UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, et al., *Plaintiffs*, v. THE UNITED STATES OF AMERICA, et al., *Defendants*.	Civil Action No. 25-965-JRR

[PROPOSED] SUPPLEMENTAL COMPLAINT

Pursuant to Federal Rule of Civil Procedure 15(d), Plaintiffs supplement their First Amended Complaint (Dkt. 58) against Defendants and allege as follows[1]:

JURISDICTION AND VENUE

172. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1346, and 2201(a).

173. Venue remains proper in this district because a substantial part of the acts or omissions giving rise to the claims occurred in this judicial district. 28 U.S.C. § 1391(e).

PARTIES

174. The parties to this action are those identified in the First Amended Complaint.

SUPPLEMENTAL FACTUAL ALLEGATIONS

III. Defendants Continue to Carry Out Their Unlawful Dismantling of the U.S. Department of Education by Transferring Mandatory Programs and Functions to Other Federal Agencies.

A. Defendants Have Entered Fourteen Interagency Agreements

175. The First Amended Complaint alleged that Defendants were "making steps towards implementing significant interagency agreements to transfer Department [of Education] functions to other agencies," including "a May 21, 2025, interagency agreement with the Department of Labor that would transfer billions appropriated to the Department by Congress to fund Perkins V formula and competitive grants and shift administration of these programs to the Department of Labor." Dkt. 58, ¶¶ 58–59 (cleaned up); *see* Answer, Dkt. 110, ¶ 59 (admitting this IAA).

176. Defendants have since announced thirteen additional interagency agreements ("IAAs") to transfer programs and functions assigned to the U.S. Department of Education (the "Department") as follows[2]:

[1] The paragraphs and section headings in this Supplemental Complaint are numbered consecutively to the First Amended Complaint. The First Amended Complaint is incorporated by reference.

[2] U.S. Dep't of Educ., *Returning Education to the States* (last updated July 13, 2026), https://perma.cc/FU55-868V.

- On November 18, 2025,[3] the Department announced six IAAs, four transferring core Department grantmaking programs and other functions to the U.S. Department of Labor ("DOL"), the U.S. Department of Health and Human Services ("HHS"), and the U.S. Department of the Interior ("Interior"), and two transferring functions related to international foreign language programs and foreign medical school accreditation to the U.S. Department of State ("State") and HHS, respectively.

- On February 23, 2026, the Department announced two more IAAs, one moving certain K-12 competitive grant programs to HHS and the other moving enforcement of a section of the Higher Education Act ("HEA") to State.

- On March 19, 2026, the Department announced an IAA to transfer federal student financial aid programs created under the HEA and administered by the Office of Federal Student Aid ("FSA") to the U.S. Treasury Department in three phases.

- On June 16, 2026, the Department announced four new IAAs. The first IAA transfers most grantmaking programs and other functions related to special education to HHS. A second IAA (the "OCR-DOJ IAA") transfers responsibility for the Department's civil rights enforcement functions to the U.S. Department of Justice ("DOJ"). The last two IAAs transfer to DOJ the Department's functions to provide technical assistance to support desegregation and to implement student privacy laws.

177. Collectively, the fourteen IAAs transfer statutory functions that Congress assigned to the Department—and as much as $55 billion per fiscal year (based on FY 2026 appropriations) appropriated by Congress to the Department to carry out those functions—to other federal agencies with neither the legal authority nor the capacity to assume these responsibilities.

178. The IAAs' purpose is to effectuate President Trump and Secretary McMahon's unlawful plan to shutter the Department. Indeed, several of the Department's "Fact Sheets" purporting to explain individual IAAs state that the IAA is "consistent with Executive Order 14242," in which President Trump directed Secretary McMahon to take steps to close the Department.[4]

[3] The six IAAs announced on November 18, 2025, were executed on September 30, 2025.

[4] *See, e.g.*, *Fact Sheet: Department of Education (ED) and Department of Labor (DOL) Elementary and Secondary Education Partnership*, U.S. Dep't of Educ. (Nov. 18, 2025), https://perma.cc/6LCR-TZZ5.

179. Secretary McMahon explained the IAAs as "bold action" in furtherance of the Department's "final mission" to "break up the federal education bureaucracy and return education to the states."[5] She stated that their purpose is "to take programs that are now part of the Department of Education and put them . . . into other agencies where they will flourish, and where it makes sense to put them." Asked whether the Department would "be able to transfer enough of [the Department's] grants to other agencies that we can close down the Department of Education for good," she responded, "yes, that, that is the goal."[6]

180. Secretary McMahon also testified at a House Committee on Education and Workforce hearing that President Trump had "a clear mandate[] to sunset a 46-year-old, $3 trillion, failed education bureaucracy in Washington, DC" on which Defendants "are delivering" through steps including their "partnerships [IAAs] with federal agencies."[7]

181. The Department of Education Organization Act ("DEOA") and, as described below, various authorizing and appropriating statutes, unambiguously charge the Department with executing the federal education programs and related functions covered by the IAAs. In enacting the DEOA, Congress found that "the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education." 20 U.S.C. § 3401(8). Through "the establishment of a Department of Education," Congress sought "to improve the coordination of Federal education programs" and "to improve the management and improvement of Federal education activities, especially with respect to the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the

[5] Laura Meckler & Danielle Douglas-Gabriel, *Trump Administration Announces Dismantling of Parts of Education Dept.*, Wash. Post (Nov. 18, 2025), https://perma.cc/6S53-RUYC.

[6] Larry Kudlow, *The Goal is to Eliminate 'Bureaucracy in Education,' Says Linda McMahon,* Fox Business (Dec. 2, 2025), https://perma.cc/6LUP-FQ4P.

[7] Linda McMahon, Speech, *Secretary McMahon Testifies on President Trump's Fiscal Year 2027 Budget Request*, U.S. Dep't of Educ. (Apr. 28, 2026), https://perma.cc/37DU-KU6D.

reduction of unnecessary and duplicative burdens and constraints . . . on the recipients of Federal funds." 20 U.S.C. § 3402(5), (6).

182. The DEOA thus created the Department as the single, centralized executive agency to administer and coordinate federal education policy and programs. To ensure that the Department would retain this role, Congress reserved to itself the power to restructure the agency, granting the Secretary of Education only limited authority to reassign programs and functions even within the Department and no authority at all to transfer programs and functions to other federal agencies. *See* 20 U.S.C. §§ 3472–73. And it transferred to the Department the federal education programs and functions then in the Department of Health, Education, and Welfare ("HEW"), DOL, DOJ, and other federal agencies. *See* 20 U.S.C. §§ 3411, 3441–47.

183. Defendants' sweeping IAAs contradict the text, structure, and purpose of the DEOA. The IAAs go against the DEOA's express terms by reallocating programs and functions assigned to the Department by Congress to other federal agencies. Indeed, they effectively undo the steps Congress took to bring federal education programs under the Department's purview by returning some of the very programs and functions the DEOA moved to the Department from DOL, DOJ, and HEW (now HHS) to those agencies. And Defendants adopted the IAAs with the express goal of decentralizing federal education policy by dispersing federal education programs across various agencies, contrary to Congress's purpose of "enabl[ing] the Federal Government to coordinate its education activities more effectively." 20 U.S.C. § 3402.

184. Defendants entered each of the fourteen IAAs without considering whether the transferee agencies have the resources or expertise to carry out Department programs and activities as directed by statute. Defendants also did not evaluate whether implementation of the IAAs would reduce or generate inefficiencies, waste, and bureaucracy in federal education programs. Nor did

Defendants consider how the transfer of Department functions would impact stakeholders—such as Plaintiff parents, their children, or the organizational Plaintiffs' members—who rely on the Department for essential funding, civil rights enforcement, and regulatory and other guidance.

185. According to public reporting, Defendants entered and began implementing the IAAs without having "landed on [the Department's] statutory authority for making the changes."[8]

186. Defendants are actively implementing all fourteen IAAs. They continue to prepare and consider additional IAAs to transfer still more Department functions in the future.

187. These unlawful transfers harm students, educators, families, and schools, including Plaintiffs and their members.

1. IAAs to Transfer Grantmaking Programs and Functions

188. The Department has entered seven IAAs to transfer nearly all of its major grantmaking programs to other agencies. In addition to the initial IAA with DOL to transfer career and technical education programs from the Department's Office of Career, Technical, and Adult Education ("OCTAE") to DOL (the "OCTAE-DOL IAA"), the grantmaking IAAs include:

- An IAA to transfer to DOL dozens of programs and functions under the Elementary and Secondary Education Act ("ESEA"), including major formula grants for K-12 education like Title I-A and competitive grant programs like the Supporting Effective Educator Development ("SEED"), Teacher Quality Partnership ("TQP"), and Teacher and School Leader Incentive ("TSL") programs, and other laws, which were carried out by the Department's Office of Elementary and Secondary Education ("OESE").
- An IAA to transfer to DOL formula and competitive grant programs under the HEA, which were carried out by the Department's Office of Postsecondary Education ("OPE").
- An IAA to transfer to Interior programs and functions supporting Native American, Alaska Native, and Native Hawaiian students, including ESEA Title VI-A Indian Education formula grants and funding for Tribal governments and Tribally controlled and Native American-serving institutions under the HEA, Perkins V, the Individuals with Disabilities

[8] Eric Katz, *Trump Admin Acknowledges Difficulties in Transferring Education Programs to Other Agencies, Internal Documents Show*, Government Executive (Nov. 20, 2025), https://perma.cc/NFP5-J22L.

Education Act ("IDEA"), and the Rehabilitation Act of 1973, most of which were carried out by the Department's Office of Indian Education ("OIE").

- Two IAAs to transfer to HHS competitive grant programs focused on special populations and services, including an IAA amending the original OESE IAA to move competitive grants related to K-12 "family engagement and school support," like the School-Based Mental Health ("SBMH") and Mental Health Service Professional ("MHSP") Demonstration grant programs, to HHS rather than DOL.

- An IAA to transfer to HHS most programs and functions supporting special education under the IDEA, the Rehabilitation Act, and other statutes, which were carried out by the Department's Office of Special Education and Rehabilitative Services ("OSERS").

189. The DEOA and the laws authorizing the covered programs mandate that the Department carry out the functions necessary to administer them. *See, e.g.*, 20 U.S.C. §§ 1070(b) (HEA); 1402, 1411 (IDEA); 2321, 2324, 2342 (Perkins V); 3413–17, 3423c (DEOA provisions creating impacted Department offices); 6301 *et seq.* (ESEA); 7401 *et seq.* (Indian Education Act).

190. Yet each of the grantmaking IAAs moves the substantive management and operation of the covered programs to the transferee agency. Under the IAAs, the transferee agencies take on day-to-day operations and management of the covered programs, make and administer formula and competitive grant awards, carry out grant oversight and monitoring, and provide technical assistance. The Department has taken the unprecedented step of agreeing to transfer to other agencies tens of billions of dollars appropriated to the Department to carry out its statutory functions (based on FY 2026 appropriations, up to $55 billion per fiscal year) and retains only unspecified policy and administrative decision-making in violation of statutory mandates.

191. Implementation of the OCTAE-DOL IAA is largely complete. Nearly all remaining OCTAE employees have been detailed to DOL, and in October 2025, DOL—not the Department—attempted to issue states' second disbursement of 2025-2026 Perkins V formula funding. This resulted in widespread technological problems, communications lapses, and significant delays,

which prevented states from timely accessing their formula grant awards.[9] According to public reporting, some states were not able to draw down these funds, which typically become available on October 1, until January or February 2026.[10]

192. States continue to experience difficulties drawing down their Perkins V formula grant funding, which in turn creates untenable delays in funding for some school districts and may lead to cuts in federally funded positions, programs, and services.

193. According to public reporting, the Department issued an internal after-action report on the OCTAE-DOL IAA, which emphasized the "significant logistical hurdles" that accompanied the transfer. The report concluded that "[t]he size and scope of OCTAE's programs are miniscule [*sic*] . . . compared to other [Education Principal Operating Components] and programs," and that "[l]arger formula grants and competitive grants are going to be much more difficult to migrate."[11]

194. Defendants did not consider the negative experience implementing the OCTAE-DOL IAA in deciding to enter additional IAAs impacting larger, more complex Department grantmaking programs that disburse even more money to states and school districts.

195. Defendants have nonetheless taken substantial steps to implement the other grantmaking IAAs. OESE, OPE, and OIE staff have been detailed to the transferee agencies, with more expected to follow, and Defendants intend for DOL to issue upcoming formula grant awards under the OESE and OPE IAAs. The Department and the transferee agencies jointly issued notices

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[9] *See, e.g.*, Juan Perez, Jr., *The Education Department Gave Another Agency Power to Distribute its Money. It Hasn't Gone Well*, Politico (Nov. 24, 2025, 10:00 AM), https://www.politico.com/news/2025/11/24/the-education-department-gave-another-agency-power-to-distribute-money-it-hasnt-gone-smoothly-00663976.

[10] Mark Lieberman, *Where Are Ed. Dept. Programs Moving? Answers to Frequently Asked Questions*, Ed Week (updated July 1, 2026), https://perma.cc/Y3K5-ZEHT.

[11] Katz, *supra*.

inviting applications for FY 2026 awards under covered competitive grant programs,[12] and the Department's website states that "[a]wards for these competitions will be issued by [the transferee agency] on behalf of ED."[13] The Department plans similar steps to implement the OSERS IAA.

196. As more and more Department programs move to DOL, HHS, and Interior, grantees are likely to confront the same types of technological obstacles and funding delays that have harmed grantees in the Department's career and technical education programs since Defendants implemented the OCTAE-DOL IAA.

2. IAAs to Transfer Civil Rights and Other Enforcement

197. Under the OCR-DOJ IAA, DOJ will take responsibility for evaluation, investigation, and attempted resolution of complaints filed with OCR, among other duties statutorily assigned to the Department by Congress. Though Department officials may approve proposed resolutions and compliance reviews and refer complaints for judicial or administrative enforcement, the IAA shifts the substantive, day-to-day work of civil rights enforcement to DOJ.

198. The IAA contradicts applicable laws and regulations and longstanding practice. While OCR may enter limited contracts and agreements for other agencies to provide "audits, studies, analyses, and other services," 20 U.S.C. § 3413(c)(3), the DEOA requires OCR to carry out "all functions" related to the enforcement of federal civil rights laws in federally funded education programs, 20 U.S.C. §§ 3413(a), 3441(a)(3). In addition, federal regulations require that the Department and OCR—not DOJ—investigate and resolve potential civil rights violations in federal education programs. The implementing rules for Title VI, Title IX, and Section 504 all require that "the *responsible Department official or his designee* will make a prompt investigation"

[12] *See, e.g.*, Notice Announcing Supporting Effective Educator Development Program Competition, 91 Fed. Reg. 20,989 (published Apr. 20, 2026).

[13] U.S. Dep't of Educ., *Returning Education to the States*, *supra*.

of complaints. 34 C.F.R. § 100.7(c) (emphasis added); *see* 34 C.F.R. §§ 104.61, 106.81. OCR's own Case Processing Manual states that "the regulations implementing Title VI . . . require *OCR* to investigate complaints that are filed with the agency," a requirement that "is incorporated by reference in the regulations implementing other statutes enforced by OCR."[14]

199. The IAA's reassignment of OCR functions to DOJ means that OCR will no longer carry out its statutory duties in the manner it has for decades. This will delay resolution of pending complaints and upends complainants' reasonable expectation that OCR would remain in the Department and that OCR—not DOJ—would adjudicate their complaints, in accordance with the authorities and practices under which OCR has always operated.

200. Likewise, another IAA transfers to DOJ responsibility for implementing laws that require Department grantees to protect student privacy rights. DOJ will assume the Department's exclusive statutory functions of investigating alleged violations and conducting administrative enforcement proceedings. *See* 20 U.S.C. §§ 1232g, 1232h. That reassignment of Department functions to DOJ threatens to upset the statutory processes for investigating complaints and to subject Department funding recipients and beneficiaries to penalties for alleged violations of the student privacy laws, including potential termination of funding, without proper process.

B. Defendants' Interagency Agreements Are Unlawful

201. The Constitution grants Congress exclusive authority to create and abolish executive agencies, redistribute their functions to other federal agencies, or discontinue their functions, and requires that the President faithfully execute the laws enacted by Congress.

202. As described above, the DEOA created the Department to centralize and coordinate the administration of federal education programs, and both the DEOA and the authorizing statutes

[14] U.S. Dep't of Educ., *OCR Case Processing Manual* (Feb. 19, 2025) at 21, https://perma.cc/W2RW-ARPF (emphasis added).

for scores of federal education programs charge the Department with carrying out the necessary functions to administer and operate them.

203. Yet the IAAs, without congressional approval, transfer well over 100 federal education programs; the overwhelming majority of grantmaking, civil rights enforcement, and federal student aid functions assigned to the Department by Congress; and as much $55 billion per fiscal year in appropriations (based on FY 2026 amounts), to other federal agencies.

204. None of the statutes the Department cites as overarching authority for the IAAs—provisions of the Economy Act, 31 U.S.C. § 1535, the General Education Provisions Act, 20 U.S.C. § 1231(a), and the DEOA, 20 U.S.C. §§ 3475, 3479—provide a legal basis for Defendants' actions.

205. First, neither the DEOA nor any other law authorizes the Department to offload its programs and functions to other agencies. The DEOA grants the Secretary of Education some discretion to reallocate functions within the Department, but with limited exceptions, that authority does not reach offices established by statute or functions vested in the Department by statute, permit "the abolition of organizational entities" created by the DEOA, or allow the Secretary to "alter[] the delegation of functions to any specific organizational entity required by this chapter." 20 U.S.C. § 3473(a); *see* 20 U.S.C. § 3473(b). The DEOA further specifies that the Secretary may delegate functions *only* to "officers and employees of the Department," and that "[n]o delegation of functions . . . shall relieve the Secretary of responsibility for the administration of such functions." 20 U.S.C. § 3472.

206. The Secretary's authority to reallocate civil rights and special education functions is even more constrained: The DEOA expressly requires her to delegate "all functions" with respect to civil rights enforcement, and "all functions" under the IDEA, among other duties, to the Department's Assistant Secretaries for Civil Rights and OSERS, respectively, "[n]otwithstanding"

the limited reallocation authority conferred in § 3472. 20 U.S.C. §§ 3413, 3417, 3441(a)(1), 3441(a)(2)(H), 3441(a)(3), 3441(a)(4).

207. These provisions and the context of the DEOA as a whole leave no doubt that the Secretary's authority under the DEOA to enter discrete IAAs for specific goods and services to support programs and functions administered by the Department, *see* 20 U.S.C. §§ 3475, 3479, stops far short of allowing IAAs for the wholesale transfer of entire programs and functions assigned to the Department, without congressional approval.

208. In addition, while the DEOA grants the Secretary limited authority to transfer appropriations between Department programs, *see* 20 U.S.C. § 3484, she has no legal authority to transfer tens of billions of dollars appropriated by Congress to the Department to other federal agencies. Indeed, the statutes appropriating funds for FY 2025 and FY 2026 not only direct the Department to carry out its programs and functions, but also prohibit transfers of more than one percent of discretionary funds.[15] This ceiling is far too low to cover the transfers required by any one of the fourteen IAAs, much less all of them.

209. The unlawful transfer of Department programs, functions, and funds to other agencies harms the parent Plaintiffs, their children, and organizational Plaintiffs' members. Plaintiffs rely on the Department's programs and functions in areas such as civil rights enforcement, formula and competitive grant administration, and federal student financial aid, and are harmed by impediments to the Department's predictable, timely, and effective execution of its statutory duties. *See* Dkt. 58, ¶¶ 13–16, 87–91, 97–99, 116–21, 140–48; Dkt. 61-37; Dkt. 61-102. The IAAs, by transferring mandatory Department programs and functions to agencies without the

[15] *See* Further Consolidated Appropriations Act, Pub. L. No. 118-47, div. D, §§ 302, 512, 138 Stat. 460, 691, 704 (2024); Full-Year Continuing Appropriations and Extensions Act, 2025, Pub. L. No. 119-4, div. A, tit. IX, § 1105 (2025); Consolidated Appropriations Act, Pub. L. No. 119-75, div. B, §§ 302, 512, 140 Stat. 173, 304, 318 (2026).

capacity or expertise to handle them, upend longstanding systems and practices designed to ensure that the Department, in accordance with relevant authorities, fulfills the responsibilities assigned to it by Congress. The resulting disruption to critical funding, program administration, and civil rights and other enforcement impedes Plaintiffs' receipt of educational benefits through the Department's statutory functions and imposes economic harms on Plaintiffs.

ADDITIONAL CAUSE OF ACTION AS TO THE IAAs

COUNT SIX

APA, 5 U.S.C. § 706(2)(A)–(C) (Against All Defendants)

210. Plaintiffs incorporate by reference the allegations in the preceding paragraphs and the allegations in the First Amended Complaint as if set forth herein.

211. Under the APA, a court "shall" "hold unlawful and set aside agency action" found to be "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," "contrary to constitutional right, power, privilege, or immunity," or "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right[.]" 5 U.S.C. § 706(2)(A)–(C).

212. Defendants' interagency agreements are final agency actions.

213. Defendants' actions are not in accordance with law, contrary to the Constitution, and in excess of statutory authority. The IAAs violate the separation of powers, the Take Care Clause, the Appropriations Clause, and the Spending Clause, and contravene, among other statutes and regulations, the DEOA and applicable appropriations laws. Further, Defendants lack authority, under the Constitution, the DEOA, 20 U.S.C. §§ 3475, 3479, the Economy Act, 31 U.S.C. § 1535, the General Education Provision Act, 20 U.S.C. § 1231, or any other law, to move the Department's statutorily mandated programs and activities to other federal agencies or transfer the Department's congressional appropriations to other federal agencies.

214. Defendants' actions are also arbitrary and capricious. Defendants have provided no credible explanation for the IAAs, other than their unlawful desire to close the Department. They did not assess transferee agencies' capacity to administer over 100 federal education programs representing up to $55 billion dollars in FY 2026 congressional appropriations to the Department; evaluate whether the IAAs would reduce or generate inefficiencies, waste, and bureaucratic obstacles; or even identify a statutory authority allowing them to unilaterally transfer Department programs before entering the IAAs. Nor did they account for the substantial reliance interests of students, families, educators, communities, and other stakeholders in the undisrupted operation of Department programs and functions ranging from civil rights enforcement to formula grant administration.

PRAYER FOR RELIEF AS TO THE IAAs

WHEREFORE, in addition to the relief sought in Plaintiffs' First Amended Complaint, which is incorporated by reference, Plaintiffs additionally request that this Court:

A. Declare unlawful and set aside the IAAs as arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law under 5 U.S.C. § 706(2)(A); contrary to constitutional right, power, privilege or immunity under 5 U.S.C. § 706(2)(B); and in excess of statutory jurisdiction, authority or limitations, or short of statutory right under 5 U.S.C. § 706(2)(C);

B. Issue a permanent injunction barring Defendants from entering or implementing any IAAs to unlawfully transfer Department programs, functions, and funding;

C. Award Plaintiffs reasonable attorneys' fees and cost; and

D. Grant such other relief as the Court deems necessary, just, and proper.

Dated: August 3, 2026

Respectfully submitted,

<u>/s/ Abigail V. Carter</u>
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