

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND**

STATE OF CALIFORNIA, et al.,

Plaintiffs,

v.

LINDA MCMAHON, in her official capacity as  
Secretary of Education, et al.,

Defendants.

C.A. No. \_\_\_\_\_

**DECLARATION OF MAURICE O. GREEN**

I, MAURICE O. GREEN, declare as follows:

1. I am a resident of the State of North Carolina. I am over the age of 18 and have personal knowledge of all the facts stated herein, except as to those matters stated upon information and belief as to those matters, I believe them to be true. If called as a witness, I could and would testify competently to the matters set forth below.

2. I serve as the elected North Carolina Superintendent of Public Instruction and have been in this position since January of 2025. Before I was elected to this office, I served as a district superintendent, deputy superintendent, chief operating officer, and school board attorney for local school districts in North Carolina for a total of 15 years.

3. The North Carolina Superintendent of Public Instruction is a position created by Article IX, Section 4 of the North Carolina Constitution. The duties of my position include serving as secretary and chief administrative officer to the North Carolina State Board of Education (SBE). Id. Article IX, Section 5 of the North Carolina Constitution requires the SBE to “supervise and administer the free public school system, and the educational funds provided for its support...” In addition to serving as Secretary to the SBE, my duties include establishing, organizing, and overseeing the North Carolina Department of Public Instruction (NCDPI). See N.C. Gen. Stat. §115C-21.

4. The State Board of Education is the State Education Agency (SEA) for North Carolina for purposes of implementing federal law. NCDPI, under my leadership, oversees the day-to-day administration and supervision of the North Carolina public school system. See N.C. Gen. Stat. §§ 143A-44.3; 115C-21. That system includes 15 city school districts, 100 county

school districts, and 214 charter schools, including seven that are slated to open this school year. In addition, the system includes several specialty schools, such as laboratory schools operated by universities, schools for the deaf and blind, and one regional school. The State considers each school district, charter school or specialty school a Local Education Agency (LEA) for purposes of implementing federal law and allocating federal resources. See, e.g., N.C. Gen. Stat. § 115C-106.3(11). The State's public schools serve approximately 1.5 million students in Pre-Kindergarten through Grade 12.

5. As the North Carolina Superintendent of Public Instruction, I oversee the collection and disbursement of all federal funds allocated to LEAs in North Carolina. NCDPI also monitors and audits the use of federal funds by all LEAs. The NCDPI Director of Federal Programs and Chief Financial Officer work under my supervision and are accountable to me.

**Anticipated Federal Funds Have Been Withheld from the State**

6. SEAs and LEAs depend on annual formula funding from the U.S. Department of Education (ED).

7. The largest bucket of formula funding for the State is statutorily required by the Elementary and Secondary Education Act of 1965 (ESEA), which focuses on equitable access to quality education, especially for disadvantaged students. The law has been reauthorized and amended multiple times and is currently referred to as "ESSA" for the Every Student Succeeds Act. This latest version of the law was enacted in 2015. ESSA provides the statutory framework for the major federal K-12 programs that NCDPI implements. This funding may be referred to as either ESEA or ESSA funding.

8. ED awards funding under ESSA based on the statutory titles (e.g., Title I, Title II, Title III, etc.). NCDPI has received Grant Award Notifications (GANs) for some of the ESSA title programs for the 2025-26 school year, including Title I, Part A; Title I, Part D; and Title III

GAN for Rural and Low-Income School Program (RLIS). However, several other title programs' funding has been "frozen" and is being withheld.

9. With respect to the frozen ESSA title funding, NCDPI anticipated receiving an estimated \$165,566,697. This was the total amount received during the 2024-25 fiscal year and therefore anticipated to be received during the 2025-26 fiscal year, which, for North Carolina, began July 1, 2025. This total funding includes:

- a. **\$5,356,426** for Title I-C - Education of Migratory Children (20 U.S.C. §§ 6391 et seq.)
- b. **\$67,906,396** for Title II-A - Supporting Effective Instruction (20 U.S.C. §§ 6611-14)
- c. **\$19,338,744** for Title III-A - English Language Acquisition, Language Enhancement, and Academic Achievement (20 U.S.C. §§ 3101-3131)
- d. **\$37,245,499** for Title IV-A – Student Support and Academic Enrichment Grants (20 U.S.C. §§ 7111-7122)
- e. **\$35,719,614** for Title IV-B – 21st Century Community Learning Centers (20 U.S.C. §§ 7171-7176)

10. Formula funds under the Impacted Programs are calculated using specific formulas written into the law and administered by ED. These funds are awarded by ED to SEAs, and SEAs generally retain some funds to administer the programs. The SEA then passes funding to the LEAs (e.g., school districts). In North Carolina, approximately 93.3% of the Title funding is provided directly to the LEAs, except for Title I-C Migrant funds. A larger percentage of the Migrant funds remain with NCDPI, as the agency is a direct provider of many of these services.

11. As described further below, the receipt of this funding comes with responsibilities. To remove the funding without removing the responsibilities and duties of SEAs

and LEAs risks our compliance with laws focused on ensuring that all students succeed, particularly the thousands of students directly served with these funds.

**The SEA and its LEAs Built Their 2025-26 Budgets in Reasonable Anticipation of Receiving Funds Under the Impacted Programs by July 1**

12. The annual timeline for availability of formula funding has historically been predictable and consistent to allow SEAs and LEAs to budget for the upcoming school year. Upon information and belief, for decades ESSA formula funding has been made available to NCDPI in the following general sequence:

- a. ED receives appropriations on an annual basis from Congress.
- b. ED makes grants for each fiscal year based on forward funding provided for the current fiscal year (e.g., July 1, 2025, through September 30, 2025) and advance appropriations provided for the following fiscal year (e.g., October 1, 2025, through September 30, 2026). An initial portion of the funds is awarded by ED to the SEAs and the SEAs to the LEAs on July 1st, and the remaining funds are awarded on October 1. For example, the formula funds for the federal FY2024 (which ran from October 1, 2023, through September 30, 2024) were provided on July 1, 2024, and October 1, 2024, and were used for the 2024-25 school year.
- c. Each spring, ED calculates the estimated allocations for each state under each federal program.
- d. In the spring, ED communicates “preliminary” allocations to each state under each program. They are preliminary because the final amounts may shift based on student counts and the need-based factors.

- e. The SEA uses these preliminary allocations to calculate the preliminary allocations for each LEA in the state as well as the funds that will be retained by the SEA to administer the federal programs.
- f. In North Carolina, LEAs complete and submit a detailed application to NCDPI and must receive approval before they may begin obligating these funds as of July 1st. NCDPI reviews the LEA applications to ensure that the funds will be spent consistent with the relevant law and the plans approved by ED.
- g. In the spring, LEAs are also developing their budgets for the following school year. These budgets include estimated funding from federal formula programs. Based on these budgets, LEAs often begin in the spring of each school year hiring staff or renewing contracts for employment with existing staff for the following school year.
- h. On or around July 1st, ED sends NCDPI Grant Award Notifications (GANs) for each federal program. Every year, the GANs for formula funding include a funding period that runs from July 1st to September 30th of the following year. For example, in 2024, like prior years, the GANs for federal formula funding programs all contained these dates:

<b>6</b>	<b>AWARD PERIODS</b>	
	<b>BUDGET PERIOD</b>	<b>07/01/2024 - 09/30/2025</b>
	<b>FEDERAL FUNDING PERIOD</b>	<b>07/01/2024 - 09/30/2025</b>
	<b>FUTURE BUDGET PERIODS</b>	
	<b>N/A</b>	

- i. Once NCDPI receives the state's Grant Award Notification under each federal program, it can then approve each LEA's applications for funding under each

program. LEAs with final approval of their applications may request reimbursement of qualifying costs or expenses.

- j. All this planning and execution is complicated and work-intensive and requires all involved entities, most importantly ED and OMB, to follow predetermined and long-standing timelines to ensure that SEAs and LEAs can start using funds on July 1st of each year.

13. NCDPI and North Carolina LEAs were acting under the reasonable belief that this same process would occur for all federal formula funding for the 2025-26 school year.

14. NCDPI has an ESSA State Plan that was approved by ED on June 5, 2018. The most recent amendment to North Carolina's State Plan was approved on June 3, 2025.

15. On March 15, 2025, the U.S. Congress passed the "Full-Year Continuing Appropriations and Extensions Act of 2025." This act extended the same funding for fiscal year 2024 into fiscal year 2025. As a result, NCDPI reasonably believed that the federal formula funding would be level-funded for the 2025-26 school year.

16. Based on prior years, NCDPI expected to start receiving preliminary allocations from ED in April. No communications arrived that month. In the middle of May, ED started sending preliminary allocations for some of the federal programs. By the middle of June, however, ED had still not communicated about several programs including Title I-C, Title II-A, Title III-A, and Title IV-B. Title IV-A was identified as "under review" even though NCDPI had already received preliminary allocation notices for these funds.

17. On June 13, 2025, the Council of Chief State Schools Officers (CCSSO) communicated to all member SEAs the following message:

**Update on FY 2025 Preliminary Allocations**

The US Department of Education (ED) has been delayed sending allocation calculations to states in accordance with the continuing resolution that Congress passed in March to fund the federal

government through the end of fiscal year (FY) 2025 (Sept. 30). To date, ED has released the following preliminary FY 2025 estimates of state allocations to SEAs:

- Title I, Part A: Grants to Local Educational Agencies
- Title I, Part B: State Assessment Formula Grants
- Title I, Part D: Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk
- Title IV, Part A: Student Support and Academic Enrichment Grant
- Education for Homeless Children and Youth

ED has told CCSSO it is working on allocations for additional funding streams, and CCSSO anticipates those will be communicated soon.

18. NCDPI received no communications from ED about the missing formula funds until after the close of business on Monday, June 30. At that time, NCDPI received the following email from [noreply@ed.gov](mailto:noreply@ed.gov):

Given the change in Administrations, the Department is reviewing the FY 2025 funding for the [Title I-C, II-A, III-A, IV-A, IV-B] grant program(s), and decisions have not yet been made concerning submissions and awards for this upcoming academic year. Accordingly, the Department will not be issuing Grant Award Notifications obligating funds for these programs on July 1 prior to completing that review. The Department remains committed to ensuring taxpayer resources are spent in accordance with the President's priorities and the Department's statutory responsibilities.

19. Upon information and belief, the sudden and (from the perspective of NCDPI) unexpected decision to place these statutorily required funded programs "under review" came from the Office of Management and Budget (OMB). On June 30, ED communicated to Congress the following:

We encourage you to direct your questions to the Office of Management and Budget at [OMBLegislativeAffairs@omb.eop.gov](mailto:OMBLegislativeAffairs@omb.eop.gov) (or another leg affairs contact you might have at OMB). The Department is currently referring all questions from the hill, states, and stakeholders related to these programs to our OMB colleagues.



**NCDPI is Experiencing Immediate Harm and Will Experience Further Harm as a Result of the Formula Funding Freeze**

20. In 2024-25, NCDPI retained **\$11,581,364** of ESSA formula funding to administer the federal programs under ESSA that are now being withheld. This funding covered the salaries and benefits of 58.85 full-time equivalent employees (FTEs) at NCDPI. It also covered essential operating costs such as providing professional development for educators, creating networking opportunities wherein North Carolina educators could share expertise and lessons learned with each other; participating in ED's monitoring or Office of Inspector General (OIG) audits; collaborating with the Department of Justice, Office of Civil Rights, and LEAs when a complaint has been filed and a resolution is needed; providing guidance and training to LEAs to build capacity for effective uses of federal funds; monitoring LEA uses of funds to ensure compliance and effective uses of funds to best meet the needs of students in both public schools; meeting federal and public reporting requirements; providing additional services and technical assistance to LEAs with schools identified for support and improvement under ESSA; providing guidance and support to LEAs on developing and sustaining effective family, school, and community partnerships; and other supports to ensure student needs are being met and federal law is being implemented in the most effective way. All of this is at immediate risk because there are no guaranteed funds for July 1, 2025, through September 30, 2026.

21. If the frozen federal funds are not allocated, NCDPI most likely will not be able to retain staff or continue to provide the services that are required by the federal laws governing the programs for which funding is being withheld. If the funds continue to be frozen, NCDPI could soon have to reduce or lay off staff, which could trigger additional obligations to cover unemployment benefits and leave payouts. Without a full funding source for these expenses in this fiscal year, NCDPI will need to decrease other expenditures not associated with these title programs to cover the high expense. These are costs that cannot be recovered if ED ultimately

releases these withheld funds and NCDPI must rehire or replace any lost employees, after their leave is paid out and unemployment is drawn down.

22. The disruption to NCDPI if it is forced to reduce staff and lose highly qualified employees, then rehire or find additional employees if and when the money is ultimately received, is significant and impacts its ability, in the short and long-term, to meet its statutory obligations under these federal programs. Additionally, support and services to LEAs, schools, and school communities will be disrupted and possibly paused indefinitely.

23. This is a very different situation from when a discretionary grant is cancelled or non-continued. In that situation, the program ends. Here, the full legal responsibilities and duties for the State remain. However, as of July 1st, there is no funding to meet these obligations. Specifically, without the funded staff that fulfill federal reporting and monitoring requirements, the SEA will be at high risk of failing to ensure compliance with ESSA requirements.

**24. Title I-C - Education of Migratory Children:**

a. Title I, Part C, is the federal Migrant Education Program (MEP). It is specifically designed to support the educational needs of migratory children — students whose families move frequently due to seasonal agricultural or fishing work. The goal of the federal MEP is to ensure that all children of mobile farm workers and fishers reach challenging academic standards and graduate with a high school diploma (or complete a high school equivalency diploma) that prepares them for responsible citizenship, further learning, and productive employment.

b. NCDPI has numerous obligations to administer, oversee, and coordinate MEP. These include ensuring proper identification and recruitment of eligible children; conducting comprehensive needs assessment; developing service delivery plans; program

evaluation; ensuring proper records transfer and continuity; and tracking and documenting the delivery of services to priority-for-service-designated students.

c. NCDPI has three FTEs that work in the Migrant Education area and oversee the program. In addition, NCDPI has 11-12 full-time temporary employees paid with federal MEP funds that do the groundwork, such as mandatory data collection and deliver direct services, such as tutoring. If NCDPI is unable to retain these employees, migrant children will go unserved and NCDPI will be out of compliance with the law that mandates that eligible children receive the support of this program.

**25. Title II-A - Supporting Effective Instruction:**

a. Title II, Part A is the Supporting Effective Instruction Program. It is designed to increase student academic achievement by supporting challenging State academic standards, improving the quality and effectiveness of educators, increasing the number of educators who are effective in improving student academic achievement in schools, and providing low-income and other disadvantaged students greater access to effective educators.

b. NCDPI has the obligation to administer, oversee, and coordinate these services.

c. NCDPI employs 18 FTEs within the agency to administer this program. If the agency does not have the federal funds to pay employees to implement the program, it cannot provide this legally required program.

**26. Title III-A - English Language Acquisition, Language Enhancement, and Academic Achievement:**

a. Title III, Part A is the grant providing supplemental language instruction for English learners. It is designed to improve and enhance the education of English learners

in becoming proficient in English, as well as meeting the State Academic Content standards. This grant also provides funding for LEAs to enhance the instructional opportunities for immigrant students and their families.

b. NCDPI has numerous obligations to administer, oversee, and coordinate under Title III, Part A. These include ensuring that LEAs use Title III funds to provide supplemental linguistic and academic programs based on a comprehensive needs assessment that enhance the English language development and academic progress of students. NCDPI conducts monitoring and public reporting to ensure that LEAs are effectively and appropriately using Title III funds as required by ESEA and Civil Rights statutes.

c. NCDPI employs 6.44 FTEs within the agency to administer this program. If the agency does not receive funds to pay employees to implement the program, NCDPI will be unable to provide a legally required program.

**27. Title IV-A – Student Support and Academic Enrichment Grants:**

a. Title IV, Part A, is the Student Support and Academic Enrichment (SSAE) program. It is designed to improve students' academic achievement by increasing the capacity of States, LEAs, schools, and local communities to provide all students with access to a well-rounded education, improve school conditions for student learning, and improve the use of technology in order to improve the academic achievement and digital literacy of all students.

b. NCDPI has numerous obligations to administer, oversee, and coordinate under Title IV, Part A. These include ensuring that LEAs use Title IV funds effectively and appropriately; providing supplemental educational services to the students and schools with the greatest needs in line with statutory requirements and a comprehensive needs

assessment. NCDPI has additional monitoring and reporting requirements to ensure that LEAs use funds within the three categories of SSAE: well-rounded education, conditions for student learning, and effective use of technology. NCDPI provides guidance, training, and technical support to LEAs on use of funds, conducts monitoring of compliance with statutory requirements, and provides public reports, as well as reports to the U.S. Department of Education.

c. Title IV permits an SEA to retain 4 percent of the SEA's allocation to provide state level supports, services, and professional development for LEAs and educators. NCDPI uses the state reserve funds to provide state level professional development and networking opportunities for educators, schools, and LEAs to develop and improve educational experiences of students and ensure access to technology.

d. NCDPI employs 10.66 FTEs within the agency to administer this program. Without adequate funding and employees, NCDPI cannot fulfill its obligation to implement this lawfully required program.

**28. Title IV-B – 21st Century Community Learning Centers**

a. Title IV, Part B is the Nita M. Lowery 21st Century Community Learning Centers Program. It is designed to support quality after-school programs for children. The program provides federal funding to establish or expand community learning centers. These centers operate during out-of-school hours and offer three key services:

- i. Opportunities during non-school hours for academic enrichment, including tutorial services to help students (particularly students in high poverty areas and those who attend low-performing schools) meet state and local student performance standards in core academic subjects, such as reading and math.

ii. Opportunities for families of students served by these programs for active and meaningful engagement in their children's education, including literacy and related educational development.

iii. Additional services, programs, and activities which are designed to reinforce and complement the regular academic program of participating students.

b. NCDPI employs 12.75 FTEs within the agency to administer this program.

Without adequate funding and staff, NCDPI cannot implement this federally authorized program.

**29. The State's LEAs are Experiencing Immediate Harms and Will Experience Further Harm as a Result of the Formula Funding Freeze**

30. Our LEAs have already developed preliminary budgets for the 2025-26 school year. LEAs were relying on the reasonable belief that federal formula funding would be largely "level-funded" for this year. That funding sources that have been frozen are used to support staff, programming, and materials that are necessary to ensure that disadvantaged students have equal access to education and opportunity. North Carolina's 115 traditional school districts have used the federal grant monies at issue to hire at least 922 FTEs. We do not have data on how many FTEs would be impacted in charter schools, but loss of these funds would impact charter schools as well. If this funding is not provided promptly, the North Carolina public school system would lose at least 922 full-time employees in the field and would be unable to provide the services required by federal law.

31. Some of our LEAs have active summer programming that is funded in whole or part by the funding that is currently being withheld. Titles II, Part A, III, Part A, and IV, Part A are all used to employ new and returning staff at the LEA level as of July 1st, provide summer professional development for educators, and organize summer programming for students (IIA

and IIIA) such as tutoring or summer school. These programs are at risk of being underfunded or having to close for lack of funding.

32. Under federal laws and regulations, funding from these withheld programs can only be used to supplement (and not replace or supplant) existing programs. If LEAs use state funds to backfill these programs for the 2025-26 school year, they risk creating a supplanting issue in the future if these funds are released in future years.

**33. Title I-C - Education of Migratory Children:**

a. Allowable uses for these funds include important services for migratory children such as tutors and remedial instruction; summer school programs; school readiness and early childhood education; secondary credit accrual and recovery services; health screenings and referrals, nutritional support, transportation assistance, counseling, college and financial aid guidance; vocational and technical education, and preparation for high school graduation.

b. The LEAs have reported to NCDPI that they funded a minimum of 62.16 FTEs from this program in the 2024-25 school year. Without funds to hire employees to implement this program, the LEAs cannot continue to provide students with the services to which they are legally entitled.

**34. Title II-A - Supporting Effective Instruction:**

a. Allowable uses of funds include providing high-quality, personalized, evidence-based professional development; developing or improving the educator evaluation system; recruiting, hiring, and retention strategies; reducing class sizes; facilitating teacher and school leader development and growth programs; supporting instructional services by school library programs; creating feedback mechanisms to improve teaching conditions; and any other evidence-based strategies that improve

teaching conditions, educator qualifications, and effectiveness of educators, as well as grant administration expenses at the LEA level. LEAs must also use Title II funds to provide equitable services to eligible educators working in non-public schools.

b. The LEAs have reported to NCDPI that they funded a minimum of 485.93 FTEs from this program in the 2024-25 school year. Without funds to hire employees to implement this program, the LEAs cannot continue to provide students with the services to which they are legally entitled.

**35. Title III-A - English Language Acquisition, Language Enhancement, and Academic Achievement:**

a. Allowable uses of funds include upgrading English language development (ELD) programs and instructional activities; supplementing curricula and providing other supplemental instructional materials; providing community participation programs, family literacy services, and parent outreach and training; providing tutoring and intensified instruction for English learners; offering early college or dual/concurrent enrollment; developing and implementing effective preschool, elementary or secondary school ELD programs that are coordinated with other relevant programs and services; and improving instruction for English learners, including students with a disability or identified as gifted in a specific area. Title III funds must also be used to provide linguistic and academic services to English learners attending non-public schools. Lastly, Title III funds can be used by LEAs for administering the grant at the local level (up to 2 percent of the LEA's allocation).

b. The LEAs have reported to NCDPI that they funded a minimum of 126.65 FTEs from this program in the 2024-25 school year. Without funds to hire employees to



implement this program, the LEAs cannot provide students with the services to which they are legally entitled.

**36. Title IV-A – Student Support and Academic Enrichment Grants:**

a. Allowable uses of funds include providing professional development to enable effective use of technology; investing in technology; providing a variety of well-rounded education opportunities such as Science, Technology, Engineering and Math (STEM) programming, music and art programming, foreign language offerings, opportunity for students to earn college credit, and programs and activities that promote volunteerism and community involvement; and providing activities to support safety and healthy students, such as school-based mental health services, drug and violence prevention, integrating health and safety practices into school or athletic programs, nutritional education, physical education, establishing or improving school dropout and reentry programs, bullying and harassment prevention programs, and prevention of teen and dating violence, stalking, domestic abuse, and sexual violence. Title IV funds must be used to provide equitable services to eligible students attending non-public schools.

b. The LEAs have reported to NCDPI that they funded a minimum of 234.06 FTEs from this program in the 2024-25 school year. Without resources to retain employees and otherwise implement these funds, the LEAs will not be able to provide students with services to which they are lawfully entitled.

**37. Title IV-B – 21st Century Community Learning Centers**

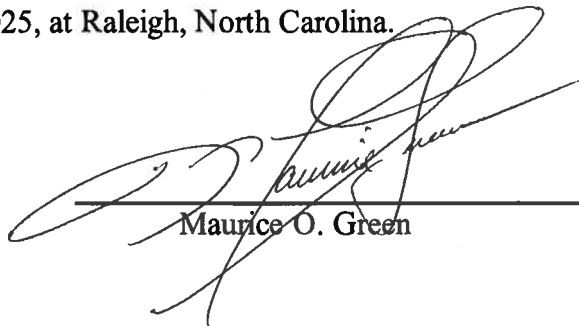
a. These are grants for after-school programs for disadvantaged young people. Seventy-five percent of these programs are not run by public schools. They are run by churches, civic organizations, and nonprofits. Several LEAs use these funds to hire employees; LEAs have reported to NCDPI that they funded a minimum of 13.56 FTEs

from this program in the 2024-25 school year. Employees of programs not run by public schools are not calculated in the LEA FTE number. These external programs help working parents by providing academic enrichment before and after school

b. Without the allocated federal resources, the LEAs and other qualified organizations will be unable to provide students with the services to which they are lawfully entitled.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 10, 2025, at Raleigh, North Carolina.



Maurice O. Green