

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF EDUCATION,
et al.,

Defendants.

No. 25 Civ. 2990 (ER)

**STIPULATION AND ORDER
STAYING CASE**

This STIPULATION AND ORDER STAYING CASE (“Stipulation”) is made by and between plaintiffs the State of New York, the State of Arizona, the State of California, the State of Delaware, the District of Columbia, the State of Hawai‘i, the State of Illinois, the State of Maine, the State of Maryland, the Commonwealth of Massachusetts, the People of the State of Michigan, the State of Minnesota, the State of Nevada, the State of New Jersey, the State of New Mexico, the State of Oregon, and Josh Shapiro, in his official capacity as Governor of the Commonwealth of Pennsylvania (“Plaintiffs”), and Linda McMahon in her official capacity as Secretary of the United States Department of Education and the United States Department of Education (the “Department” or “Education”) (together, the “Government,” and with Plaintiffs, the “Parties”).

Recitals

a. On April 10, 2025, Plaintiffs filed a complaint (ECF No. 1) (“Complaint”) in the above-captioned action (the “Action”) against the Government asserting claims concerning a March 28, 2025, letter from Education Secretary Linda McMahon, which rescinded prior approvals granted by the Department extending the period of time for Plaintiffs to liquidate funds provided under the COVID-era Education Stabilization (“ES”) appropriations laws and modified Plaintiffs’ periods to liquidate these funds to expire as of 5:00pm ET on March 28, 2025 (the “March 28 Rescission Letter”).

b. The Complaint asserted two claims against the Government under the Administrative Procedure Act (“APA”), alleging that the actions embodied in the March 28 Rescission Letter were arbitrary and capricious and contrary to law.

c. On April 11, 2025, Plaintiffs moved for a preliminary injunction, requesting that the Court enjoin the Government from enforcing the directives in the March 28 Rescission Letter (ECF Nos. 10, 11).

d. On May 6, 2025, the Court granted Plaintiffs’ motion for a preliminary injunction and enjoined the Government from enforcing or implementing as against Plaintiffs during the pendency of the litigation the directives in the March 28 Rescission Letter (ECF No. 77) (the “May 6 Order”).

e. The May 6 Order also enjoined the Government from modifying the Department’s previously approved periods for Plaintiffs to liquidate ES funds without providing notice to Plaintiffs at least fourteen (14) days prior to the effective date of such modification.

f. On May 11, 2025, the Department sent a letter to Plaintiffs rescinding the previously granted liquidation extensions effective May 25, 2025 (“May 11 Rescission Letter”).

g. On May 14, 2025, Plaintiffs moved for an *ex parte* temporary restraining order pending a decision on Plaintiffs’ second preliminary injunction motion (ECF Nos. 83-87), seeking to enjoin the Government from implementing the directives in the May 11 Rescission Letter.

h. On May 20, 2025, the Court granted the temporary restraining order (ECF No. 95), pending resolution of Plaintiffs’ motion for a second preliminary injunction.

i. On June 3, 2025, the Court granted Plaintiffs’ second preliminary injunction motion and issued an order enjoining the Government from enforcing or implementing as against Plaintiffs during the pendency of the litigation the directives in the March 28 Rescission Letter and the May 11 Rescission Letter (“June 3 Order”) (ECF No. 106).

j. On June 4, 2025, the Government filed a Notice of Appeal of the June 3 Order.

k. On June 6, 2025, the Government moved in the Second Circuit to stay the June 3 Order pending appeal.

l. On June 20, 2025, the Second Circuit denied the Government’s motion to stay the June 3 Order pending appeal.

m. On August 11, 2025, the Parties stipulated to withdraw the appeal with prejudice and without costs or attorneys’ fees pursuant to Federal Rule of Appellate Procedure 42(b).

n. In light of the procedural posture of the Action and the period of time remaining before the Plaintiffs’ extended liquidation periods expire (“Expiration Date”), the Parties seek to avoid the expense and effort of litigating this Action by agreeing to an interim stay pending the Expiration Date and the Department’s final determination of all timely payment requests submitted

by Plaintiffs as of the Expiration Date, subject to Plaintiffs' right to resume litigating the case in the event that the Government fails to perform the undertakings set forth in this Stipulation. Otherwise, Plaintiffs shall voluntarily dismiss the Action within fourteen (14) days after the Department renders a final determination on all timely submitted outstanding requests.

NOW THEREFORE, in consideration of the mutual promises, covenants, representations, and other consideration contained in this Stipulation, Plaintiffs and the Government hereby agree as follows:

1. No Admission of Liability

This Stipulation is not, is in no way intended to be, and should not be construed as, an admission of liability, fault, or violation of any law, rule, or regulation on the part of Secretary McMahon, the Department, or any of the Department's present or former departments, agencies, agents, officials, or employees. This Stipulation is entered into by the Parties for the purpose of compromising disputed claims and avoiding the expenses and risks of further litigation.

2. Defense of Future Proceedings

This Stipulation shall not in any manner be construed as determinative of the issues raised in the Complaint and shall not be deemed a determination on the merits of claims raised in the Complaint. Further, this Stipulation does not represent or reflect the legal position of Plaintiffs or the Government concerning the alleged violations of law. In addition, notwithstanding the provisions of any paragraph herein, this Stipulation shall not bind or collaterally estop the Parties or their present and former agencies, subdivisions, subsidiaries, administrators, principals, officers, employees, directors, members, agents, attorneys, whether in an individual or official capacity, or any of them, or all of them, in this Action if the stay is lifted and the case proceeds to be litigated,

or in any pending or future actions or proceedings in which the same or similar issues are raised, from prosecuting or defending any and all issues raised, or from advancing any claims or defenses.

3. Government's Undertakings

For and in consideration of the undertakings by Plaintiffs set forth in this Stipulation, the Government hereby agrees to the following:

a. The Government shall not rescind, revoke, modify, or shorten Plaintiffs' ES funding liquidation extensions approved prior to March 28, 2025, for any reason.

b. The May 6 Order and June 3 Order shall remain in full force and effect until the conclusion of this Action or as determined by further order of the Court.

c. For pending ES funding liquidation payment requests previously submitted by Plaintiffs, the Department shall use reasonable, good faith efforts to make prompt determinations regarding those requests and disburse payments in the ordinary course for approved payments. For liquidation payment requests submitted after the date this Stipulation is "so ordered" by the Court ("Effective Date"), the Department shall use reasonable, good faith efforts to promptly review such requests, with the expectation that the Department will use best efforts to process the requests or seek additional information within fourteen (14) days of receipt of the request, and that Plaintiffs will use best efforts to respond to such requests for additional information within seven (7) days of such requests. Any demand for additional information by the Department for processing such requests shall be limited to that which is reasonably necessary to show the request falls within the previously approved ES funding liquidation extension or that the request is otherwise an allowable use of such ES funds.

d. For contracts entered into by Plaintiffs, their State Education Agencies, and/or their Local Education Agencies that were obligated within the period of availability, that were approved as part of Plaintiffs' ES funding liquidation extensions prior to March 28, 2025, and that did not expire on or before March 28, 2025 ("Affected Contracts"), in consideration of the sixty-seven (67) days between the March 28 Letter and the June 3 Order during which Plaintiffs could not make use of their contractors' services, the Government shall permit Plaintiffs to extend the terms of such Affected Contracts by sixty-seven (67) days following a thirty (30) day period for negotiation of the extension ("Negotiation Period") and deem any such extended contract to be timely obligated and approved for purposes of Plaintiffs' approved ES funding liquidation extensions, provided no such extended contract shall extend the period for Plaintiffs to liquidate their ES funds beyond their approved liquidation extension periods and provided the only modification to the terms of the contract is the performance period. Subject to these limitations, for any contract that has expired or will expire within thirty (30) days of the Effective Date, the sixty-seven (67) day extension shall run from the end of the Negotiation Period rather than the expiration of the date of the contract.

4. Stay Terms and Conditions

a. Upon execution of this Stipulation, the Parties agree to submit this Stipulation to the Court to be "so ordered." Upon the Effective Date, all proceedings in this Action contemplated by the Federal Rules of Civil Procedure, including discovery, pleadings, and motion practice, are stayed subject to the Government performing the undertakings described in Section 3. In the event that the Government does not perform any of the undertakings described in Section 3, the Plaintiffs

may, at their sole option, elect to request by letter motion that the Court lift the stay under this Stipulation and allow the litigation to proceed.

b. Within fourteen (14) days after the Department notifies Plaintiffs that all of Plaintiffs' ES funding liquidation payment requests submitted as of the Expiration Date have been determined and processed by the Department (as per the determinations), and subject to Plaintiffs' verification of the same, the Parties shall voluntarily dismiss this Action, with prejudice, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

5. Miscellaneous Provisions

a. The Court shall retain jurisdiction over all matters concerning the terms of this Stipulation.

b. The Parties understand and agree that this Stipulation contains the entire agreement between them and that no statements, representations, promises, agreements, or negotiations, oral or otherwise, between the Parties that are not included herein shall be of any force or effect.

c. It is contemplated that this Stipulation may be executed in several counterparts, with a separate signature page for each party. All such counterparts and signature pages, together, shall be deemed to be one document.

d. Nothing in this proposed stipulation should be construed as limiting or preventing the Department and its agents, the Department's Office of the Inspector General, or any federal oversight authority, from being able to perform its grant oversight responsibilities and, if necessary, take appropriate actions in furtherance of those responsibilities.

IN WITNESS WHEREOF, the Parties hereto acknowledge that they have read this Stipulation and accept and agree to the provisions contained herein, and have each executed this

Stipulation to be effective on the day and date indicated below.

November 13, 2025

Dated: ~~October 1, 2025~~

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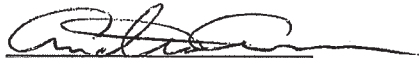
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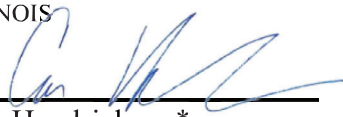
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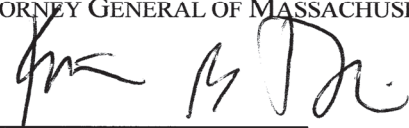
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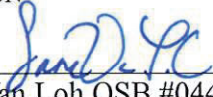
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New York, New York



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