

1 STANLEY E. WOODWARD, JR.
 Associate Attorney General
 2 BRETT A. SHUMATE
 Assistant Attorney General
 3 ERIC J. HAMILTON
 Deputy Assistant Attorney General
 4 MICHAEL K. VELCHIK
 Senior Counsel to the Assistant Attorney General
 5 ELIZABETH HEDGES
 Counsel to the Assistant Attorney General
 6 Civil Division
 7 CHRISTOPHER R. HALL
 Assistant Branch Director
 8 BRAD P. ROSENBERG
 Special Counsel
 9 STEVEN M. CHASIN (DC Bar. No. 495853)
 10 PIERCE J. ANON
 Trial Attorneys
 11 U.S. Department of Justice
 12 Civil Division, Federal Programs Branch
 1100 L Street, NW
 13 Washington, DC 20005
 Phone: (202) 305-0747
 14 E-mail: steven.m.chasin2@usdoj.gov
 15 *Attorneys for Defendants*

16 **UNITED STATES DISTRICT COURT FOR THE**
 17 **NORTHERN DISTRICT OF CALIFORNIA**
SAN FRANCISCO DIVISION

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

20 Plaintiffs,

21 v.

22 UNITED STATES OFFICE OF
 23 MANAGEMENT AND BUDGET, et al.,

24 Defendants.
 25

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

DEFENDANTS' STATUS REPORT
PURSUANT TO ORDER ISSUED AT
NOVEMBER 14, 2025 STATUS
CONFERENCE

Judge: Hon. Susan Illston

1 Defendants respectfully file this Status Report in response to the Court’s Order at the November
2 14, 2025 Status Conference in this case. As stated in the Minute Order dated November 17, 2025
3 summarizing that Status Conference, “The Court **ORDERED** that Defendants file a report updating the
4 Court on what actions have been taken on the rifs that were issued as of 10/1/2025.” ECF No. 115. At
5 the Status Conference, the Court specified that this report should pertain to RIFs which are within the
6 scope of the Court’s temporary restraining order (TRO) (ECF No. 56) and/or the preliminary injunction
7 order (PI Order) (ECF No. 94) entered in this case. See Transcript 34: 25-36:1.

8 Attached to this Report, Defendants submit declarations from the following agencies which, since
9 October 1, 2025, have issued RIF notices within the scope of the TRO and/or PI Order:

- 10 1. Department of Commerce
- 11 2. Department of Education
- 12 3. Department of Energy
- 13 4. Department of Health and Human Services
- 14 5. Department of Housing and Urban Development
- 15 6. Department of the Treasury
- 16 7. Environmental Protection Agency

17 As set forth in these Declarations, each of these agencies have timely rescinded those RIF notices, issued
18 since October 1, 2025, that are within the scope of the TRO and/or PI Order, pursuant to the Continuing
19 Resolution that resumed appropriations to the government.¹ As noted in its declaration, the Department
20 of Education has not rescinded the RIF notices issued to certain Office for Civil Rights employees in
21 April, 2025, as those RIFs do not fall within the scope of the Continuing Resolution; those RIFs
22 nonetheless continue to be paused by this Court’s preliminary injunction with the notice period being
23 tolled. Defendants continue to maintain that the PI Order should not have reached those RIFs for the
24 reasons elaborated in the Department of Education’s declaration, and respectfully urge the Court to clarify
25 that the PI Order does not apply to those RIFs.

26
27 _____
28 ¹ To be clear, Defendants do not interpret the scope of the TRO and/or PI Order to be co-extensive with
the Continuing Resolution.

1 In light of these developments, Defendants believe this case is moot.

2 Dated: November 21, 2025

Respectfully submitted,

3 STANLEY E. WOODWARD, JR.
4 Associate Attorney General

5 BRETT A. SHUMATE
6 Assistant Attorney General

7 ERIC J. HAMILTON
8 Deputy Assistant Attorney General

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12 Counsel to the Assistant Attorney General
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14 CHRISTOPHER R. HALL
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16 BRAD P. ROSENBERG
17 Special Counsel

18 /s/ Steven M. Chasin
19 STEVEN M. CHASIN (DC Bar. No. 495853)
20 PIERCE J. ANON
21 Trial Attorneys
22 U.S. Department of Justice
23 Civil Division, Federal Programs Branch
24 1100 L Street, NW
25 Washington, DC 20005
26 Phone: (202) 305-0747
27 E-mail: steven.m.chasin2@usdoj.gov

28 *Attorneys for Defendants*

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 21 et al.,

22 Plaintiffs,

23 v.

24 UNITED STATES OFFICE OF
 25 MANAGEMENT AND BUDGET, et al.,

26 Defendants.
 27
 28

**DECLARATION OF CRYSTAL
 TAYLOR PURSUANT TO ORDER
 ISSUED AT NOVEMBER 14, 2025
 STATUS CONFERENCE**

1
2 I, Crystal Taylor, declare as follows:

- 3 1. I am the Acting Chief Human Capital Officer and Director, Office of Human Resources
4 Management at the Department of Commerce (Commerce), headquartered in
5 Washington, D.C. I have served in this position since September 25, 2025.
6
7 2. In my role at the Department of Commerce, I am responsible for personnel management.
8 I have the responsibility for tracking and recording personnel actions, including
9 Reductions-in-Force (RIFs). I assist in ensuring that all personnel actions comply with
10 court orders and federal law.
11
12 3. I make this declaration pursuant to the Court’s order at the November 14, 2025 Status
13 Conference in this case. As stated in the Minute Order dated November 17, 2025
14 summarizing that Status Conference, “The Court **ORDERED** that Defendants file a
15 report updating the Court on what actions have been taken on the RIFs that were issued as
16 of 10/1/2025.” ECF No. 115. I further understand that at the Status Conference, the
17 Court specified that this report should pertain to RIFs which are within the scope of the
18 Court’s temporary restraining order (TRO) (ECF No. 56) and/or the preliminary
19 injunction order (PI Order) (ECF No. 94) entered in this case.
20
21 4. Plaintiffs in this lawsuit include eight national unions, American Federation of
22 Government Employees, AFL-CIO (“AFGE”), American Federation of State County and
23 Municipal Employees, AFL-CIO (“AFSCME”), National Federation of Federal
24 Employees (“NFFE”), Service Employees International Union (“SEIU”), National
25 Association of Government Employees, Inc. (“NAGE”), National Treasury Employees
26 Union (“NTEU”), International Federation of Professional and Technical Engineers,
27
28

1 AFL-CIO (“IFPTE”), and the American Federation of Teachers (“AFT”), and two local
2 California-based chapters, AFGE Local 1236 and AFGE Local 3172.

3 5. I am aware of and have reviewed the Court’s October 15, 2025 TRO (ECF No. 56),
4 which granted Plaintiffs temporary injunctive relief and restrained certain Defendants
5 from taking specified actions related to RIFs.

6
7 6. Specifically, the TRO provides that Defendants are restrained from:

8 1) taking any action to issue any Reduction in Force (“RIF”) notices to federal
9 employees in any PPA (program, project, or activity) that includes any
10 bargaining unit or member represented by any Plaintiff during or because of
11 the federal government shutdown, including but not limited to by taking any
12 action to implement or enforce the OMB Lapse Memorandum (dated
13 September 24, 2025), the portions of the related OPM Guidance for Shutdown
14 Furloughs (as revised September 28, 2025), the related OPM “Special
Instructions for Agencies Affected by a Possible Lapse in Appropriations
Starting on October 1, 2025” (dated September 28, 2025), or any other
decision or directive that purports to authorize or require issuance of RIF
notices during a shutdown;

15 2) taking any further action to administer or implement any RIF notices already
16 issued beginning on October 10, 2025 to federal employees in any PPA (program,
17 project, or activity) that includes any bargaining unit or member represented by
18 any Plaintiff, including but not limited to by requiring federal employees to
19 perform work to further administer or implement RIF notices and by enforcing or
20 counting any days towards any period of notice with respect to those notices (i.e.,
the effective date of the RIF shall be stayed and Defendants shall therefore toll the
running of all RIF notice periods).

21 7. The TRO also required Defendants to report certain information by October 17, 2025:

22 Defendants shall serve and file an accounting of all RIFs, actual or imminent, that
23 are enjoined by this TRO, including but not limited to a description of the agency
24 that imposed or is planning to impose the enjoined RIF, the number of employees
25 included in the enjoined RIF, and description of the PPAs that Defendants included
in the enjoined RIF.

26 8. I am aware that the TRO subsequently was clarified and modified. *See* ECF No. 70, 82.

1 9. I also am aware of and have reviewed the Court’s October 28, 2025 PI Order (ECF No.
2 94), which granted Plaintiffs preliminary injunctive relief and enjoined Defendants from
3 taking certain actions related to RIFs.

4 10. The Court’s PI Order provides that Defendants are enjoined from:

- 5
- 6 1) taking any action to issue any RIF notices during and because of the federal
7 government shutdown to federal employees in any PPA (program, project, or
8 activity) or competitive area that includes any bargaining unit or member
9 represented by any Plaintiff, including but not limited to by taking any action
10 to implement or enforce the OMB Lapse Memorandum (dated September 24,
11 2025), the portions of the related OPM Guidance for Shutdown Furloughs (as
12 revised September 28, 2025), the related OPM “Special Instructions for
13 Agencies Affected by a Possible Lapse in Appropriations Starting on October
14 1, 2025” (dated September 28, 2025), or any other decision or directive that
15 purports to authorize or require issuance of RIF notices during a shutdown;
 - 16 2) taking any action to administer or implement any RIF notices issued during
17 and because of the federal government shutdown to federal employees in any
18 PPA (program, project, or activity) or competitive area that includes any
19 bargaining unit or member represented by any Plaintiff, including but not
20 limited to by taking any action to implement or enforce the OMB Lapse
21 Memorandum (dated September 24, 2025), the portions of the related OPM
22 Guidance for Shutdown Furloughs (as revised September 28, 2025), the
23 related OPM “Special Instructions for Agencies Affected by a Possible Lapse
24 in Appropriations Starting on October 1, 2025” (dated September 28, 2025),
25 or any other decision or directive that purports to authorize or require issuance
26 of RIF notices during a shutdown.

27 11. The PI Order specifies, with respect to the above, that:

- 28
- 29 1) The phrase “federal employees in any PPA (program, project, or activity) or
30 competitive area that includes any bargaining unit or member represented by
31 any Plaintiff” includes (a) “federal employees in any PPA or competitive
32 area” in which Plaintiffs have any members, regardless of whether those
33 members are employed in a bargaining unit that is represented by a Plaintiff;
34 and (b) “federal employees in any PPA or competitive area” in which any
35 Plaintiff is or was a recognized collective bargaining representative of a
36 bargaining unit prior to or after the issuance of Executive Orders 14251 and
37 14343, the effect of which is the subject of legal dispute.
 - 38 2) The reference to issuance of RIF notices “during and because of the federal
39 government shutdown” or “during a shutdown” applies to any RIF notices
40 issued on or after October 1, 2025, and before the end of the federal

1 government shutdown, unless the Court determines following an evidentiary
2 hearing that the RIF was planned to occur independent of and before the
3 shutdown.

4 12. The PI Order also required Defendants to report certain information by November 4,
5 2025:

6 Each Defendant shall file an accounting of any RIFs that have been issued on or
7 after October 1, or that were in preparation at the time of this Court’s temporary
8 restraining order (TRO) (ECF 56), clarified and modified TROs (ECF 70, 82),
9 and/or preliminary injunction, including at a minimum information identifying: a)
10 the impacted PPAs or competitive areas, including information or parameters
11 (such as a description of the office or program within the agency) used by the
12 Defendant to define the PPAs or competitive areas; b) whether each impacted
13 PPA or competitive area includes any employees subject to this Court’s
14 injunction; c) how many employees are within each such PPA or competitive
15 area; and d) the number of employees within each such PPA or competitive area
16 whom Defendant has identified as protected by the Court’s injunction.

17 13. The PI Order also required, by November 12, 2025, that each Defendant file a declaration
18 “detailing the steps it has taken to comply with this Court’s injunction.”

19 14. Pursuant to these requirements in the TRO and PI Order, Commerce previously

20 submitted declarations which explained, in relevant part, that Commerce had issued the
21 following RIF notices (ECF No. 102-1, ¶¶9-19; ECF No. 112-4, ¶8):

- 22 • Between October 1 and October 14, 2025, Commerce issued specific 60-day RIF
23 notices to 263 employees at the U.S. Census Bureau, the Minority Business
24 Development Agency, the U.S. Patent and Trademark Office, the International
25 Trade Administration, the Bureau of Industry and Security, and the National
26 Telecommunications and Information Administration informing them that their
27 positions would be abolished and they would be separated at the conclusion of the
28 60-day period.
- Separately, between October 1 and 15, 2025, Commerce issued general RIF
notices to 154 employees at the National Institute of Standards and Technology
and the FirstNet Authority informing them that Commerce was conducting a RIF,
there was a possibility of separation as a result of the RIF, and they would be
provided with a specific notice in the future if it was determined that they would
be part of the RIF.

In addition, as set forth in my November 4, 2025 Declaration (ECF No. 102-1, ¶¶11-
19), for each bureau of Commerce in which employees received specific or general

1 RIF notices: (a) the impacted PPAs; (b) whether that PPA includes any employees
2 subject to this Court's injunction; (c) the number of employees that are within that
3 PPA; and (d) the number of employees within that PPA whom the agency has
4 identified as protected by the Court's injunction.

5 a. The U.S. Census Bureau issued 101 specific RIF notices:

- 6 i. The impacted PPAs are Current Surveys and Programs and Periodic
7 Census and Programs.
- 8 ii. AFGE represents employees within these PPAs.
- 9 iii. There are 6,885 employees within these PPAs.
- 10 iv. All employees within the impacted PPAs, including the 101 employees
11 that received RIF notices, are protected by the Court's injunction.
12

13 b. The Minority Business Development Agency issued 23 specific RIF notices:

- 14 i. The impacted PPA involved is Minority Business Development.
- 15 ii. NFEE represents employees within this PPA.
- 16 iii. There are 24 employees within this PPA.
- 17 iv. All employees within the impacted PPA, including the 23 employees that
18 received RIF notices, are protected by this Court's injunction.
19

20 c. The U.S. Patent and Trademark Office issued 123 specific RIF notices:

- 21 i. The impacted PPAs are Patents Program and Trademark Program.
- 22 ii. NTEU represents employees within these PPAs.
- 23 iii. There are 13,777 employees within these PPAs.
- 24 iv. All employees within the impacted PPAs, including the 123 employees
25 that received notices, are protected by the Court's injunction.
26

27 d. The International Trade Administration issued eight specific RIF notices:
28

- 1 i. The impacted PPA is Global Markets.
- 2 ii. The PPA and/or competitive area does not include any employees subject
- 3 to this court's injunction.
- 4 iii. There are 601 employees in this PPA.
- 5 iv. No employees are protected by the injunction.
- 6
- 7 e. The Bureau of Industry and Security issued five specific RIF notices:
 - 8 i. The impacted PPA is Export Administration.
 - 9 ii. This PPA does not include any employees subject to this court's
 - 10 injunction.
 - 11 iii. There are 157 employees within this PPA.
 - 12 iv. No employees are protected by the injunction.
 - 13
- 14 f. The National Telecommunications and Information Administration issued three
- 15 specific RIF notices:
 - 16 i. The impacted PPA is Broadband Programs.
 - 17 ii. This PPA does not include any employees subject to this court's
 - 18 injunction.
 - 19 iii. There are 32 employees within this PPA.
 - 20 iv. No employees are protected by the injunction.
 - 21
- 22 g. The National Institute of Standards and Technology issued 37 general RIF
- 23 notices:
 - 24 i. The impacted PPAs are Manufacturing Extension Partnership (MEP) and
 - 25 Standards Coordination and Special Programs (SCO-SPO).
 - 26 ii. These PPAs do not include any employees subject to this court's
 - 27 injunction.
 - 28 iii. There are 275 employees within these PPAs.

1 iv. No employees are protected by the injunction.

2 h. The FirstNet Authority issued 117 general RIF notices. Sixteen (16) of the
3 employees who received general RIF notices subsequently received specific RIF
4 notices on November 7, 2025:

5 i. The impacted PPA is First Responder Network Authority.

6 ii. This PPA does not include any employees subject to this court's
7 injunction.

8 iii. There are 183 employees within this PPA.

9 iv. No employees are protected by the injunction.

10 15. I understand that on November 12, 2025, the President signed into law H.R. 5371, the
11 "Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and
12 Veterans Affairs, and Extensions Act, 2026" (referred to as the Continuing Resolution or
13 the "C.R."). As relevant here, section 120(e) of the C.R. provides:

14
15 (e) Notwithstanding section 106(1), any reduction in force proposed,
16 noticed, initiated, executed, implemented, or otherwise taken by an
17 Executive Agency between October 1, 2025, and the date of enactment,
18 shall have no force or effect.

19 (1) Any employee who received notice of being subject to such
20 a reduction in force shall have that notice rescinded and be returned
21 to employment status as of September 30, 2025, without
22 interruption. Such employees shall receive all pay to which they
23 otherwise would have been entitled in the absence of receiving such
24 notice, including backpay in accordance with section 116 of this Act.

25 (2) Within 5 days of date of enactment of this Act, each
26 Federal agency shall send notice to all affected employees and the
27 chairs and ranking members of the Appropriations Committees of
28 the Senate and House of Representatives of the withdrawal of the
reduction in force notice and the affected employee's reinstatement,
if applicable.

(3) Notices must include reinstatement date and the amount of
back pay determined in paragraph (1), if applicable.

1 16. Pursuant to C.R. section 120(e), Commerce rescinded all RIF notices proposed, noticed,
2 initiated, executed, implemented, or otherwise taken between October 1, 2025 and
3 November 12, 2025, that had not already been rescinded for other reasons. All
4 employees who received RIF notices between October 1, 2025 and November 12, 2025,
5 remained on the Agency's rolls during this time period and will be paid for that time in
6 accordance with the Government Employee Fair Treatment Act of 2019, regardless of the
7 employees' duty status.
8

9 a. On November 13, 2025, the U.S. Census Bureau issued a notice to each employee
10 who received a specific RIF notice, rescinding the specific RIF notice, and
11 directing the employee to return to duty at the beginning of their next tour of duty
12 after November 12, 2025.
13

14 b. On November 13, 2025, the Bureau of Industry and Security, International Trade
15 Administration, Minority Business Development Agency, and National
16 Telecommunications and Information Administration issued a notice to each
17 employee who received a specific RIF notice, rescinding the specific RIF notice,
18 and directing the employee to return to duty on November 17, 2025.
19

20 c. On November 13, 2025, the National Institute of Standards and Technology
21 issued a notice to each employee who received a general RIF notice, rescinding
22 the general RIF notice.¹
23

24 d. On November 13, 2025, the FirstNet Authority issued a notice to each employee
25 who received only a general RIF notice, rescinding the general RIF notice.² Also
26

27 ¹ These employees were not placed in a nonduty status as a result of the general RIF notice, and therefore, it
was not necessary to direct them back to duty.

28 ² These employees remained in a paid duty status after receiving the general RIF notice, and therefore, it
was not necessary to direct them back to duty.


1 on November 13, 2025, the FirstNet Authority issued a notice to the employees
2 who received both a general and specific RIF notice, rescinding both notices, and
3 directing these employees to return to duty on November 17, 2025.

4 e. On November 14, 2025, the U.S. Patent and Trademark Office issued a notice to
5 each employee who received a specific RIF notice, rescinding the specific RIF
6 notice, and directing the employee to return to duty.
7

8 17. On November 17, 2025, Commerce notified the chairs and ranking members of the
9 Appropriations Committees of the Senate and House of Representatives of the
10 withdrawal of the above-listed RIF notices and the affected employee's reinstatement, as
11 applicable.
12

13
14 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true
15 and correct.

16 Dated: November 21, 2025

17 **CRYSTAL**
18 /s/ **TAYLOR**  Digitally signed by
CRYSTAL TAYLOR
Date: 2025.11.21
10:56:26 -05'00'

19 CRYSTAL TAYLOR
20 ACTING CHIEF HUMAN CAPITAL
21 OFFICER
22 DIRECTOR, OFFICE OF HUMAN
23 RESOURCES MANAGEMENT
24 U.S. DEPARTMENT OF COMMERCE
25
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26 Defendants.
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**DECLARATION OF JACQUELINE
 CLAY PURSUANT TO ORDER
 ISSUED AT NOVEMBER 14, 2025
 STATUS CONFERENCE**

1 I, Jacqueline Clay, declare as follows:

- 2
- 3 1. I am the Chief Human Capital Officer at the U.S. Department of Education,
- 4 headquartered in Washington, D.C. I have served in this position since June 22, 2019.
- 5 2. In my role at the U.S. Department of Education (“agency” or “ED”), I am responsible for
- 6 personnel management. I have the responsibility for tracking and recording personnel
- 7 actions, including Reductions-in-Force (RIFs). I assist in ensuring that all personnel
- 8 actions comply with court orders and federal law.
- 9
- 10 3. I make this declaration pursuant to the Court’s order at the November 14, 2025 Status
- 11 Conference in this case. As stated in the Minute Order dated November 17, 2025
- 12 summarizing that Status Conference, “The Court **ORDERED** that Defendants file a
- 13 report updating the Court on what actions have been taken on the RIFs that were issued
- 14 as of 10/1/2025.” ECF No. 115. I further understand that at the Status Conference, the
- 15 Court specified that this report should pertain to RIFs which are within the scope of the
- 16 Court’s temporary restraining order (TRO) (ECF No. 56) and/or the preliminary
- 17 injunction order (PI Order) (ECF No. 94) entered in this case.
- 18
- 19 4. Plaintiffs in this lawsuit include eight national unions, American Federation of
- 20 Government Employees, AFL-CIO (“AFGE”), American Federation of State County and
- 21 Municipal Employees, AFL-CIO (“AFSCME”), National Federation of Federal
- 22 Employees (“NFFE”), Service Employees International Union (“SEIU”), National
- 23 Association of Government Employees, Inc. (“NAGE”), National Treasury Employees
- 24 Union (“NTEU”), International Federation of Professional and Technical Engineers,
- 25 AFL-CIO (“IFPTE”), and the American Federation of Teachers (“AFT”), and two local
- 26 California-based chapters, AFGE Local 1236 and AFGE Local 3172.
- 27
- 28

1 5. I am aware of and have reviewed the Court’s October 15, 2025 TRO (ECF No. 56),
2 which granted Plaintiffs temporary injunctive relief and restrained certain Defendants
3 from taking specified actions related to RIFs.

4 6. Specifically, the TRO provides that Defendants are restrained from:

5 1) taking any action to issue any Reduction in Force (“RIF”) notices to federal
6 employees in any PPA (program, project, or activity) that includes any
7 bargaining unit or member represented by any Plaintiff during or because of
8 the federal government shutdown, including but not limited to by taking any
9 action to implement or enforce the OMB Lapse Memorandum (dated
10 September 24, 2025), the portions of the related OPM Guidance for Shutdown
11 Furloughs (as revised September 28, 2025), the related OPM “Special
12 Instructions for Agencies Affected by a Possible Lapse in Appropriations
Starting on October 1, 2025” (dated September 28, 2025), or any other
decision or directive that purports to authorize or require issuance of RIF
notices during a shutdown;

13 2) taking any further action to administer or implement any RIF notices already
14 issued beginning on October 10, 2025 to federal employees in any PPA (program,
15 project, or activity) that includes any bargaining unit or member represented by
16 any Plaintiff, including but not limited to by requiring federal employees to
17 perform work to further administer or implement RIF notices and by enforcing or
counting any days towards any period of notice with respect to those notices (i.e.,
the effective date of the RIF shall be stayed and Defendants shall therefore toll the
running of all RIF notice periods).

18 7. The TRO also required Defendants to report certain information by October 17, 2025:

19 Defendants shall serve and file an accounting of all RIFs, actual or imminent, that
20 are enjoined by this TRO, including but not limited to a description of the agency
21 that imposed or is planning to impose the enjoined RIF, the number of employees
22 included in the enjoined RIF, and description of the PPAs that Defendants included
in the enjoined RIF.

23 8. I am aware that the TRO subsequently was clarified and modified. *See* ECF No. 70, 82.

24 9. I also am aware of and have reviewed the Court’s October 28, 2025 PI Order (ECF No.
25 94), which granted Plaintiffs preliminary injunctive relief and enjoined Defendants from
26 taking certain actions related to RIFs.

27 10. The Court’s PI Order provides that Defendants are enjoined from:
28

- 1) taking any action to issue any RIF notices during and because of the federal government shutdown to federal employees in any PPA (program, project, or activity) or competitive area that includes any bargaining unit or member represented by any Plaintiff, including but not limited to by taking any action to implement or enforce the OMB Lapse Memorandum (dated September 24, 2025), the portions of the related OPM Guidance for Shutdown Furloughs (as revised September 28, 2025), the related OPM “Special Instructions for Agencies Affected by a Possible Lapse in Appropriations Starting on October 1, 2025” (dated September 28, 2025), or any other decision or directive that purports to authorize or require issuance of RIF notices during a shutdown;
- 2) taking any action to administer or implement any RIF notices issued during and because of the federal government shutdown to federal employees in any PPA (program, project, or activity) or competitive area that includes any bargaining unit or member represented by any Plaintiff, including but not limited to by taking any action to implement or enforce the OMB Lapse Memorandum (dated September 24, 2025), the portions of the related OPM Guidance for Shutdown Furloughs (as revised September 28, 2025), the related OPM “Special Instructions for Agencies Affected by a Possible Lapse in Appropriations Starting on October 1, 2025” (dated September 28, 2025), or any other decision or directive that purports to authorize or require issuance of RIF notices during a shutdown.

11. The PI Order specifies, with respect to the above, that:

- 1) The phrase “federal employees in any PPA (program, project, or activity) or competitive area that includes any bargaining unit or member represented by any Plaintiff” includes (a) “federal employees in any PPA or competitive area” in which Plaintiffs have any members, regardless of whether those members are employed in a bargaining unit that is represented by a Plaintiff; and (b) “federal employees in any PPA or competitive area” in which any Plaintiff is or was a recognized collective bargaining representative of a bargaining unit prior to or after the issuance of Executive Orders 14251 and 14343, the effect of which is the subject of legal dispute.
- 2) The reference to issuance of RIF notices “during and because of the federal government shutdown” or “during a shutdown” applies to any RIF notices issued on or after October 1, 2025, and before the end of the federal government shutdown, unless the Court determines following an evidentiary hearing that the RIF was planned to occur independent of and before the shutdown.

12. The PI Order also required Defendants to report certain information by November 4, 2025:

1 Each Defendant shall file an accounting of any RIFs that have been issued on or
2 after October 1, or that were in preparation at the time of this Court's temporary
3 restraining order (TRO) (ECF 56), clarified and modified TROs (ECF 70, 82),
4 and/or preliminary injunction, including at a minimum information identifying: a)
5 the impacted PPAs or competitive areas, including information or parameters
6 (such as a description of the office or program within the agency) used by the
7 Defendant to define the PPAs or competitive areas; b) whether each impacted
8 PPA or competitive area includes any employees subject to this Court's
9 injunction; c) how many employees are within each such PPA or competitive
10 area; and d) the number of employees within each such PPA or competitive area
11 whom Defendant has identified as protected by the Court's injunction.

12 13. The PI Order also required, by November 12, 2025, that each Defendant file a declaration
13 "detailing the steps it has taken to comply with this Court's injunction."

14 14. Pursuant to these requirements in the TRO and PI Order, the agency previously submitted
15 declarations which explained, in relevant part, that the agency had issued the following
16 RIF notices, within the scope of the TRO and/or PI. As stated in my declaration of
17 November 12, 2025 (ECF No. 112-6 at Par. 9): On October 10, 2025, ED issued RIF
18 notices to 465 of the approximately 2,536 agency employees. Identified below is the
19 specific number of RIF notices the agency sent out, as well as the total number of
20 employees, in the relevant program, project, or activity (PPA), affected by the October 10
21 RIF:

- 22 a. Office of the Secretary (4 RIF notices, out of 58 employees)
- 23 b. Office for Civil Rights (137 RIF notices, out of 446 employees)
- 24 c. Office of Special Education and Rehabilitative Services (121 RIF notices, out of
25 135 employees)
- 26 d. Office of Communications (7 RIF notices, out of 26 employees)
- 27 e. Office of Postsecondary Education (64 RIF notices, out of 125 employees)
- 28

1 f. Office of Elementary and Secondary Education (132 RIF notices, out of 185
2 employees)

3 As also stated in my declaration of November 12, 2025 (ECF No. 112-6 at Par. 10), in
4 constructing the above inventory of RIF actions, ED did not distinguish between PPAs
5 (“offices” above) employing persons represented by a Plaintiff union (pertinent to ED,
6 that is Plaintiff AFGE) and PPAs that might not employ any AFGE members. Thus, as I
7 stated in that declaration, all October 10 RIF notices are accounted for above, regardless
8 of Plaintiff representation of employees who received those notices.
9

10 15. I understand that on November 12, 2025, the President signed into law H.R. 5371, the
11 “Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and
12 Veterans Affairs, and Extensions Act, 2026” (referred to as the Continuing Resolution or
13 the “C.R.”). As relevant here, section 120(e) of the C.R. provides:
14

15 (e) Notwithstanding section 106(1), any reduction in force proposed,
16 noticed, initiated, executed, implemented, or otherwise taken by an
17 Executive Agency between October 1, 2025, and the date of enactment,
shall have no force or effect.

18 (1) Any employee who received notice of being subject to such
19 a reduction in force shall have that notice rescinded and be returned
20 to employment status as of September 30, 2025, without
21 interruption. Such employees shall receive all pay to which they
22 otherwise would have been entitled in the absence of receiving such
notice, including backpay in accordance with section 116 of this Act.

23 (2) Within 5 days of date of enactment of this Act, each
24 Federal agency shall send notice to all affected employees and the
25 chairs and ranking members of the Appropriations Committees of
26 the Senate and House of Representatives of the withdrawal of the
reduction in force notice and the affected employee’s reinstatement,
if applicable.

27 (3) Notices must include reinstatement date and the amount of
28 back pay determined in paragraph (1), if applicable.

1 16. Pursuant to C.R. section 120(e), the agency, on November 12, 2025, rescinded the RIF
2 notices to all of the 465 employees inventoried in Par. 14 above, and sent notice to all of
3 those affected employees including information regarding backpay, and on November 17,
4 2025, sent notice of the rescissions to Congress.

5 17. As also stated in my November 12, 2025, declaration in this case (ECF No. 112-6 at Par.
6 11-12), in April 2025, ED issued RIF notices to 299 Office for Civil Rights (OCR)
7 employees, providing 60 days notice of June 2025 separation-from-employment dates.
8 None of those 299 OCR employees are among the 137 OCR employees—as identified in
9 the inventory in Par. 14 above—to whom a RIF notice was (later) issued on October 10
10 and as to whom RIF notices were rescinded as described in Par. 16 above.

11 18. As also stated in my November 12, 2025, declaration in this case (ECF No. 112-6 at Par.
12 11-12), the March 2025 RIF of OCR employees was subsequently enjoined by a district
13 court in two separate actions. Stays of those district court injunctions were obtained in
14 one action in July 2025, and in the other on September 29, 2025. On October 14, 2025,
15 ED emailed the OCR employees who had received RIF notices in April stating that their
16 separation dates had been adjusted from June to November. *See* Exhibit A. Thus, there
17 are two separate RIFs at ED involving two entirely separate groups of OCR employees:
18

- 19
- 20 • the March 2025 RIF, now encompassing 247 OCR employees (out of 299 OCR
21 employees that received RIF notices in April 2025, 52 of which departed from
22 OCR or ED entirely in the interim); and
 - 23 • the October 10, 2025 RIF, encompassing 137 OCR employees.
- 24

25 Put differently, included in the 446 total number of OCR employees (as referenced in the
26 inventory above in Par. 14(b)), are 384 employees who received RIF notices: (i) the 137
27 OCR employees who were subject to the lapse-related October RIF, and (ii) the 247 OCR
28

Exhibit A

Jackson, Candice

From: CHCO-Info
Sent: Tuesday, October 14, 2025 1:55 PM
Subject: Update on Reduction in Force for OCR
Attachments: VRLC Stay.pdf

Dear Colleague,

Pursuant to, and consistent with, the September 29, 2025, U.S. Court of Appeals For the First Circuit decision to stay a lower court's injunction regarding the implementation of the Reduction in Force (RIF) as to the Office of Civil Rights, the Department of Education is continuing with the RIF.

A RIF notice was previously issued to you on April 30, 2025, with an original separation date of June 30, 2025, under the required 60-day notice period. **Following the Court of Appeals decision, your separation date has been adjusted to November 3, 2025.** You will receive a final statement of your leave accruals and any additional payments you are entitled to under law.

The Department appreciates your service and recognizes the difficulty of the moment. This RIF action is not a reflection upon your performance or conduct and is solely due to agency restructuring, as described in previous correspondence.

With regard,

Jacqueline Clay
Chief Human Capital Officer

Attachment:
24A1203 McMahon v. New York, 7-14-25

United States Court of Appeals For the First Circuit

No. 25-1787

VICTIM RIGHTS LAW CENTER; T.R., by and through his parent, Tara Blunt; TARA
BLUNT; A.J., by and through his parent, Karen Josefosky; KAREN JOSEFOSKY

Plaintiffs, Appellees,

v.

UNITED STATES DEPARTMENT OF EDUCATION; LINDA MCMAHON, in her official
capacity as Secretary of Education; CRAIG TRAINOR, in his official capacity as Acting
Assistant Secretary for Civil Rights

Defendants, Appellants.

Before

Montecalvo, Rikelman, and Aframe,
Circuit Judges.

ORDER OF COURT

Entered: September 29, 2025

The government seeks a stay pending appeal of an injunction issued by the district court on June 18, 2025, ("Injunction") and an administrative stay. The Injunction preliminarily prevented the United States Department of Education ("Department") from implementing a sweeping reduction-in-force ("RIF") announced in March that reduced by half the staff of the Department's Office of Civil Rights ("OCR"). In July, after the district court had issued the Injunction, the Supreme Court stayed pending appeal a similar injunction in a case challenging the same RIF as it applied to the entire Department, not just OCR. See McMahon v. New York, 145 S. Ct. 2643 (2025).¹ In light of the Supreme Court's stay in McMahon, the government moved the

¹ The parallel case challenging the RIF as applied to the entire Department has been variously captioned "New York v. McMahon" (before the District of Massachusetts), "Somerville Public Schools v. McMahon" (before this court), and "McMahon v. New York" (before the Supreme Court). For clarity, we refer to that case herein as "McMahon."

district court to vacate the Injunction in this case or, in the alternative, for a stay pending appeal. The district court concluded that, although the two cases addressed the same underlying RIF, they were distinguishable, and the Supreme Court's McMahon order did not require it to vacate the Injunction or issue a stay pending appeal. For the reasons that follow, at this preliminary stage, we cannot agree and grant the government's motion for a stay.

In March 2025, the Department announced a RIF that would cut the Department's staff by about half. Many suits have challenged this RIF in whole or in part, including this case and McMahon. In McMahon, the plaintiffs challenged the RIF's effect on the entire Department, whereas in this suit, the challenge is limited to the effect the RIF had on OCR. The two cases were assigned to the same district court judge and have proceeded along parallel tracks.

The Plaintiffs here are two former public school students and their parents as well as an advocacy group, the Victim Rights Law Center ("VRLC"). The students, A.J. and T.R., allege that they were bullied at the public schools they attended on the basis of disability and race, respectively. They contend that, when this bullying and harassment went unaddressed, they were forced to withdraw from school. They then filed complaints with OCR; A.J. for disability-based harassment and failure to implement a Section 504 plan, T.R. for racial harassment under Title VI of the Civil Rights Act of 1964. But, they say, neither complaint has been investigated or addressed because of RIF-imposed staffing cuts at OCR.² VRLC is a nonprofit "dedicated to serving the legal needs of victims of sex-based harassment," including by representing students in OCR investigations. VRLC alleges that it has been forced to "divert its limited resources to exploring alternative [non-OCR] remedies for its clients" and anyone else who might seek its advice.

The district court determined that the Plaintiffs were likely to succeed on the merits of several of their claims. It found that the RIF had eliminated about half of OCR's 550-person staff and shuttered seven of OCR's twelve regional offices. This reduction, the district court determined, "leaves OCR with the capacity to address only a small fraction of the complaints that it receives, making it impossible for OCR to comply with its statutory and regulatory obligations." It concluded that the Department's implementation of the RIF likely violated the Administrative Procedure Act as it was likely arbitrary and capricious and contrary to law, including Title VI's and Title IX's mandates that OCR enforce the Civil Rights Act's antidiscrimination provisions. See 42 U.S.C. § 2000d-1; 20 U.S.C. § 1682. It also found that the Plaintiffs were likely to prevail on their claim that the RIF exceeded the Department's lawful authority.

Finding that the balance of equities also favored the Plaintiffs, the district court preliminarily enjoined the implementation of the RIF as to OCR. In relevant part, the Injunction ordered the government to "stay the termination or elimination, and take all steps necessary to facilitate the return to duty, of all OCR employees whose employment was set to be terminated or otherwise eliminated as part of the reduction-in-force announced on March 11, 2025 to restore the OCR to the status quo such that it is able to carry out its statutory functions."

The McMahon plaintiffs, by contrast, are a group of twenty-one states, two public school districts, and five labor unions. Somerville Pub. Sch. v. McMahon, 139 F.4th 63, 67 (1st Cir.

² Plaintiff A.J. later settled his claims in private mediation.

2025). Unlike the Plaintiffs here, who challenge the RIF with respect to OCR only, the McMahon plaintiffs challenged the RIF order as it applied Department-wide.

In McMahon, as here, the district court concluded that the RIF's implementation likely violated the APA, again because it was likely arbitrary and capricious and contrary to law. Accordingly, on May 22, 2025, the district court in McMahon enjoined implementation of the RIF as a whole ("McMahon Injunction"), ordering 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 Department to the status quo such that it is able to carry out its statutory functions." New York v. McMahon, 784 F. Supp. 3d 311, 374 (D. Mass. 2025).

The McMahon Injunction issued on May 22, 2025. The government moved for a stay pending appeal, which we denied on June 4. See generally Somerville Pub. Sch., 139 F.4th 63. Two weeks after our opinion in McMahon, the Injunction in this case issued. About a month after that, on July 14, the Supreme Court stayed the McMahon Injunction pending appeal, permitting the Department-wide RIF to go into effect. McMahon, 145 S. Ct. 2643.

In light of the Supreme Court's order in McMahon, the government then asked the district court here to vacate the Injunction or, in the alternative, for a stay pending appeal. The district court declined to vacate the Injunction or to issue a stay. This appeal followed.

As the party seeking a stay, Defendant-Appellants bear the burden of showing they are entitled to such "extraordinary" relief. Rhode Island v. Trump, No. 25-1477, 2025 WL 2621593, at *3 (1st Cir. Sept. 11, 2025) (citation omitted). The now-familiar Nken factors guide our analysis:

- (1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.

Nken v. Holder, 556 U.S. 418, 434 (2009) (citation omitted). The first two Nken factors "are the most critical." Id.

The government characterizes this case as a "lesser-included version" of McMahon and focuses much of its briefing on that point. Because, it maintains, the Supreme Court's McMahon order controls, we should reach the same result here that the Supreme Court did there.

We have now considered McMahon's impact in the context of several stay applications. See, e.g., New York v. Kennedy, No. 25-1780, 2025 WL 2658233, at *2 (1st Cir. Sept. 17, 2025); Rhode Island, 2025 WL 2621593, at *3-4. As we noted in those orders, the Supreme Court in McMahon provided no explanation for the stay it ordered. So, as before, we have carefully reviewed the McMahon order in light of the arguments raised in the parties' briefs to the Supreme Court in McMahon, mindful of the Supreme Court's guidance that, although "not conclusive as to

the merits," interim orders like the one in McMahon "inform how a court should exercise its equitable discretion in like cases." Trump v. Boyle, 145 S. Ct. 2653, 2654 (2025).

We are persuaded that, given the particular facts and the arguments made by the parties in the stay briefing to us, this case appears to be—unlike other cases in which we have considered the Supreme Court's McMahon order—effectively a subset of McMahon and is sufficiently "like" McMahon such that the McMahon order must control the outcome at this early stage of the litigation. First, and most critically, the essential facts here were before the Supreme Court in McMahon, and the Plaintiff-Appellees have not presented any argument to us that those facts have changed in any material way, if at all, since the McMahon order in mid-July. Further, the district court discussed the very same plaintiffs here in the McMahon Injunction at some length. McMahon, 784 F. Supp. 3d at 329-31 (discussing effect of RIF on OCR and specifically A.J., T.R., and VRLC); id. at 369-72 (same). As the district court explained there, OCR is how the Department "safeguard[s] equal access to public education," one of five areas the district court described in McMahon as some of the Department's "critical programs and functions." Id. at 328-29. And in its discussion in McMahon of the RIF's effect on OCR, the district court recounted in detail the facts of the harassment that T.R. and A.J. suffered, and OCR's failure to take action on their complaints. Id. at 331.

Elsewhere in its order, the district court identified as one of the four irreparable harms supporting an injunction the "loss of essential services provided by the . . . [OCR]." Id. at 360. The opinion then discussed the staff cuts and office closures at OCR and specifically identified OCR's failure to address the harms suffered by A.J.:

Cuts to OCR have already resulted in stalled or dropped investigations, further burdening Plaintiff States and [their] students 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 . . . [The family] has no reason to believe the school will take steps to keep A.J. safe in public school without OCR's intervention.

Id. at 370 (final alteration in original and citation omitted).

Besides the significant discussion of the facts of this case in the McMahon Injunction, the McMahon plaintiffs directly invoked the RIF's effect on OCR in their briefing before the Supreme Court, arguing that if the RIF were allowed to go into effect, "[s]tates will be forced to dedicate greater resources to civil rights enforcement because the Department cut half of the staff at OCR, including seven of the twelve regional OCR offices." Br. of State Pls., McMahon v. New York, 2025 WL 1697525, at *11. The government, too, discussed the effect of the RIF on OCR in its briefing before the Supreme Court. See Reply Br., McMahon v. New York, 2025 WL 1697526, at *7-8. In short, the facts and circumstances that underpin this case -- discussed in the briefing and underlying order in McMahon -- are a subset of the facts and circumstances in McMahon and were before the Supreme Court when it issued its order in that case.

Second, not only were the same facts before the Supreme Court when it decided McMahon, including about the very plaintiffs here, but also many of the legal issues in the two cases overlap. For example, when the district court addressed the government's argument that the Civil Service Reform Act divested federal courts of jurisdiction to hear claims related to employment disputes between federal employees and the government, it recognized that the government had "advance[d] largely the same arguments . . . as they did in the Lead Case," and added that our order denying a stay in McMahon had "addressed, and squarely dismissed, Defendants' [jurisdictional] concerns." Similarly, in the context of its "discrete and final agency action" analysis, the district court explained that it was reaching the same conclusions it did in McMahon for the same reasons: "Defendants' contentions that their actions are not final . . . [are] unconvincing for the same reasons I held in the Lead Case." So too in its analysis of the Department's discretionary authority: "In the Lead Case, I addressed and dismissed Defendants' arguments that RIFs are generally subject to agency discretion." And in its discussion of whether the RIF was arbitrary and capricious: "I have already addressed why the March 11 Directive announcing the RIF was arbitrary and capricious in the Lead Case." The district court also borrowed from its prior analysis when addressing the equitable stay factors: "For a detailed analysis of the balance of the equities and the public interest factors, see [the district court's order in McMahon]. I further decline to impose bond for the same reasons explained in the Lead Case." Overall, in its thorough 43-page order granting the Injunction, the district court identified this suit as "related to" McMahon, referred to McMahon as the "Lead Case," and relied repeatedly on both its own decision to grant the McMahon Injunction and our decision to deny a stay of that injunction on appeal, noting the overlapping issues presented in both cases.

Third, the Injunction here and the injunction at issue in McMahon provided similar relief concerning the same agency action. Although the Plaintiff-Appellees here seek to enjoin only the portion of the RIF that affects OCR, while the McMahon plaintiffs sought to enjoin the RIF with respect to the entire Department, both suits challenge the same underlying agency action, and seek largely the same relief. Compare Victim Rts. L. Ctr. v. U.S. Dep't of Educ., Civ. No. 25-11042, 2025 WL 1704311, at *1 (D. Mass. June 18, 2025) ("This case arises from the impacts of the far-reaching March 11, 2025 reduction in force . . . which severely impacted OCR, resulting in the . . . dismissal of half its employees.") with McMahon, 784 F. Supp. 3d at 323 ("On March 11, 2025, Defendants announced a massive reduction in force . . . cutting the Department's staff by half."). At a minimum, the relief ordered here is substantially encompassed within the relief granted in McMahon. In the Injunction here, the district court ordered as follows:

The Defendants are enjoined from carrying out the reduction-in-force announced on March 11, 2025 as to the employees of the Department of Education's Office for Civil Rights The Defendants shall stay the termination or elimination, and take all steps necessary to facilitate the return to duty, of all OCR employees whose employment was set to be terminated or otherwise eliminated as part of the reduction-in-force announced on March 11, 2025 to restore the OCR to the status quo such that it is able to carry out its statutory functions.

The relief ordered in McMahon is essentially the same, although not cabined to OCR:

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 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.

McMahon, 784 F. Supp. 3d at 374. That the two cases involve an identical challenged agency action and similar relief supports our determination that the McMahon stay order must inform our exercise of equitable discretion here even though, based on the text of the McMahon order, we do not know the grounds for the Supreme Court's decision to grant a stay in that case.

To be sure, the Plaintiff-Appellees have identified potential legal distinctions between their situation and those of the McMahon plaintiffs. As they have pointed out, some of their arguments in support of their Article III standing in this case are legally and factually different from the arguments put forward by the plaintiffs in McMahon. But given the significantly overlapping nature of the parties' injuries and the identical cause of those injuries, as well as the federal government's similar arguments against Article III standing in both cases, these distinctions are insufficiently material for us to conclude—at this early stage—that the standing analysis justifies a different stay outcome here than in the Supreme Court's grant of a stay in McMahon.³ And that leaves the scope of the injunctions as the main difference between the two cases, which appears to us, based on the arguments before us, insufficient to make this case not "like" McMahon at this preliminary stage.

We note the district court's careful analysis concluding that the Department's decision to reduce by half the staff of OCR, a statutorily-created office, imperils Congress's mandate that OCR "enforce federal civil rights laws that ban discrimination based on race, sex, and disability in the public education system." Victim Rts. L. Ctr., 2025 WL 1704311, at *1. Indeed, by Congress's design, OCR is to serve a key role in furthering equal access to public education in the United States by ensuring the implementation of federal legislation like the Civil Rights Act, *see id.*, as well as the promise of Brown v. Board of Education, 347 U.S. 483 (1954). "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." McMahon, 784 F. Supp. 3d at 373 (quoting Br. for Members of Congress as Amici Curiae Supporting Pls., McMahon, 784 F. Supp. 3d 311) (internal quotation marks omitted). In this stay posture and at this preliminary stage of the litigation, however, we cannot conclude that this case

³ The federal government does not appear to challenge T.R.'s Article III standing. It does argue, however, that even if T.R. could succeed on the merits of his claims, the only relief to which he would be entitled would be narrow and could not support the particular injunction here. The Plaintiff-Appellees have not presented a developed argument to us, at this stage, for why T.R.'s claims could support the injunction issued by the district court.

differs enough from McMahon to reach a contrary result to the Supreme Court's order staying the injunction in McMahon.

Our analysis of the Nken factors follows our conclusion that this case is of a piece with McMahon. Because this case is in effect a subset of another in which the Supreme Court has already issued a stay pending appeal, thus permitting the RIF challenged there to proceed, the government has made a strong showing that it is entitled to the same interim relief here. In light of the unique factual and legal overlap between these two cases, and the arguments presented by the parties in their briefing to us, we are persuaded at this preliminary stage that this is the sort of "like case" referred to by the Supreme Court in Boyle. 145 S. Ct. at 2654.

For all these reasons, the motion for a stay pending appeal is GRANTED. The accompanying motion for an administrative stay is DENIED AS MOOT.

AFRAME, Circuit Judge, concurring. I join my colleagues' conclusion that a stay is warranted here because this is a "like" case to McMahon under Boyle. New York v. McMahon, 606 U.S. ___, 145 S. Ct. 2643 (2025); Trump v. Boyle, 606 U.S. ___, 145 S. Ct. 2653 (2025). I write separately to emphasize that while the unreasoned order in McMahon was essential to resolving the government's stay appeal, that order's import will be limited as this case moves ahead.

Justice Kavanaugh has explained why the Supreme Court frequently does not issue reasoned orders when granting a stay of interim relief:

[A]n opinion for [the Supreme Court] addressing likelihood of success on the merits for an emergency application can sometimes come at a cost. A written opinion by [the] Court assessing likelihood of success on the merits at a preliminary stage can create a lock-in effect because of the opinion's potential vertical precedential effect (de jure or de facto), which can thereby predetermine the case's outcome in the proceedings in the lower courts and hamper percolation across other lower courts on the underlying merits question.

Labrador v. Poe, 601 U.S. ___, 144 S. Ct. 921, 933-34 (Kavanaugh, J., concurring). In other words, unreasoned orders from the Supreme Court allow space for judges "to think and decide differently when [they] know[] more." Trump v. CASA, 606 U.S. 831, 877 (2025) (Kavanaugh, J., concurring).

We have decided the interim relief question here based on Boyle's command for treating like cases alike and the limited information before us about the reasons grounding the McMahon stay. Presumably, this case will carry on and the record will grow. If we confront this case again, it may well be after the district court has issued a final decision on the merits. At that point, the legal question will not be governed by Boyle. Instead, the legal question will be whether the plaintiffs have met their burden to show that the RIF is unlawfully impeding the operation of the Office of Civil Rights such that the administration is failing to execute a key feature of Congress's

plan for providing universal equal access to public education. The Supreme Court's unreasoned stay order in McMahon will have little to do with deciding that ultimate question.

By the Court:

Anastasia Dubrovsky, Clerk

cc: Hon. Myong J. Joun, Robert Farrell, Clerk, United States District Court for the District of Massachusetts, Donald Campbell Lockhart, Abraham R. George, Melissa N. Patterson, Steven A. Myers, Lindsey Reid Skibell, Sean R. Ouellette, Jonathan Hale Friedman

1 STANLEY E. WOODWARD, JR.
 Associate Attorney General
 2 BRETT A. SHUMATE
 Assistant Attorney General
 3 ERIC J. HAMILTON
 Deputy Assistant Attorney General
 4 MICHAEL K. VELCHIK
 Senior Counsel to the Assistant Attorney General
 5 ELIZABETH HEDGES
 Counsel to the Assistant Attorney General
 6 Civil Division
 7 CHRISTOPHER R. HALL
 Assistant Branch Director
 8 BRAD P. ROSENBERG
 Special Counsel
 9 STEVEN M. CHASIN (DC Bar No. 495853)
 10 PIERCE J. ANON
 Trial Attorneys
 11 Civil Division, Federal Programs Branch
 12 U.S. Department of Justice
 13 1100 L Street, NW
 Washington, DC 20005
 14 Phone: (202) 305-0747
 15 E-mail: steven.m.chasin2@usdoj.gov
Attorneys for Defendants

16 **UNITED STATES DISTRICT COURT FOR THE**
 17 **NORTHERN DISTRICT OF CALIFORNIA**
 18 **SAN FRANCISCO DIVISION**

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

20 AMERICAN FEDERATION OF
 GOVERNMENT EMPLOYEES, AFL-CIO,
 21 et al.,

22 Plaintiffs,

23 v.

24 UNITED STATES OFFICE OF
 25 MANAGEMENT AND BUDGET, et al.,

26 Defendants.
 27
 28

**DECLARATION OF REESHA
 TR NADEL PURSUANT TO ORDER
 ISSUED AT NOVEMBER 14, 2025
 STATUS CONFERENCE**

1
2 I, Reesha Trznadel, declare as follows:

- 3 1. I am the Acting Chief Human Capital Officer at the Department of Energy (DOE),
4 headquartered in Washington, D.C. I have served in this position since February
5 27, 2025.
- 6
7 2. In my role at the DOE, I am responsible for personnel management. I am
8 responsible for tracking and recording personnel actions, including Reductions-in-
9 Force (RIFs). I assist in ensuring that all personnel actions comply with court
10 orders and federal law.
- 11
12 3. I make this declaration pursuant to the Court’s order at the November 14, 2025,
13 Status Conference in this case. As stated in the Minute Order dated November 17,
14 2025, summarizing that Status Conference, “The Court **ORDERED** that
15 Defendants file a report updating the Court on what actions have been taken on the
16 RIFs that were issued as of 10/1/2025.” ECF No. 115. I further understand that at
17 the Status Conference, the Court specified that this report should pertain to RIFs
18 which are within the scope of the Court’s temporary restraining order (TRO) (ECF
19 No. 56) and/or the preliminary injunction order (PI Order) (ECF No. 94) entered in
20 this case.
- 21
22 4. Plaintiffs in this lawsuit include eight national unions, American Federation of
23 Government Employees, AFL-CIO (“AFGE”), American Federation of State
24 County and Municipal Employees, AFL-CIO (“AFSCME”), National Federation
25 of Federal Employees (“NFFE”), Service Employees International Union
26 (“SEIU”), National Association of Government Employees, Inc. (“NAGE”),
27
28 National Treasury Employees Union (“NTEU”), International Federation of

1 Professional and Technical Engineers, AFL-CIO (“IFPTE”), and the American
2 Federation of Teachers (“AFT”), and two local California-based chapters, AFGE
3 Local 1236 and AFGE Local 3172.

4 5. I am aware of and have reviewed the Court’s October 15, 2025, TRO (ECF No.
5 56), which granted Plaintiffs temporary injunctive relief and restrained certain
6 Defendants from taking specified actions related to RIFs.

7
8 6. Specifically, the TRO provides that Defendants are restrained from:

- 9 1) taking any action to issue any Reduction in Force (“RIF”) notices to federal
10 employees in any PPA (program, project, or activity) that includes any
11 bargaining unit or member represented by any Plaintiff during or because of
12 the federal government shutdown, including but not limited to by taking any
13 action to implement or enforce the OMB Lapse Memorandum (dated
14 September 24, 2025), the portions of the related OPM Guidance for
15 Shutdown Furloughs (as revised September 28, 2025), the related OPM
16 “Special Instructions for Agencies Affected by a Possible Lapse in
17 Appropriations Starting on October 1, 2025” (dated September 28, 2025), or
18 any other decision or directive that purports to authorize or require issuance
19 of RIF notices during a shutdown;
- 20 2) taking any further action to administer or implement any RIF notices already
21 issued beginning on October 10, 2025 to federal employees in any PPA
22 (program, project, or activity) that includes any bargaining unit or member
23 represented by any Plaintiff, including but not limited to by requiring federal
24 employees to perform work to further administer or implement RIF notices
25 and by enforcing or counting any days towards any period of notice with
26 respect to those notices (i.e., the effective date of the RIF shall be stayed and
27 Defendants shall therefore toll the running of all RIF notice periods).

28 7. The TRO also required Defendants to report certain information by October 17,
2025:

Defendants shall serve and file an accounting of all RIFs, actual or imminent,
that are enjoined by this TRO, including but not limited to a description of
the agency that imposed or is planning to impose the enjoined RIF, the
number of employees included in the enjoined RIF, and description of the
PPAs that Defendants included in the enjoined RIF.

- 1 8. I am aware that the TRO subsequently was clarified and modified. *See* ECF No.
2 70, 82.
- 3 9. I also am aware of and have reviewed the Court’s October 28, 2025 PI Order (ECF
4 No. 94), which granted Plaintiffs preliminary injunctive relief and enjoined
5 Defendants from taking certain actions related to RIFs.
- 6
- 7 10. The Court’s PI Order provides that Defendants are enjoined from:
- 8 1) taking any action to issue any RIF notices during and because of the federal
9 government shutdown to federal employees in any PPA (program, project,
10 or activity) or competitive area that includes any bargaining unit or member
11 represented by any Plaintiff, including but not limited to by taking any
12 action to implement or enforce the OMB Lapse Memorandum (dated
13 September 24, 2025), the portions of the related OPM Guidance for
14 Shutdown Furloughs (as revised September 28, 2025), the related OPM
15 “Special Instructions for Agencies Affected by a Possible Lapse in
16 Appropriations Starting on October 1, 2025” (dated September 28, 2025), or
17 any other decision or directive that purports to authorize or require issuance
18 of RIF notices during a shutdown;
- 19 2) taking any action to administer or implement any RIF notices issued during
20 and because of the federal government shutdown to federal employees in
21 any PPA (program, project, or activity) or competitive area that includes any
22 bargaining unit or member represented by any Plaintiff, including but not
23 limited to by taking any action to implement or enforce the OMB Lapse
24 Memorandum (dated September 24, 2025), the portions of the related OPM
25 Guidance for Shutdown Furloughs (as revised September 28, 2025), the
26 related OPM “Special Instructions for Agencies Affected by a Possible
27 Lapse in Appropriations Starting on October 1, 2025” (dated September 28,
28 2025), or any other decision or directive that purports to authorize or require
issuance of RIF notices during a shutdown.
11. The PI Order specifies, with respect to the above, that:
- 1) The phrase “federal employees in any PPA (program, project, or activity) or competitive area that includes any bargaining unit or member represented by any Plaintiff” includes (a) “federal employees in any PPA or competitive area” in which Plaintiffs have any members, regardless of whether those members are employed in a bargaining unit that is represented by a Plaintiff; and (b) “federal employees in any PPA or competitive area” in which any Plaintiff is or was a recognized collective bargaining representative of a

1 bargaining unit prior to or after the issuance of Executive Orders 14251 and
2 14343, the effect of which is the subject of legal dispute.

- 3 2) The reference to issuance of RIF notices “during and because of the federal
4 government shutdown” or “during a shutdown” applies to any RIF notices
5 issued on or after October 1, 2025, and before the end of the federal
6 government shutdown, unless the Court determines following an evidentiary
7 hearing that the RIF was planned to occur independent of and before the
8 shutdown.

- 9 12. The PI Order also required Defendants to report certain information by November
10 4, 2025:

11 Each Defendant shall file an accounting of any RIFs that have been issued
12 on or after October 1, or that were in preparation at the time of this Court’s
13 temporary restraining order (TRO) (ECF 56), clarified and modified TROs
14 (ECF 70, 82), and/or preliminary injunction, including at a minimum
15 information identifying: a) the impacted PPAs or competitive areas,
16 including information or parameters (such as a description of the office or
17 program within the agency) used by the Defendant to define the PPAs or
18 competitive areas; b) whether each impacted PPA or competitive area
19 includes any employees subject to this Court’s injunction; c) how many
20 employees are within each such PPA or competitive area; and d) the number
21 of employees within each such PPA or competitive area whom Defendant
22 has identified as protected by the Court’s injunction.

- 23 13. The PI Order also required, by November 12, 2025, that each Defendant file a
24 declaration “detailing the steps it has taken to comply with this Court’s
25 injunction.”

- 26 14. Pursuant to these requirements in the TRO and PI Order, the agency previously
27 submitted declarations which explained, in relevant part, that the agency had
28 issued the following general RIF informational notices, within the scope of the
TRO and/or PI:

October 10, 2025, the agency issued general informational notices regarding
RIFs, without an effective date, to 180 people. The below offices include
employees subject to the Court’s injunction. Also noted below are the specific

1 number of general informational notices regarding RIFs the agency issued, the
2 total number of employees in the relevant PPA, and the relevant PPAs
3 involved, for offices in which Plaintiffs represent agency employees.

- 4
- 5 a. Assistant Secretary for Energy Efficiency and Renewable Energy (EERE),
6 54 RIF notices out of 284 employees (PPA: EERE) (NTEU
7 representation);
 - 8 b. Office of Clean Energy Demonstrations (OCED), 35 RIF notices out of 36
9 employees (PPA: OCED) (NTEU representation);
 - 10 c. Office of Minority Economic Impact (OMEI), 29 RIF notices out of 42
11 employees (PPA: OMEI) (NTEU representation); and
 - 12 d. Office of State and Community Energy Programs, 62 RIF notices out of
13 62 employees (NTEU representation) (PPA: EERE).

14
15 15. I understand that on November 12, 2025, the President signed into law H.R. 5371,
16 the “Continuing Appropriations, Agriculture, Legislative Branch, Military
17 Construction and Veterans Affairs, and Extensions Act, 2026” (referred to as the
18 Continuing Resolution or the “C.R.”). As relevant here, section 120(e) of the C.R.
19 provides:

20 (e) Notwithstanding section 106(1), any reduction in force proposed,
21 noticed, initiated, executed, implemented, or otherwise taken by an
22 Executive Agency between October 1, 2025, and the date of enactment,
23 shall have no force or effect.

24 (1) Any employee who received notice of being subject to such
25 a reduction in force shall have that notice rescinded and be returned
26 to employment status as of September 30, 2025, without
27 interruption. Such employees shall receive all pay to which they
28 otherwise would have been entitled in the absence of receiving such
notice, including backpay in accordance with section 116 of this
Act.

(2) Within 5 days of date of enactment of this Act, each
Federal agency shall send notice to all affected employees and the
chairs and ranking members of the Appropriations Committees of
the Senate and House of Representatives of the withdrawal of the

1 reduction in force notice and the affected employee's reinstatement,
2 if applicable.

3 (3) Notices must include reinstatement date and the amount of
4 back pay determined in paragraph (1), if applicable.

5 16. Pursuant to C.R. section 120(e), on November 13, 2025, DOE rescinded the
6 general informational RIF notices via email to each affected employee.

7 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true
8 and correct.

9
10 

Dated: November 20, 2025

11 _____
12 Reesha Trznadel
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27
28

1 STANLEY E. WOODWARD, JR.
 Associate Attorney General
 2 BRETT A. SHUMATE
 Assistant Attorney General
 3 ERIC J. HAMILTON
 Deputy Assistant Attorney General
 4 MICHAEL K. VELCHIK
 Senior Counsel to the Assistant Attorney General
 5 ELIZABETH HEDGES
 Counsel to the Assistant Attorney General
 6 CHRISTOPHER R. HALL
 Assistant Branch Director
 7 BRAD P. ROSENBERG
 Special Counsel
 8 STEVEN M. CHASIN (DC Bar No. 495853)
 9 PIERCE J. ANON
 Trial Attorneys
 10 Civil Division, Federal Programs Branch
 11 U.S. Department of Justice
 12 1100 L Street, NW
 13 Washington, DC 20005
 14 Phone: (202) 305-0747
 15 E-mail: steven.m.chasin2@usdoj.gov
Attorneys for Defendants

16 **UNITED STATES DISTRICT COURT FOR THE**
 17 **NORTHERN DISTRICT OF CALIFORNIA**
SAN FRANCISCO DIVISION

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

20 Plaintiffs,

21 v.

22 UNITED STATES OFFICE OF
 23 MANAGEMENT AND BUDGET, et al.,

24 Defendants.

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

**DECLARATION OF THOMAS J
 NAGY JR PURSUANT TO ORDER
 ISSUED AT NOVEMBER 14, 2025,
 STATUS CONFERENCE**

1 I, Thomas J. Nagy Jr., declare as follows:

2 1. I am the Deputy Assistant Secretary for Human Resources/Chief Human Capital
3 Officer at the U.S. Department of Health and Human Services (HHS), headquartered in
4 Washington, DC. I have served in this position since March 27, 2025.

5 2. In my role at HHS, I am responsible for personnel management. I have the
6 responsibility of overseeing the tracking and recording of personnel actions, including
7 Reductions-in-Force (RIFs). I assist in ensuring that all personnel actions comply with court
8 orders and federal law.

9 3. I make this declaration pursuant to the Court's order at the November 14, 2025,
10 Status Conference in this case. As stated in the Minute Order dated November 17, 2025,
11 summarizing that Status Conference, "The Court **ORDERED** that Defendants file a report
12 updating the Court on what actions have been taken on the rifs that were issued as of 10/1/2025."
13 ECF No. 115. I further understand that at the Status Conference, the Court specified that this
14 report should pertain to RIFs which are within the scope of the Court's temporary restraining
15 order (TRO) (ECF No. 56) and/or the preliminary injunction order (PI Order) (ECF No. 94)
16 entered in this case.

17 4. Plaintiffs in this lawsuit include eight national unions, American Federation of
18 Government Employees, AFL-CIO ("AFGE"), American Federation of State County and
19 Municipal Employees, AFL-CIO ("AFSCME"), National Federation of Federal Employees
20 ("NFFE"), Service Employees International Union ("SEIU"), National Association of
21 Government Employees, Inc. ("NAGE"), National Treasury Employees Union ("NTEU"),
22 International Federation of Professional and Technical Engineers, AFL-CIO ("IFPTE"), and the
23 American Federation of Teachers ("AFT"), and two local California-based chapters, AFGE
24 Local 1236 and AFGE Local 3172.

25 5. I am aware of and have reviewed the Court's October 15, 2025, TRO (ECF No.
26 56), which granted Plaintiffs temporary injunctive relief and restrained certain Defendants from
27 taking specified actions related to RIFs.

28 6. Specifically, the TRO provides that Defendants are restrained from:

- 1) taking any action to issue any Reduction in Force (“RIF”) notices to federal employees in any PPA (program, project, or activity) that includes any bargaining unit or member represented by any Plaintiff during or because of the federal government shutdown, including but not limited to by taking any action to implement or enforce the OMB Lapse Memorandum (dated September 24, 2025), the portions of the related OPM Guidance for Shutdown Furloughs (as revised September 28, 2025), the related OPM “Special Instructions for Agencies Affected by a Possible Lapse in Appropriations Starting on October 1, 2025” (dated September 28, 2025), or any other decision or directive that purports to authorize or require issuance of RIF notices during a shutdown;
- 2) taking any further action to administer or implement any RIF notices already issued beginning on October 10, 2025 to federal employees in any PPA (program, project, or activity) that includes any bargaining unit or member represented by any Plaintiff, including but not limited to by requiring federal employees to perform work to further administer or implement RIF notices and by enforcing or counting any days towards any period of notice with respect to those notices (i.e., the effective date of the RIF shall be stayed and Defendants shall therefore toll the running of all RIF notice periods).

7. The TRO also required Defendants to report certain information by October 17,

2025:

Defendants shall serve and file an accounting of all RIFs, actual or imminent, that are enjoined by this TRO, including but not limited to a description of the agency that imposed or is planning to impose the enjoined RIF, the number of employees included in the enjoined RIF, and description of the PPAs that Defendants included in the enjoined RIF.

8. I am aware that the TRO subsequently was clarified and modified. *See* ECF No.

70, 82.

9. I also am aware of and have reviewed the Court’s October 28, 2025, PI Order (ECF No. 94), which granted Plaintiffs preliminary injunctive relief and enjoined Defendants from taking certain actions related to RIFs.

10. The Court’s PI Order provides that Defendants are enjoined from:

- 1) taking any action to issue any RIF notices during and because of the federal government shutdown to federal employees in any PPA (program, project, or activity) or competitive area that includes any bargaining unit or member represented by any Plaintiff, including but not limited to by taking any action to implement or enforce the OMB Lapse Memorandum (dated September 24, 2025), the portions of the related OPM Guidance for Shutdown Furloughs (as revised September 28, 2025), the related OPM “Special Instructions for Agencies Affected by a Possible Lapse in Appropriations Starting on October

1 1, 2025” (dated September 28, 2025), or any other decision or directive that
purports to authorize or require issuance of RIF notices during a shutdown;

- 2) taking any action to administer or implement any RIF notices issued during
and because of the federal government shutdown to federal employees in any
PPA (program, project, or activity) or competitive area that includes any
bargaining unit or member represented by any Plaintiff, including but not
limited to by taking any action to implement or enforce the OMB Lapse
Memorandum (dated September 24, 2025), the portions of the related OPM
Guidance for Shutdown Furloughs (as revised September 28, 2025), the
related OPM “Special Instructions for Agencies Affected by a Possible Lapse
in Appropriations Starting on October 1, 2025” (dated September 28, 2025),
or any other decision or directive that purports to authorize or require issuance
of RIF notices during a shutdown.

11. The PI Order specifies, with respect to the above, that:

- 1) The phrase “federal employees in any PPA (program, project, or activity) or
competitive area that includes any bargaining unit or member represented by
any Plaintiff” includes (a) “federal employees in any PPA or competitive
area” in which Plaintiffs have any members, regardless of whether those
members are employed in a bargaining unit that is represented by a Plaintiff;
and (b) “federal employees in any PPA or competitive area” in which any
Plaintiff is or was a recognized collective bargaining representative of a
bargaining unit prior to or after the issuance of Executive Orders 14251 and
14343, the effect of which is the subject of legal dispute.
- 2) The reference to issuance of RIF notices “during and because of the federal
government shutdown” or “during a shutdown” applies to any RIF notices
issued on or after October 1, 2025, and before the end of the federal
government shutdown, unless the Court determines following an evidentiary
hearing that the RIF was planned to occur independent of and before the
shutdown.

12. The PI Order also required Defendants to report certain information by November
4, 2025:

Each Defendant shall file an accounting of any RIFs that have been issued on or
after October 1, or that were in preparation at the time of this Court’s temporary
restraining order (TRO) (ECF 56), clarified and modified TROs (ECF 70, 82),
and/or preliminary injunction, including at a minimum information identifying: a)
the impacted PPAs or competitive areas, including information or parameters
(such as a description of the office or program within the agency) used by the
Defendant to define the PPAs or competitive areas; b) whether each impacted
PPA or competitive area includes any employees subject to this Court’s
injunction; c) how many employees are within each such PPA or competitive
area; and d) the number of employees within each such PPA or competitive area
whom Defendant has identified as protected by the Court’s injunction.

1 13. The PI Order also required, by November 12, 2025, that each Defendant file a
2 declaration “detailing the steps it has taken to comply with this Court’s injunction.”

3 14. Pursuant to these requirements in the TRO and PI Order, I previously submitted
4 declarations explaining the RIF notices that HHS had issued, and identifying those that are
5 within the scope of the TRO and/or PI:

6 On October 10, 2025, HHS issued RIF notices to 954 people, not inclusive of
7 those that have since been rescinded. In the attached chart, I have identified (a)
8 the impacted competitive areas , including a description of the competitive area;
9 (b) whether each competitive area includes any employees subject to this Court’s
injunction; (c) the number of employees that are within each competitive area;
and (d) the number of employees within each competitive area whom HHS has
identified as protected by the Court’s injunction.

10 See ECF Nos. 102-7 9 103-1 9 attached chart; see a so ECF 71-3 4 attached chart.

11 15. I understand that on November 12, 2025, the President signed into law H.R. 5371,
12 the “Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and
13 Veterans Affairs, and Extensions Act, 2026” (referred to as the Continuing Resolution or the
14 “C.R.”). As relevant here, section 120(e) of the C.R. provides:

15 (e) Notwithstanding section 106(1), any reduction in force proposed, noticed,
16 initiated, executed, implemented, or otherwise taken by an Executive Agency
17 between October 1, 2025, and the date of enactment, shall have no force or effect.

18 (1) Any employee who received notice of being subject to such a reduction in
19 force shall have that notice rescinded and be returned to employment status as
20 of September 30, 2025, without interruption. Such employees shall receive all
21 pay to which they otherwise would have been entitled in the absence of
22 receiving such notice, including backpay in accordance with section 116 of
23 this Act.

24 (2) Within 5 days of date of enactment of this Act, each Federal agency shall send
25 notice to all affected employees and the chairs and ranking members of the
26 Appropriations Committees of the Senate and House of Representatives of the
27 withdrawal of the reduction in force notice and the affected employee’s
28 reinstatement, if applicable.

(3) Notices must include reinstatement date and the amount of back pay
determined in paragraph (1), if applicable.

16. Pursuant to C.R. section 120(e), HHS has rescinded the RIF notices issued to the
954 employees referenced in Paragraph 14, *s ra*.

1 17. By Monday, November 17, 2025, the Office of the Chief Information Officer had
2 restored physical and logical access to these 954 employees.

3 18. On Monday, November 17, 2025, the Office of Human Resources sent notice by
4 email to these 954 employees that their RIF notices had been rescinded and that they should
5 return to work on their next regularly scheduled workday. These notices were sent to work email
6 addresses and, where available, to personal email addresses.

7 19. On Monday, November 17, 2025, the chairs and ranking members of the
8 Appropriations Committees of the Senate and House of Representatives were provided notice
9 that the RIF notices to these 954 employees had been rescinded.

10 20. By Friday, November 21, 2025, these 954 employees will have received their
11 retroactive pay for the period during which appropriations had lapsed, from October 1, 2025, to
12 November 12, 2025.

13 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true
14 and correct.

15 Dated: November 21, 2025

16
17 THOMAS J.
NAGY JR -S

Digitally signed by THOMAS J.
NAGY JR -S
Date: 2025.11.21 13:09:43 -05'00'

18 Thomas J. Nagy Jr.
19 Deputy Assistant Secretary for Human Resources/Chief Human
Capital Officer
20 U.S. Department of Health and Human Services
21
22
23
24
25
26
27
28

1 STANLEY E. WOODWARD, JR.
 Associate Attorney General
 2 BRETT A. SHUMATE
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 Special Counsel
 9 STEVEN M. CHASIN (DC Bar No. 495853)
 10 PIERCE J. ANON
 Trial Attorneys
 11 Civil Division, Federal Programs Branch
 12 U.S. Department of Justice
 13 1100 L Street, NW
 Washington, DC 20005
 14 Phone: (202) 305-0747
 15 E-mail: steven.m.chasin2@usdoj.gov
Attorneys for Defendants

16 **UNITED STATES DISTRICT COURT FOR THE**
 17 **NORTHERN DISTRICT OF CALIFORNIA**
 18 **SAN FRANCISCO DIVISION**

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

20 AMERICAN FEDERATION OF
 GOVERNMENT EMPLOYEES, AFL-CIO,
 21 et al.,

22 Plaintiffs,

23 v.

24 UNITED STATES OFFICE OF
 25 MANAGEMENT AND BUDGET, et al.,

26 Defendants.
 27
 28

**DECLARATION OF LORI
 MICHALS I PURSUANT TO ORDER
 ISSUED AT NOVEMBER 14, 2025
 STATUS CONFERENCE**

1
2 I, Lori Michalski, declare as follows:

- 3 1. I am the General Deputy Assistant Secretary, Office of Administration, at the U.S.
4 Department of Housing and Urban Development (HUD), headquartered in Washington,
5 D.C. I have served in this position since October 5, 2025.
- 6
7 2. In my role as the General Deputy Assistant Secretary, I am responsible for personnel
8 management. I have the responsibility for tracking and recording personnel actions,
9 including Reductions-in-Force (RIFs). I assist in ensuring that all personnel actions
10 comply with court orders and federal law.
- 11
12 3. I make this declaration pursuant to the Court’s order at the November 14, 2025 Status
13 Conference in this case. As stated in the Minute Order dated November 17, 2025
14 summarizing that Status Conference, “The Court **ORDERED** that Defendants file a
15 report updating the Court on what actions have been taken on the RIFs that were issued as
16 of 10/1/2025.” ECF No. 115. I further understand that at the Status Conference, the
17 Court specified that this report should pertain to RIFs which are within the scope of the
18 Court’s temporary restraining order (TRO) (ECF No. 56) and/or the preliminary
19 injunction order (PI Order) (ECF No. 94) entered in this case.
- 20
21 4. Plaintiffs in this lawsuit include eight national unions, American Federation of
22 Government Employees, AFL-CIO (“AFGE”), American Federation of State County and
23 Municipal Employees, AFL-CIO (“AFSCME”), National Federation of Federal
24 Employees (“NFFE”), Service Employees International Union (“SEIU”), National
25 Association of Government Employees, Inc. (“NAGE”), National Treasury Employees
26 Union (“NTEU”), International Federation of Professional and Technical Engineers,
27
28

1 AFL-CIO (“IFPTE”), and the American Federation of Teachers (“AFT”), and two local
2 California-based chapters, AFGE Local 1236 and AFGE Local 3172.

3 5. I am aware of and have reviewed the Court’s October 15, 2025 TRO (ECF No. 56),
4 which granted Plaintiffs temporary injunctive relief and restrained certain Defendants
5 from taking specified actions related to RIFs.

6
7 6. Specifically, the TRO provides that Defendants are restrained from:

8 1) taking any action to issue any Reduction in Force (“RIF”) notices to federal
9 employees in any PPA (program, project, or activity) that includes any
10 bargaining unit or member represented by any Plaintiff during or because of
11 the federal government shutdown, including but not limited to by taking any
12 action to implement or enforce the OMB Lapse Memorandum (dated
13 September 24, 2025), the portions of the related OPM Guidance for Shutdown
14 Furloughs (as revised September 28, 2025), the related OPM “Special
Instructions for Agencies Affected by a Possible Lapse in Appropriations
Starting on October 1, 2025” (dated September 28, 2025), or any other
decision or directive that purports to authorize or require issuance of RIF
notices during a shutdown;

15 2) taking any further action to administer or implement any RIF notices already
16 issued beginning on October 10, 2025 to federal employees in any PPA (program,
17 project, or activity) that includes any bargaining unit or member represented by
18 any Plaintiff, including but not limited to by requiring federal employees to
19 perform work to further administer or implement RIF notices and by enforcing or
20 counting any days towards any period of notice with respect to those notices (i.e.,
the effective date of the RIF shall be stayed and Defendants shall therefore toll the
running of all RIF notice periods).

21 7. The TRO also required Defendants to report certain information by October 17, 2025:

22 Defendants shall serve and file an accounting of all RIFs, actual or imminent, that
23 are enjoined by this TRO, including but not limited to a description of the agency
24 that imposed or is planning to impose the enjoined RIF, the number of employees
25 included in the enjoined RIF, and description of the PPAs that Defendants included
26 in the enjoined RIF.

27 8. I am aware that the TRO subsequently was clarified and modified. *See* ECF No. 70, 82.
28

1 9. I also am aware of and have reviewed the Court’s October 28, 2025 PI Order (ECF No.
2 94), which granted Plaintiffs preliminary injunctive relief and enjoined Defendants from
3 taking certain actions related to RIFs.

4 10. The Court’s PI Order provides that Defendants are enjoined from:

- 5
- 6 1) taking any action to issue any RIF notices during and because of the federal
7 government shutdown to federal employees in any PPA (program, project, or
8 activity) or competitive area that includes any bargaining unit or member
9 represented by any Plaintiff, including but not limited to by taking any action
10 to implement or enforce the OMB Lapse Memorandum (dated September 24,
11 2025), the portions of the related OPM Guidance for Shutdown Furloughs (as
12 revised September 28, 2025), the related OPM “Special Instructions for
13 Agencies Affected by a Possible Lapse in Appropriations Starting on October
14 1, 2025” (dated September 28, 2025), or any other decision or directive that
15 purports to authorize or require issuance of RIF notices during a shutdown;
 - 16 2) taking any action to administer or implement any RIF notices issued during
17 and because of the federal government shutdown to federal employees in any
18 PPA (program, project, or activity) or competitive area that includes any
19 bargaining unit or member represented by any Plaintiff, including but not
20 limited to by taking any action to implement or enforce the OMB Lapse
21 Memorandum (dated September 24, 2025), the portions of the related OPM
22 Guidance for Shutdown Furloughs (as revised September 28, 2025), the
23 related OPM “Special Instructions for Agencies Affected by a Possible Lapse
24 in Appropriations Starting on October 1, 2025” (dated September 28, 2025),
25 or any other decision or directive that purports to authorize or require issuance
26 of RIF notices during a shutdown.

27 11. The PI Order specifies, with respect to the above, that:

- 28
- 1) The phrase “federal employees in any PPA (program, project, or activity) or competitive area that includes any bargaining unit or member represented by any Plaintiff” includes (a) “federal employees in any PPA or competitive area” in which Plaintiffs have any members, regardless of whether those members are employed in a bargaining unit that is represented by a Plaintiff; and (b) “federal employees in any PPA or competitive area” in which any Plaintiff is or was a recognized collective bargaining representative of a bargaining unit prior to or after the issuance of Executive Orders 14251 and 14343, the effect of which is the subject of legal dispute.
 - 2) The reference to issuance of RIF notices “during and because of the federal government shutdown” or “during a shutdown” applies to any RIF notices issued on or after October 1, 2025, and before the end of the federal

1 government shutdown, unless the Court determines following an evidentiary
2 hearing that the RIF was planned to occur independent of and before the
3 shutdown.

4 12. The PI Order also required Defendants to report certain information by November 4,
5 2025:

6 Each Defendant shall file an accounting of any RIFs that have been issued on or
7 after October 1, or that were in preparation at the time of this Court's temporary
8 restraining order (TRO) (ECF 56), clarified and modified TROs (ECF 70, 82),
9 and/or preliminary injunction, including at a minimum information identifying: a)
10 the impacted PPAs or competitive areas, including information or parameters
11 (such as a description of the office or program within the agency) used by the
12 Defendant to define the PPAs or competitive areas; b) whether each impacted
13 PPA or competitive area includes any employees subject to this Court's
14 injunction; c) how many employees are within each such PPA or competitive
15 area; and d) the number of employees within each such PPA or competitive area
16 whom Defendant has identified as protected by the Court's injunction.

17 13. The PI Order also required, by November 12, 2025, that each Defendant file a declaration
18 "detailing the steps it has taken to comply with this Court's injunction."

19 14. Pursuant to these requirements in the TRO and PI Order, the agency previously submitted
20 declarations which explained, in relevant part, that the agency had issued the following
21 RIF notices, within the scope of the TRO and/or PI:

22 a) In a declaration that was submitted to the Court on October 17, 2025, I
23 identified that on October 10, 2025, HUD issued RIF notices to a total of 442
24 employees, 8 specific competitive areas in which these employees who
25 received RIF notices are located, as well the specific number of AFGE
26 bargaining unit employees in each of the competitive areas whose RIF notices
27 were enjoined by the TRO. There was a total of 333 AFGE bargaining unit
28 employees whose RIF notices were enjoined by the TRO. *See* ECF No. 62-9.

1 b) In a declaration that was submitted to the Court on November 4, 2025, I again
2 identified that on October 10, 2025, HUD issued RIF notices to a total of 442
3 employees. In addition, I provided a description of the 8 competitive areas
4 that I previously identified; indicated that all of the competitive areas include
5 employees subject to the Court’s injunction; the total number of employees in
6 each of the 8 competitive areas; and the number of employees within each of
7 the 8 competitive areas that HUD identified as protected by the Court’s
8 injunction. The total number of employees protected by the Court’s
9 injunction was 442. Finally, I also confirmed that HUD had not prepared and
10 was not preparing any additional RIF notices other than the 442 RIF notices
11 that were previously issued on October 10, 2025. *See* ECF No. 102-8.

14 c) In a second declaration that was submitted to the Court on November 12,
15 2025, in order to provide clarity regarding the November 4, 2025, declaration,
16 I indicated that HUD understands that the injunction prohibits taking any
17 action to administer or enforce RIF notices issued to any of the employees in
18 the competitive areas identified in the November 4 declaration. *See* ECF No.
19 112-10.

21 15. I understand that on November 12, 2025, the President signed into law H.R. 5371, the
22 “Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and
23 Veterans Affairs, and Extensions Act, 2026” (referred to as the Continuing Resolution or
24 the “C.R.”). As relevant here, section 120(e) of the C.R. provides:

26 (e) Notwithstanding section 106(1), any reduction in force proposed,
27 noticed, initiated, executed, implemented, or otherwise taken by an
28 Executive Agency between October 1, 2025, and the date of enactment,
 shall have no force or effect.

1 (1) Any employee who received notice of being subject to such
2 a reduction in force shall have that notice rescinded and be returned
3 to employment status as of September 30, 2025, without
4 interruption. Such employees shall receive all pay to which they
5 otherwise would have been entitled in the absence of receiving such
6 notice, including backpay in accordance with section 116 of this Act.

7 (2) Within 5 days of date of enactment of this Act, each
8 Federal agency shall send notice to all affected employees and the
9 chairs and ranking members of the Appropriations Committees of
10 the Senate and House of Representatives of the withdrawal of the
11 reduction in force notice and the affected employee's reinstatement,
12 if applicable.

13 (3) Notices must include reinstatement date and the amount of
14 back pay determined in paragraph (1), if applicable.

15 16. Pursuant to C.R. section 120(e), on November 13, 2025, HUD notified each of the 442
16 employees who previously received a RIF notice on October 10, 2025, that their RIF
17 notices have been rescinded and that they are returned to active-duty status and are
18 expected to resume normal work duties immediately. The payment of backpay in
19 accordance with section 116 of the Act for these employees is expected to be completed
20 by November 20, 2025, and no later than November 24, 2025 for any whose timecards
21 have not been timely validated. On November 14, 2025, HUD notified the chairs and
22 ranking members of the Appropriations Committees of the Senate and House of
23 Representatives of the RIF rescission notices.

24 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true
25 and correct.

26 Dated: November 20, 2025

27 *Lori A. Michalski*

28 s

1 STANLEY E. WOODWARD, JR.
 Associate Attorney General
 2 BRETT A. SHUMATE
 Assistant Attorney General
 3 ERIC J. HAMILTON
 Deputy Assistant Attorney General
 4 MICHAEL K. VELCHIK
 Senior Counsel to the Assistant Attorney General
 5 ELIZABETH HEDGES
 Counsel to the Assistant Attorney General
 6 Civil Division
 7 CHRISTOPHER R. HALL
 Assistant Branch Director
 8 BRAD P. ROSENBERG
 Special Counsel
 9 STEVEN M. CHASIN (DC Bar No. 495853)
 10 PIERCE J. ANON
 Trial Attorneys
 11 Civil Division, Federal Programs Branch
 12 U.S. Department of Justice
 13 1100 L Street, NW
 Washington, DC 20005
 14 Phone: (202) 305-0747
 15 E-mail: steven.m.chasin2@usdoj.gov
Attorneys for Defendants

16 **UNITED STATES DISTRICT COURT FOR THE**
 17 **NORTHERN DISTRICT OF CALIFORNIA**
 18 **SAN FRANCISCO DIVISION**

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

20 AMERICAN FEDERATION OF
 GOVERNMENT EMPLOYEES, AFL-CIO,
 21 et al.,

22 Plaintiffs,

23 v.

24 UNITED STATES OFFICE OF
 25 MANAGEMENT AND BUDGET, et al.,

26 Defendants.
 27
 28

**DECLARATION OF TREVOR
 NORRIS PURSUANT TO ORDER
 ISSUED AT NOVEMBER 14, 2025
 STATUS CONFERENCE**

1
2 Pursuant to 28 U.S.C. § 1746, I, Trevor Norris, declare as follows:

- 3
4 1. I am the Deputy Assistant Secretary for Human Resources at the United States
5 Department of the Treasury, headquartered in Washington, D.C. I have served in this
6 position since September 3, 2017.
- 7
8 2. In my role at the United States Department of the Treasury, I am responsible for
9 personnel management. I have the responsibility for tracking and recording personnel
10 actions, including Reductions-in-Force (RIFs). I assist in ensuring that all personnel
11 actions comply with court orders and federal law.
- 12
13 3. I make this declaration pursuant to the Court’s order at the November 14, 2025 Status
14 Conference in this case. As stated in the Minute Order dated November 17, 2025
15 summarizing that Status Conference, “The Court **ORDERED** that Defendants file a
16 report updating the Court on what actions have been taken on the RIFs that were issued as
17 of 10/1/2025.” ECF No. 115. I further understand that at the Status Conference, the
18 Court specified that this report should pertain to RIFs which are within the scope of the
19 Court’s temporary restraining order (TRO) (ECF No. 56) and/or the preliminary
20 injunction order (PI Order) (ECF No. 94) entered in this case.
- 21
22 4. Plaintiffs in this lawsuit include eight national unions, American Federation of
23 Government Employees, AFL-CIO (“AFGE”), American Federation of State County and
24 Municipal Employees, AFL-CIO (“AFSCME”), National Federation of Federal
25 Employees (“NFFE”), Service Employees International Union (“SEIU”), National
26 Association of Government Employees, Inc. (“NAGE”), National Treasury Employees
27 Union (“NTEU”), International Federation of Professional and Technical Engineers,
28

1 AFL-CIO (“IFPTE”), and the American Federation of Teachers (“AFT”), and two local
2 California-based chapters, AFGE Local 1236 and AFGE Local 3172.

3 5. I am aware of and have reviewed the Court’s October 15, 2025 TRO (ECF No. 56),
4 which granted Plaintiffs temporary injunctive relief and restrained certain Defendants
5 from taking specified actions related to RIFs.

6
7 6. Specifically, the TRO provides that Defendants are restrained from:

8 1) taking any action to issue any Reduction in Force (“RIF”) notices to federal
9 employees in any PPA (program, project, or activity) that includes any
10 bargaining unit or member represented by any Plaintiff during or because of
11 the federal government shutdown, including but not limited to by taking any
12 action to implement or enforce the OMB Lapse Memorandum (dated
13 September 24, 2025), the portions of the related OPM Guidance for Shutdown
14 Furloughs (as revised September 28, 2025), the related OPM “Special
Instructions for Agencies Affected by a Possible Lapse in Appropriations
Starting on October 1, 2025” (dated September 28, 2025), or any other
decision or directive that purports to authorize or require issuance of RIF
notices during a shutdown;

15 2) taking any further action to administer or implement any RIF notices already
16 issued beginning on October 10, 2025 to federal employees in any PPA (program,
17 project, or activity) that includes any bargaining unit or member represented by
18 any Plaintiff, including but not limited to by requiring federal employees to
19 perform work to further administer or implement RIF notices and by enforcing or
20 counting any days towards any period of notice with respect to those notices (i.e.,
the effective date of the RIF shall be stayed and Defendants shall therefore toll the
running of all RIF notice periods).

21 7. The TRO also required Defendants to report certain information by October 17, 2025:

22 Defendants shall serve and file an accounting of all RIFs, actual or imminent, that
23 are enjoined by this TRO, including but not limited to a description of the agency
24 that imposed or is planning to impose the enjoined RIF, the number of employees
25 included in the enjoined RIF, and description of the PPAs that Defendants included
in the enjoined RIF.

26 8. I am aware that the TRO subsequently was clarified and modified. *See* ECF No. 70, 82.

1 9. I also am aware of and have reviewed the Court’s October 28, 2025 PI Order (ECF No.
2 94), which granted Plaintiffs preliminary injunctive relief and enjoined Defendants from
3 taking certain actions related to RIFs.

4 10. The Court’s PI Order provides that Defendants are enjoined from:

- 5
- 6 1) taking any action to issue any RIF notices during and because of the federal
7 government shutdown to federal employees in any PPA (program, project, or
8 activity) or competitive area that includes any bargaining unit or member
9 represented by any Plaintiff, including but not limited to by taking any action
10 to implement or enforce the OMB Lapse Memorandum (dated September 24,
11 2025), the portions of the related OPM Guidance for Shutdown Furloughs (as
12 revised September 28, 2025), the related OPM “Special Instructions for
13 Agencies Affected by a Possible Lapse in Appropriations Starting on October
14 1, 2025” (dated September 28, 2025), or any other decision or directive that
15 purports to authorize or require issuance of RIF notices during a shutdown;
 - 16 2) taking any action to administer or implement any RIF notices issued during
17 and because of the federal government shutdown to federal employees in any
18 PPA (program, project, or activity) or competitive area that includes any
19 bargaining unit or member represented by any Plaintiff, including but not
20 limited to by taking any action to implement or enforce the OMB Lapse
21 Memorandum (dated September 24, 2025), the portions of the related OPM
22 Guidance for Shutdown Furloughs (as revised September 28, 2025), the
23 related OPM “Special Instructions for Agencies Affected by a Possible Lapse
24 in Appropriations Starting on October 1, 2025” (dated September 28, 2025),
25 or any other decision or directive that purports to authorize or require issuance
26 of RIF notices during a shutdown.

19 11. The PI Order specifies, with respect to the above, that:

- 20
- 21 1) The phrase “federal employees in any PPA (program, project, or activity) or
22 competitive area that includes any bargaining unit or member represented by
23 any Plaintiff” includes (a) “federal employees in any PPA or competitive
24 area” in which Plaintiffs have any members, regardless of whether those
25 members are employed in a bargaining unit that is represented by a Plaintiff;
26 and (b) “federal employees in any PPA or competitive area” in which any
27 Plaintiff is or was a recognized collective bargaining representative of a
28 bargaining unit prior to or after the issuance of Executive Orders 14251 and
14343, the effect of which is the subject of legal dispute.
 - 2) The reference to issuance of RIF notices “during and because of the federal
government shutdown” or “during a shutdown” applies to any RIF notices
issued on or after October 1, 2025, and before the end of the federal

1 government shutdown, unless the Court determines following an evidentiary
2 hearing that the RIF was planned to occur independent of and before the
3 shutdown.

4 12. The PI Order also required Defendants to report certain information by November 4,
5 2025:

6 Each Defendant shall file an accounting of any RIFs that have been issued on or
7 after October 1, or that were in preparation at the time of this Court's temporary
8 restraining order (TRO) (ECF 56), clarified and modified TROs (ECF 70, 82),
9 and/or preliminary injunction, including at a minimum information identifying: a)
10 the impacted PPAs or competitive areas, including information or parameters
11 (such as a description of the office or program within the agency) used by the
12 Defendant to define the PPAs or competitive areas; b) whether each impacted
13 PPA or competitive area includes any employees subject to this Court's
14 injunction; c) how many employees are within each such PPA or competitive
15 area; and d) the number of employees within each such PPA or competitive area
16 whom Defendant has identified as protected by the Court's injunction.

17 13. The PI Order also required, by November 12, 2025, that each Defendant file a declaration
18 "detailing the steps it has taken to comply with this Court's injunction."

19 14. Pursuant to these requirements in the TRO and PI Order, the agency previously submitted
20 declarations which explained, in relevant part, that on October 10, 2025, the agency
21 issued RIF notices within the scope of the TRO and/or PI to 1399 people: 1313
22 employees at IRS and 86 employees at Departmental Offices (see ECF No. 102-10, 9).

23 15. I understand that on November 12, 2025, the President signed into law H.R. 5371, the
24 "Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and
25 Veterans Affairs, and Extensions Act, 2026" (referred to as the Continuing Resolution or
26 the "C.R."). As relevant here, section 120(e) of the C.R. provides:

27 (e) Notwithstanding section 106(1), any reduction in force proposed,
28 noticed, initiated, executed, implemented, or otherwise taken by an
Executive Agency between October 1, 2025, and the date of enactment,
shall have no force or effect.

(1) Any employee who received notice of being subject to such

1 a reduction in force shall have that notice rescinded and be returned
2 to employment status as of September 30, 2025, without
3 interruption. Such employees shall receive all pay to which they
4 otherwise would have been entitled in the absence of receiving such
5 notice, including backpay in accordance with section 116 of this Act.

6 (2) Within 5 days of date of enactment of this Act, each
7 Federal agency shall send notice to all affected employees and the
8 chairs and ranking members of the Appropriations Committees of
9 the Senate and House of Representatives of the withdrawal of the
10 reduction in force notice and the affected employee’s reinstatement,
11 if applicable.

12 (3) Notices must include reinstatement date and the amount of
13 back pay determined in paragraph (1), if applicable.

14 16. Pursuant to C.R. section 120(e), on November 17, 2025, IRS sent notices to 1,313

15 employees rescinding the RIF notices that had been issued to them on October 10, 2025.

16 Likewise, on November 17, 2025, Treasury’s Departmental Offices sent notices to the 85
17 employees who had received RIF notices on October 10, 2025, rescinding those notices¹.

18 In sum, all Treasury employees who received RIF notices have now received notices that
19 those RIFs have been rescinded.

20 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true
21 and correct.

22 Dated: November 21, 2025

23 **John T. Norris** Digitally signed by
24 John T. Norris
25 Date: 2025.11.21
26 14:26:40 -05'00'

27 Trevor Norris

28 ¹ Upon review it was discovered that one of the 86 Departmental Offices RIF notices was erroneously issued to an
employee who had retired prior to October 1, 2025. Because this notice was sent to a deactivated official email
account and was never received by the employee, no rescission was issued.

1 STANLEY E. WOODWARD, JR.
 Associate Attorney General
 2 BRETT A. SHUMATE
 Assistant Attorney General
 3 ERIC J. HAMILTON
 Deputy Assistant Attorney General
 4 MICHAEL K. VELCHIK
 Senior Counsel to the Assistant Attorney General
 5 ELIZABETH HEDGES
 Counsel to the Assistant Attorney General
 6 Civil Division
 7 CHRISTOPHER R. HALL
 Assistant Branch Director
 8 BRAD P. ROSENBERG
 Special Counsel
 9 STEVEN M. CHASIN (DC Bar No. 495853)
 10 PIERCE J. ANON
 Trial Attorneys
 11 Civil Division, Federal Programs Branch
 12 U.S. Department of Justice
 13 1100 L Street, NW
 Washington, DC 20005
 14 Phone: (202) 305-0747
 E-mail: steven.m.chasin2@usdoj.gov
 15 *Attorneys for Defendants*

16 **UNITED STATES DISTRICT COURT FOR THE**
 17 **NORTHERN DISTRICT OF CALIFORNIA**
 18 **SAN FRANCISCO DIVISION**

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

20 AMERICAN FEDERATION OF
 GOVERNMENT EMPLOYEES, AFL-CIO,
 21 et al.,

22 Plaintiffs,

23 v.

24 UNITED STATES OFFICE OF
 25 MANAGEMENT AND BUDGET, et al.,

26 Defendants.
 27
 28

**DECLARATION OF RISTI ELLS
 PURSUANT TO ORDER ISSUED AT
 NOVEMBER 14, 2025 STATUS
 CONFERENCE**

1
2 I, Krysti Wells, declare as follows:

- 3 1. I am the Chief Human Capital Officer at the Environmental Protection Agency (EPA),
4 headquartered in Washington, D.C. I have served in this position since November 16,
5 2025.
- 6 2. In my role at the EPA, I am responsible for personnel management. I have the
7 responsibility for tracking and recording personnel actions, including Reductions-in-
8 Force (RIFs). I assist in ensuring that all personnel actions comply with court orders and
9 federal law.
- 10 3. I make this declaration pursuant to the Court's order at the November 14, 2025 Status
11 Conference in this case. As stated in the Minute Order dated November 17, 2025
12 summarizing that Status Conference, "The Court **ORDERED** that Defendants file a
13 report updating the Court on what actions have been taken on the RIFs that were issued as
14 of 10/1/2025." ECF No. 115. I further understand that at the Status Conference, the
15 Court specified that this report should pertain to RIFs which are within the scope of the
16 Court's temporary restraining order (TRO) (ECF No. 56) and/or the preliminary
17 injunction order (PI Order) (ECF No. 94) entered in this case.
- 18 4. Plaintiffs in this lawsuit include eight national unions, American Federation of
19 Government Employees, AFL-CIO ("AFGE"), American Federation of State County and
20 Municipal Employees, AFL-CIO ("AFSCME"), National Federation of Federal
21 Employees ("NFFE"), Service Employees International Union ("SEIU"), National
22 Association of Government Employees, Inc. ("NAGE"), National Treasury Employees
23 Union ("NTEU"), International Federation of Professional and Technical Engineers,
24
25
26
27
28

1 AFL-CIO (“IFPTE”), and the American Federation of Teachers (“AFT”), and two local
2 California-based chapters, AFGE Local 1236 and AFGE Local 3172.

3 5. I am aware of and have reviewed the Court’s October 15, 2025 TRO (ECF No. 56),
4 which granted Plaintiffs temporary injunctive relief and restrained certain Defendants
5 from taking specified actions related to RIFs.

6
7 6. Specifically, the TRO provides that Defendants are restrained from:

- 8 1) taking any action to issue any Reduction in Force (“RIF”) notices to federal
9 employees in any PPA (program, project, or activity) that includes any
10 bargaining unit or member represented by any Plaintiff during or because of
11 the federal government shutdown, including but not limited to by taking any
12 action to implement or enforce the OMB Lapse Memorandum (dated
13 September 24, 2025), the portions of the related OPM Guidance for Shutdown
14 Furloughs (as revised September 28, 2025), the related OPM “Special
15 Instructions for Agencies Affected by a Possible Lapse in Appropriations
16 Starting on October 1, 2025” (dated September 28, 2025), or any other
17 decision or directive that purports to authorize or require issuance of RIF
18 notices during a shutdown;
- 19 2) taking any further action to administer or implement any RIF notices already
20 issued beginning on October 10, 2025 to federal employees in any PPA (program,
21 project, or activity) that includes any bargaining unit or member represented by
22 any Plaintiff, including but not limited to by requiring federal employees to
23 perform work to further administer or implement RIF notices and by enforcing or
24 counting any days towards any period of notice with respect to those notices (i.e.,
25 the effective date of the RIF shall be stayed and Defendants shall therefore toll the
26 running of all RIF notice periods).

27 7. The TRO also required Defendants to report certain information by October 17, 2025:

28 Defendants shall serve and file an accounting of all RIFs, actual or imminent, that
are enjoined by this TRO, including but not limited to a description of the agency
that imposed or is planning to impose the enjoined RIF, the number of employees
included in the enjoined RIF, and description of the PPAs that Defendants included
in the enjoined RIF.

8. I am aware that the TRO subsequently was clarified and modified. *See* ECF No. 70, 82.

1 9. I also am aware of and have reviewed the Court’s October 28, 2025 PI Order (ECF No.
2 94), which granted Plaintiffs preliminary injunctive relief and enjoined Defendants from
3 taking certain actions related to RIFs.

4 10. The Court’s PI Order provides that Defendants are enjoined from:

- 5
- 6 1) taking any action to issue any RIF notices during and because of the federal
7 government shutdown to federal employees in any PPA (program, project, or
8 activity) or competitive area that includes any bargaining unit or member
9 represented by any Plaintiff, including but not limited to by taking any action
10 to implement or enforce the OMB Lapse Memorandum (dated September 24,
11 2025), the portions of the related OPM Guidance for Shutdown Furloughs (as
12 revised September 28, 2025), the related OPM “Special Instructions for
13 Agencies Affected by a Possible Lapse in Appropriations Starting on October
14 1, 2025” (dated September 28, 2025), or any other decision or directive that
15 purports to authorize or require issuance of RIF notices during a shutdown;
 - 16 2) taking any action to administer or implement any RIF notices issued during
17 and because of the federal government shutdown to federal employees in any
18 PPA (program, project, or activity) or competitive area that includes any
19 bargaining unit or member represented by any Plaintiff, including but not
20 limited to by taking any action to implement or enforce the OMB Lapse
21 Memorandum (dated September 24, 2025), the portions of the related OPM
22 Guidance for Shutdown Furloughs (as revised September 28, 2025), the
23 related OPM “Special Instructions for Agencies Affected by a Possible Lapse
24 in Appropriations Starting on October 1, 2025” (dated September 28, 2025),
25 or any other decision or directive that purports to authorize or require issuance
26 of RIF notices during a shutdown.

27 11. The PI Order specifies, with respect to the above, that:

- 28
- 1) The phrase “federal employees in any PPA (program, project, or activity) or competitive area that includes any bargaining unit or member represented by any Plaintiff” includes (a) “federal employees in any PPA or competitive area” in which Plaintiffs have any members, regardless of whether those members are employed in a bargaining unit that is represented by a Plaintiff; and (b) “federal employees in any PPA or competitive area” in which any Plaintiff is or was a recognized collective bargaining representative of a bargaining unit prior to or after the issuance of Executive Orders 14251 and 14343, the effect of which is the subject of legal dispute.
 - 2) The reference to issuance of RIF notices “during and because of the federal government shutdown” or “during a shutdown” applies to any RIF notices issued on or after October 1, 2025, and before the end of the federal

1 government shutdown, unless the Court determines following an evidentiary
2 hearing that the RIF was planned to occur independent of and before the
3 shutdown.

4 12. The PI Order also required Defendants to report certain information by November 4,
5 2025:

6 Each Defendant shall file an accounting of any RIFs that have been issued on or
7 after October 1, or that were in preparation at the time of this Court’s temporary
8 restraining order (TRO) (ECF 56), clarified and modified TROs (ECF 70, 82),
9 and/or preliminary injunction, including at a minimum information identifying: a)
10 the impacted PPAs or competitive areas, including information or parameters
11 (such as a description of the office or program within the agency) used by the
12 Defendant to define the PPAs or competitive areas; b) whether each impacted
13 PPA or competitive area includes any employees subject to this Court’s
14 injunction; c) how many employees are within each such PPA or competitive
15 area; and d) the number of employees within each such PPA or competitive area
16 whom Defendant has identified as protected by the Court’s injunction.

17 13. The PI Order also required, by November 12, 2025, that each Defendant file a declaration
18 “detailing the steps it has taken to comply with this Court’s injunction.” Pursuant to
19 these requirements in the TRO and PI Order, the EPA’s previously submitted declaration
20 (ECF No. 102-6) explained, in relevant part, that on October 10, 2025, EPA had issued
21 preliminary Notices of Intent to Conduct a RIF to 27 employees that advised them that
22 formal RIF notices, if any, would be issued at least 60 days prior to the effective date, as
23 required under Title 5 C.F.R., Part 351. (ECF No. 102-6, 9).

24 14. I understand that on November 12, 2025, the President signed into law H.R. 5371, the
25 “Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and
26 Veterans Affairs, and Extensions Act, 2026” (referred to as the Continuing Resolution or
27 the “C.R.”). As relevant here, section 120(e) of the C.R. provides:

28 (e) Notwithstanding section 106(1), any reduction in force proposed,
noticed, initiated, executed, implemented, or otherwise taken by an
Executive Agency between October 1, 2025, and the date of enactment,
shall have no force or effect.

(1) Any employee who received notice of being subject to such a reduction in force shall have that notice rescinded and be returned to employment status as of September 30, 2025, without interruption. Such employees shall receive all pay to which they otherwise would have been entitled in the absence of receiving such notice, including backpay in accordance with section 116 of this Act.

(2) Within 5 days of date of enactment of this Act, each Federal agency shall send notice to all affected employees and the chairs and ranking members of the Appropriations Committees of the Senate and House of Representatives of the withdrawal of the reduction in force notice and the affected employee's reinstatement, if applicable.

(3) Notices must include reinstatement date and the amount of back pay determined in paragraph (1), if applicable.

15. Pursuant to C.R. section 120(e), on November 13, 2025, EPA issued notices to the employees identified in Paragraph 13 above, rescinding the October 10, 2025 preliminary Notices of Intent to Conduct a RIF. On November 17, 2025, EPA notified the chairs and ranking members of the Appropriations Committees of the Senate and House of Representatives of the withdrawal of the October 10, 2025 preliminary Notices of Intent to Conduct a RIF.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 20, 2025

**KRYSTI
WELLS**

Digitally signed by
KRYSTI WELLS
Date: 2025.11.20
13:17:08 -05'00'

Krysti Wells