

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

STATE OF CALIFORNIA, et al.,

Plaintiffs,

v.

U.S. DEPARTMENT OF EDUCATION, et al.,
Defendants.

DECLARATION OF KENNETH CHRISTENSEN

I, KENNETH CHRISTENSEN, declare as follows:

1. I am currently employed by the University of Colorado Denver (“CU Denver”) as Chancellor.
2. As Chancellor, I am the chief executive officer, the chief academic, fiscal and administrative officer of the CU Denver campus and responsible to the President of the University of Colorado and the Board of Regents of the University of Colorado.
3. As Chancellor, I have personal knowledge of the matters set forth below, or have knowledge of the matters based on my review of information and records gathered by my staff.
4. I am providing this declaration to explain certain impacts of the purported grant modification/termination recently issued by the Department of Education (“ED”).
5. In 2022, ED invited applications for the Teacher Quality Preparation Program (“TQP”) as authorized and established by Congress under 20 U.S.C. § 1022. This invitation focused on high need schools and recruiting individuals to teach in rural communities. Specifically, ED encouraged Grow Your Own programs that recruit, train, and retain teachers from local communities instead of importing them. Research demonstrates that teachers from Grow Your Own programs have higher rates of retention and success.
6. As established in its proposal, the TQP grant continues CU Denver’s Next Generation of Teacher Preparation (“NxtGEN”) program to support rural schools and teacher candidates. Initiated with a TQP grant in 2014, NxtGEN is an undergraduate teacher preparation pathway with extended clinical experiences that culminates in a full year residency. NxtGEN is a Grow Your Own approach to locate, recruit, and prepare teachers from rural communities to graduate and stay in their rural communities. NxtGEN provides recruitment support, wrap

around support for students, college courses for high school students, and professional development/induction during the first two years as a teacher.

7. The 2022 grant began as a partnership with three rural community colleges and 26 rural school districts. As part of the grant, CU Denver was approved to expand the NxtGEN partnership to four rural community colleges and 57 rural school districts. The proposal included the preparing of 146 teachers by the end of the five-year grant and an additional number of new teachers participating in professional development/induction and high school students taking college courses. Since 2023, 19 teachers have received their bachelor's degree as part of the program and are now teaching in rural schools.
8. In 2022, CU Denver was awarded up to \$6,512,391 for the TQP NxtGEN 5-year grant.
9. On September 12, 2022, ED produced a Grant Award Notification ("GAN") setting forth the terms and conditions of the grant award. A true and correct copy of the corresponding GAN and its attachments, dated September 12, 2022, is attached as Exhibit A.
10. Since 2022, CU Denver has used the TQP grant funds in a manner fully consistent with ED's statements regarding the nature of the grant and CU Denver's grant application.
11. CU Denver submitted monthly submissions for funds disbursement under the grant until receipt of a GAN dated February 13, 2025.
12. CU Denver's 2022 TQP grant followed successful completion of a TQP grant awarded in 2014. CU Denver has a history of successful completion of ED grants and received positive progress reports from ED under the 2022 TQP grant. In June 2024, the NxtGEN TQP grant was selected by ED to present about the project's success at its "EED Grantee Summit."
13. On February 12, 2025, without any prior notice or indication, CU Denver received a GAN modifying the budget period for the current fiscal year to end on February 12, 2025. In the

February 12 GAN, ED purported to modify the grant's award period and modified the authorized funding to what appears to be a prorated amount for the current fiscal year, \$1,205,278 and a new grant total of \$3,739,282; a reduction of \$2,773,109.

14. The February 12 GAN states that "The grant is deemed to be inconsistent with, and no longer effectuates, Department priorities. See 2 C.F.R. § 200.340(a)(4) ; see also 34 C.F.R. § 75.253."
15. At 6:47 PM the next day, February 13, 2025, an updated GAN, letter and e-mail was received from ED informing "you of the Department's decision to terminate your federal award S336S220005, because the grant is inconsistent with, and no longer effectuates, Department priorities. You will also receive an updated GAN notice, confirming this decision and change." The February 13 GAN stated that the February 12 GAN was no longer valid because "An email notification terminating the grant should have preceded the administrative action, but in fact, there was a subset of them that were not dispatched until today, Thursday, February 13, 2025. What that means for your grant and program is that the effective date will be extended, and the effective date of the termination action will be as of today, February 13, 2025 instead, and not yesterday, February 12, 2025. We apologize for this timing error, and we regret any confusion or inconvenience the sequence of these actions may have caused. This GAN reflects the new effective date for the termination, replacing yesterday s date. Thank you for your understanding." The February 13 GAN repeated the modified grant total of \$3,739,282.
16. Received in the email of February 13, 2025, was a letter dated February 13, 2025, from Mark Washington, Deputy Assistant Secretary for Management and Planning stating that the NxtGEN TQP grant was terminated because "The grant...provides funding for programs that

promote or take part in DEI initiatives or other initiatives that unlawfully discriminate on the basis of race, color, religion, sex, national origin, or another protected characteristic; that violate either the letter or purpose of Federal civil rights law; that conflict with the Department's policy of prioritizing merit, fairness, and excellence in education; that are not free from fraud, abuse, or duplication; or that otherwise fail to service the best interests of the United States. The grant is therefore inconsistent with, and no longer effectuates, Department priorities. *See* 2 C.F.R. § 200.340(a)(4); *see also* 34 C.F.R. § 75.253.”

17. A true and correct copy of the GAN received on February 12, 2025, is attached as Exhibit B.
18. A true and correct copy of the GAN received on February 13, 2025, is attached as Exhibit C.
19. A true and correct copy of the letter from Deputy Assistant Secretary Mark Washington is attached as Exhibit D.
20. A true and correct copy of ED's email from Deputy Assistant Secretary Mark Washington to CU Denver is attached as Exhibit E.
21. CU Denver relied and acted upon its expectation and understanding that ED would fulfill its commitment to provide TQP funding it awarded to CU Denver in 2022.
22. As a result of the February 12 and 13 GANs, CU Denver and its partners have quickly pivoted to identify which parts of the NxtGEN partnership would immediately cease, which parts might continue under one-time funds from CU Denver, and which parts might continue with funds provided by the rural community colleges and school districts. Because the purported termination occurred in the middle of the Spring semester, CU Denver and its partners are prioritizing their own funds to support currently enrolled students but, as discussed below the termination is resulting the following immediate harms.

23. A total of 11 Full time equivalents (“FTE”) were funded through the grant with positions both in Denver and rural Colorado. This represents full and part-time employment for 21 individuals who have lost their jobs or will have their jobs reduced as a result of this grant termination.
24. At the time of termination there were 77 students participating in the NxtGEN program accessing support, engaging in mentorship, and enrolled in internships. Eight newly minted teachers were participating in professional development/inculcation. Without a continuation of the grant, services to these students will cease and regardless of emergency funding, will not continue past the spring semester. The termination of the grant will result in an estimated loss of 50 new qualified teachers for these rural communities. At least one district has already reported that without this program, it expects to rely on long-term substitutes because the district will be unable to recruit and retain fully qualified teachers. We expect more districts will face similar immediate impacts. According to a Colorado Department of Education report on teacher shortages, nearly three quarters of the over 1400 open positions in small rural districts in Colorado could not be filled by a fully qualified teacher.
25. Prior to the grant award termination on February 12 and 13, ED had not provided CU Denver with notice, written or otherwise, of any deficiency, concern, or unlawful activity as alleged. In particular, ED had never provided notice that CU Denver’s programs “promote or take part in DEI initiatives or other initiatives that unlawfully discriminate on the basis of race, color, religion, sex, national origin, or another protected characteristic”; “violate either the letter or purpose of Federal civil rights law”; “conflict with the Department’s policy of prioritizing merit, fairness, and excellence in education”; “are not free from fraud, abuse, or duplication”; “otherwise fail to serve the best interests of the United States.”

26. This unilateral termination without notice will result in 21 jobs lost or reduced, an estimated 50 new teachers lost for rural school districts where there is a teacher shortage, especially for hard-to-fill positions, and the dissolution of a teaching preparation program partnership that was effectively working to address teacher shortages in rural areas.

I declare under penalty of perjury under the laws of the United States that, to the best of my knowledge, the foregoing is true and correct.

Executed on March 5, 2025, at Denver, Colorado.

Kenneth Christensen