

EXHIBIT 64

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

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

LINDA McMAHON, *et al.*,

Defendants.

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

**DECLARATION OF DOE
DECLARANT 12**

DECLARATION OF DOE DECLARANT 12

Pursuant to 28 U.S.C. § 1746, I, Doe Declarant 12, declare as follows:

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

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

3. I am an Education Research Analyst in the National Center for Education and Evaluation, and I have worked there for 14 years. The National Center for Education and Evaluation is part of the Institute of Education Sciences ("IES"), which is part of the Department of Education.

4. As an Education Research Analyst, I have knowledge about the responsibilities of IES in general and NCEE specifically.

5. IES is made up of four centers: the National Center for Education and Statistics ("NCES"), the National Center for Education Research ("NCER"), the National Center for

Special Education Research (“NCSEER”), and the National Center for Education and Evaluation (“NCEE”).

6. NCEE is further divided into two divisions: Evaluation and Knowledge Use. I work in the Knowledge Use division. The Knowledge Use Division has two branches: the Regional Education Laboratory Branch and the Knowledge Synthesis Branch.

7. The Regional Education Laboratory Branch has the following program:

- a. **The Regional Educational Laboratory Program.** The states, freely associated states, territories, and the District of Columbia are divided into 10 areas or RELs. Each area has a team, made up of staff and contractors, who partners with educators and policymakers nationwide to support meaningful, local, regional, or state decisions about education, policies, programs, and practices designed to improve learner outcomes.

8. The Knowledge Synthesis Branch has the following programs:

- a. **Education Resources Information Center (“ERIC”).** ERIC is a large-scale database of education research that is 60 years old. It is the second most visited website of the Department. It is the only major database of grey literature, which means literature not published in a journal, but from schools, districts, or policy centers across the country. It also includes literature from both mainstay and obscure journals. It catalogs the data and makes it available in a free database. It has 14 million users a year.
- b. **What Works Clearinghouse (“Clearinghouse”).** The Clearinghouse reviews relevant research, identifies well-designed and well-implemented impact studies, summarizes the findings from those studies, and

disseminates them to the public. It reviews studies against the Departments' standard of evidence to determine whether a study's research methods support its causal claims. It is a trusted source of scientific evidence for what works in education.

- c. **The National Library of Education.** The National Library of Education is a legislatively mandated program and one of five national libraries designated by Congress. The library serves the public by providing access to rare and historic education materials, as well as serving as an agency library that supports the Department's offices.

9. ERIC is authorized by name and function in the Education Sciences Reform Act ("ESRA"). While not authorized by name, the Clearinghouse's function is described in ESRA. The RELs and the National Library of Education are also authorized by name and function in ESRA. The evidence standards used to review the research studies for the Clearinghouse are described in the Every Student Succeeds Act ("ESSA").

10. I managed three contracts across two programs. I managed the contract for ERIC, which is a huge project. I have managed ERIC for 12 years. I also managed two contracts involving the Clearinghouse. I managed an infrastructure project that included overseeing the development of methodological standards, training on those standards, developing a workflow management system to review research against those standards, peer review of all findings, and maintaining the website. I also oversaw the development of a Practice Guide on reading interventions for students K-3 struggling in reading. The practice guide was designed by a panel of experts to address the concern, often raised by the President and the Secretary of Education, that American children are falling behind in reading. The practice guide was going to provide a

free resource full of recommended activities, scripts, and lessons to improve reading. Both of the Clearinghouse contracts that I was working on were canceled in February, but I was in the process of appealing the cancellation of the contracts.

11. On March 11, 2025, I received an internal email advising me to telework the following day because there was a security threat for all three Department of Education buildings. Around 6 p.m. that evening, my laptop restarted, and I was no longer able to send external emails. Around 7:22 p.m., I received an email stating that “your organizational unit is being abolished along with all positions within the unit—including yours.” The email further informed me that I would be placed on administrative leave beginning March 21, 2025. Annexed hereto as Exhibit 1 to this Declaration is a true and correct copy of the email, dated March 11, 2025.

12. My understanding is that IES was significantly impacted by the Reduction in Force (“RIF”). The following employees remain:

- a. NCES: Has three remaining employees.
- b. NCER: Only the Commissioner
- c. NCSER: not subject to the RIF, but has fewer than 10 total employees
- d. NCEE: Only the Commissioner
- e. Additional IES staff who were not part of one of these four centers were also impacted. The standard and review offices was not subject to the RIF. However, the director of IT and the Information Security Specialist, who run the server and keep it secure and ensure that personally identifiable information remains confidential were subject to the RIF. Staff who

manage IES' budget were subject to the RIF. Staff who handle congressional inquiries and FOIA requests were also subject to the RIF.

13. Based on my knowledge and experience, I do not believe that the Department can meet its statutory obligations under ESRA given the RIF. There are three Contracting Officer's Representatives left at IES. They are not going to be able to run the statutorily required programs themselves. There are no staff remaining to manage the contracts and or the budget, put money on the contracts, help write the solicitation packages, and ensure that IES is abiding by the law.

14. I transitioned ERIC to another project officer who is taking over all of the contracts at NCEE in addition to her current responsibilities. She will not have the capacity to create agreements with publishers, review all of the deliverables, be the help desk for the website, and work to solve problems as they arise. I do not believe that the project officer will have the capacity needed to effectively manage ERIC. The current ERIC contract was a 5-year contract with a 1-year base and an option period to extend that has to be exercised by April 24, 2025. Even if the contract continues, the Department is required to reduce the contract by 50%. A best-case scenario is that the contract is renewed with 50% of its previous budget, which will mean that ERIC can index 55% of the research under agreement and provide no customer support.

15. If the ERIC contract does not continue, then the website will not be updated with new education research, and there is a risk that valuable research will be lost. Teachers and students will not have a free way to gather research and resources and learn from less known sources. Instead, they may turn to free, easily accessible sources like blogs, Tick Tock, or Pinterest. Peer-reviewed educational research will no longer be available to everyone, but

instead it will only be available to the elite who can pay to access it. It is also possible that the website could be dismantled entirely, which would have a huge impact.

16. The elimination of the Clearinghouse support contract means that the Department cannot review new studies and publish reviews to its website. Educators and teachers will no longer have access to a credible, trusted, free review of educational programs before they spend a lot of money purchasing them. Instead, they may purchase programs based on sales pitches and waste money on programs that are not proven to be effective. Additionally, the Clearinghouse reviews the Department's grant applications to determine whether methodologies in proposed grants are supported by evidence. Without that work, the Department will fund programs that have no evidence of effectiveness.

17. The long-term impact of the decimation of IES will be a loss of knowledge. Without the nation's report card prepared by NCES, we will not know how children are doing in school, be able to measure student outcomes objectively, or track data across years. The Regional Education Lab Program was established approximately 60 years ago to work with states and districts to build capacity and solve problems. They worked with small and rural schools, like the Commonwealth of the Northern Mariana Islands and rural Indiana. Researchers visited districts and helped solve problems while building the district's capacity to problem solve. Now, districts will have to pay for those services, which were previously free, or just guess. Instead of making research-informed decisions on how to address educational issues, schools may make decisions based on a hunch or hypothesis. The nation is going to lose knowledge, and knowledge is hard to replace.

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

Executed on March 22, 2025 in Virginia.

/s/ Doe Declarant 12

Doe Declarant 12

EXHIBIT 1

From: Clay, Jacqueline
Sent: Tuesday, March 11, 2025 7:38 PM
To: CHCO
Subject: CHCO - Notice to Employees Impacted by Reduction in Force (RIF)
Attachments: Instructions for ED Employees Impacted by RIF, 3-11-25.docx; ED RIF Information and Resources, 3-11-25.docx; Office Hours – Retirement Paperwork and Process | Questions and Answers

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Colleagues,

I am writing to share some difficult news. This email serves as notice that your organizational unit is being abolished along with all positions within the unit – including yours. Please note, if you elected to separate under another program e.g., Deferred Resignation Program, Voluntary Early Retirement Authority (Early-Out), or Voluntary Separation Incentive Payment (Buy-Out), you are NOT impacted by the Reduction in Force (RIF).

To provide you with the maximum opportunity to focus on your transition, you will be placed on paid administrative leave starting **Friday, March 21, 2025**.

- ***Please take immediate action to review and comply with the Instructions for Employees Impacted by the RIF (attached). This document contains important information regarding access to ED facilities, transitioning your work, and preparing for administrative leave.***
- **Ensure your Principal Operating Component (POC) has your current mailing address, and a good personal phone number and email address to contact you.**
- During the transition period, you will retain limited equipment and systems access to enable official communications regarding your RIF standing. Please note:
 - You are only authorized to back-up your data to a network device or approved backup device.
 - You are prohibited from storing sensitive or mission-critical data on your systems' hard drive or handheld device.
 - All Department of Education system resources, including hardware, software programs, files, paper reports, and data are the sole property of the Department of Education, and there should be no expectation of privacy.
 - You are prohibited from transmitting electronic copies of Department of Education materials to your home or other personal accounts.
 - Personnel using remote access shall not download or store Government information on private equipment, optical or digital media.

- Unauthorized or improper use of this system may result in disciplinary action, as well as civil and criminal penalties.
- No earlier than 30 days from the date of this email you will receive your official RIF notice, which will begin an additional 60 days of paid administrative leave prior to your separation from the agency.
- This will give you a total of 90 days on paid leave to help facilitate your transition.
- Your official RIF notice will provide more detailed information on your specific benefits and standing and be delivered to your mailing address on file.
- You will only retain your Ed.gov email to facilitate communications with the agency through March 21, 2025.

ED has made the determination to initiate RIF procedures as part of the agency's restructuring process. These actions support Executive Order (EO) [14158](#), Implementing the President's "Department of Government Efficiency" Workforce Optimization Initiative, dated February 11, 2025 and Office of Personnel Management [Guidance on Agency RIF and Reorganization Plans](#), dated February 26, 2025. This decision is in no way a reflection of your performance or contributions, which we deeply appreciate.

I recognize that this is a challenging moment, and my team is committed to supporting you through this transition.

- For additional information about Reductions in Force, visit the Office of Personnel Management [RIF](#) site.
- For general questions regarding next steps, please email workforcereshaping@ed.gov.
- For specific retirement or benefits questions, please contact benefits@ed.gov.
- Use the Employee Assistance Program, if needed. The [Employee Assistance Program \(EAP\)](#) and [WorkLife4You Program](#), provided by Federal Occupational Health (FOH), are available 24 hours a day, 7 days a week at 1-800-222-0364 (TTY: 1-888-262-7848) or at www.FOH4you.com or www.worklife4you.com.
- Should you lose access or need IT support, please contact the Help Desk at ocioenterprisehelpdesk@ed.gov; or call 202-708-HELP (202-708-4357) and select Option 2.

With regard,

Jacqueline Clay
Chief Human Capital Officer

Attachments:

Instructions for ED Employees Impacted by RIF

ED RIF Information and Resources

Benefits and Work/Life Email: Office Hours – Retirement Paperwork and Process

