Lenart

From: Honeysett, Adam <Adam.Honeysett@ed.gov>
Sent: Monday, March 17, 2025 12:27 PM
To: Edward Lenart
Subject: RE: Drawdown requests

Dear Colleague,

Thank you for reaching out to the U.S. Department of Education. All correspondence related to the Elementary and Secondary School Emergency Relief (ESSER) Fund should now be directed to ESSERF@ed.gov. If you sent anything related to ESSER since March 11, 2025, please resend it to ESSERF@ed.gov for proper handling.

Best,

Adam Honeysett
Office of Communications and Outreach
U.S. Department of Education

Email: Adam.Honeysett@ed.gov
Phone Number: (202) 401-3003

From: Edward Lenart <Edward.Lenart@nysed.gov>
Sent: Friday, March 14, 2025 3:54 PM
To: OESE.SGR.New York <NewYork.oese@ed.gov>; Sanon, Hayley <Hayley.Sanon@ed.gov>; Honeysett, Adam <Adam.Honeysett@ed.gov>
Cc: Timmons, Jennifer <Jennifer.Timmons@ed.gov>; Almquist, An <An.Almquist@ed.gov>
Subject: RE: Drawdown requests

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

Per the recommendation of CCSSO, I have added Adam and Haley to this correspondence.

Thank you for any assistance/guidance that can be provided.

From: Edward Lenart
Sent: Friday, March 14, 2025 12:09 AM
To: OESE.SGR.New York <NewYork.oese@ed.gov>
Cc: Timmons, Jennifer <Jennifer.Timmons@ed.gov>; Almquist, An <an.almquist@ed.gov>
Subject: RE: Drawdown requests

I hope this email finds you well during this time of uncertainty.

Is there any chance an update can be provided on the items from my email on March 11?

Thank you.