

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

**NATIONAL CENTER FOR LEARNING
DISABILITIES, et al.,**

Plaintiffs,

v.

**OFFICE OF MANAGEMENT AND
BUDGET, et al.,**

Defendants.

Case No. 11:26-cv-13019

SUPPLEMENTAL DECLARATION OF MATTHEW SOLDNER

I, Matthew Soldner, do declare under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the following is true and accurate to the best of my information and belief:

1. I am currently employed as the Interim Deputy Commissioner of the National Center for Education Statistics. In that role, I also serve as Acting Commissioner, National Center for Education Statistics and the Acting Director, Institute of Education Sciences (IES) at the U.S. Department of Education. I started serving as Interim Deputy Commissioner of the National Center for Education Statistics (NCES) on July 1, 2025, and have worked at IES most recently since July 1, 2018.
2. In my role at IES, among my duties, I oversee all budgeting, spending plans, and expenditures for IES.
3. On August 4, 2026, I provided a declaration (“Soldner AR Declaration”) in connection with Defendants’ obligation to comply with the Court’s order requiring “production of the administrative record”. Dkt. 41-9. That Declaration noted Defendants’ position is that

this case does not involve a “final agency action.” I am informed that, to date, this is still the position of the agency.

4. I understand that on September 17, 2026, the Court ordered Defendants to “file a status report by the earliest of either September 28, 2026, or whenever all the obligations due September 30 have been completed.”¹ Dkt. 69.
5. I make this Supplemental Declaration for that status report based on my own personal knowledge, information contained in the records of ED, and information provided to me by ED employees.

IES Appropriations

6. As stated in my August 4, 2026 declaration, IES intends to spend all remaining funds appropriated by Congress in a timely manner, in full compliance with all statutory and regulatory requirements, and in accordance with the operation of the programs it administers.
7. As of the date of this declaration, the amount remaining unobligated under the Full-Year Continuing Appropriations and Extensions Act, 2025, Public Law 119-4, (“2025 CR”), under the “Institute of Education Sciences” (“IES”) account, is approximately \$3,514,965 out of the \$768,106,000.00 appropriated and available², or approximately **0.46 percent remaining**. These are the funds with a two-year period of availability which expires on September 30, 2026.
8. While IES, to date, has **fully obligated 99.54 percent** of the 2025 CR funds and continues to diligently complete all year-end fiscal activities, it is possible that some amount of the remaining unobligated funds may lapse after September 30.

¹ This report excludes appropriations for the Education Innovation and Research (“EIR”) Account, which is part of this litigation and has funding available through December 31, 2026. The Department has already obligated **95.7%** of EIR funds, as previously reported. *See* Dkt. 41-8.

² The FY 2025 IES appropriation was \$793,106,000. Section 311 of the Consolidated Appropriations Act, 2026 (Public Law 119-75) rescinded \$25 million from the FY 2025 IES Program Administration appropriation.

9. Historically, IES usually lapses a small amount of funds each year. This amount is always less than one percent. For example, IES lapsed \$6,881,118.10 of Fiscal Year 2024 funds, out of an original appropriation of \$793,106,000.00, or 0.87 percent, in 2025.
10. The amount of funds that lapse each year can be affected by the “recoveries” to the appropriation. Recoveries are funds that were originally obligated during one year of an appropriation’s period of availability but later became available again due to de-obligation in a subsequent fiscal year within the fund’s period of availability. These recoveries typically result from contract modifications, settlements following contract expirations or terminations, or adjustments to budgeted items such as travel, salaries, and other expenses.
11. When de-obligations occur early in the fiscal year, IES can anticipate and plan for using the newly recovered funds. However, recoveries that arise unexpectedly or late in the fiscal year are more difficult to address and may not be fully utilized before the funds lapse.
12. The following chart below describes certain 2025 CR appropriation budget authorities by IES program and their recent recoveries:

IES Program	FY 2025 Appropriation Budget Authority	Amount Expended	Percentage Expended	Amount Remaining	Recoveries in last three months
IES Program Administration	\$48,500,000 ³	\$48,500,000	100 percent	\$0	\$238,380.24
National Assessment Governing Board	\$8,300,000	\$8,300,000	100 percent	\$0	\$1,788.75
Statistics	\$121,500,000	\$117,991,485.37	97.11 percent	\$3,508,514.63	\$6,898,458.05
Regional Educational Laboratories	\$53,733,000	\$53,732,999.10	99.99 percent	\$0.90	\$181,821.69
Special Education Studies and Evaluations	\$13,318,000	\$13,311,550.81	99.95 percent	\$6,449.19	\$0

³ The FY 2025 IES appropriation was \$793,106,000. Section 311 of the Consolidated Appropriations Act, 2026 (Public Law 119-75) rescinded \$25 million from the FY 2025 IES Program Administration appropriation.

13. As of the date of this declaration, the Department has recently recovered a total of \$7,326,172.99 within the Fiscal Year 2025 IES appropriation. Notably, approximately 94 percent of these recoveries are concentrated in the Statistics program, which currently holds almost all remaining unobligated funds from the 2025 CR.
14. As previously noted, IES remains committed to diligently completing all year-end fiscal activities, including the management of recoveries. I am prepared to provide an additional status report shortly after end of the fiscal year when finalized numbers become available for all final expenditures for the 2025 CR funds.

Comprehensive Center Appropriations

15. As of the date of this declaration, the amount remaining unobligated under the Comprehensive Centers is \$0.82 and the Department has obligated **99.99 percent** of the appropriation. The Department will lapse the \$0.82 cents.

Executed in Washington, D.C. on September 28th, 2026.

MATTHEW SOLDNER

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SOLDNER
Date: 2026.09.28 16:40:22 -04'00'

Matthew Soldner