No. 25-3381

In The United States Court of Appeals for the Third Circuit

CHICHESTER SCHOOL DISTRICT,
Plaintiff-Appellee,
v.
CASA EDUCATION DECISION MAKERS, O/B/O Y.C.Q., A MINOR,
Defendant-Appellant.

On Appeal from the United States District Court
for the Eastern District of Pennsylvania

BRIEF OF *AMICI CURIAE* THE ARC OF PENNSYLVANIA, THE ARC OF PHILADELPHIA, THE ARC OF GREATER PITTSBURGH/ACHIEVA, COUNCIL OF PARENT ATTORNEYS AND ADVOCATES, DELAWARE COUNTY ADVOCACY & RESOURCE ORGANIZATION, DISABILITY RIGHTS PENNSYLVANIA, JUVENILE LAW CENTER, THE PUBLIC INTEREST LAW CENTER, AND THE SUPPORT CENTER FOR CHILD ADVOCATES, IN SUPPORT OF APPELLANT

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Disclosure Statement

Pursuant to Federal Rules of Appellate Procedure 26.1 and 29(a)(4)(A), *amici curiae* The Arc of Pennsylvania, The Arc of Philadelphia, The Arc of Greater Pittsburgh/Achieva, Council Of Parent Attorneys and Advocates, Delaware County Advocacy & Resource Organization, Disability Rights Pennsylvania, Juvenile Law Center, The Public Interest Law Center, and the Support Center for Child Advocates, state that they are each private, 501(c)(3) non-profit organizations that have no parent companies and issue no stock, and therefore no publicly held companies hold 10% or more of any *amici curiae*'s stock.

Pursuant to Federal Rule of Appellate Procedure 29(a)(4)(E), *amici curiae* state that no counsel for any party authored any part of this brief, and no person or entity other than *amici* and their counsel made a monetary contribution to the preparation or submission of this brief.

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Statement of Consent to File

Pursuant to Federal Rule of Appellate Procedural 29(a)(2), counsel for amici curiae certifies that they conferred with counsel for Casa Education Decision Makers, o/b/o Y.C.Q., a Minor, and Chichester School District. Both parties consent to the filing of this brief.

Statement of Interest

The Arc of Pennsylvania (PA) has been the leading advocacy organization for people with intellectual and developmental disabilities (IDD) for over 75 years. Our mission is to advocate with and for all people with IDD to promote and secure their rights. The Arc of PA leads through Equity, Meaningful Participation, Visionary Leadership, Public Interest, Collaboration, and Excellence. The Arc of PA joins this *amicus* brief to ensure that children with disabilities and all schoolchildren across the Commonwealth have access to a high-quality education that prepares them to participate in today's economy and democracy.

The Arc of Philadelphia has led the way in protecting the rights of, and promoting opportunities for, children and adults with disabilities, by advocating with and for all children and adults with intellectual and developmental disabilities and their families to promote active citizenship, self-determination, and full inclusion. Founded in 1948 by parents who sought better services for their children with developmental and other disabilities, The Arc of Philadelphia is one of the first of the now more than 700 Arc chapters in the United States. The parents who created The Arc labored tirelessly for the equal rights and human dignity of people with disabilities at a time when institutionalization of newborns with intellectual disabilities was the norm. Over the past 75 years since its founding, The Arc

through its volunteer board, staff, and membership has become a powerful voice in shaping the service landscape for people with disabilities.

The Arc of Greater Pittsburgh/Achieva (AGP) has been advocating with individuals with disabilities and their families, providing technical assistance, individual support, and access to education and resources, for 75 years. Additionally, AGP informs policymakers and legislators about disability issues and solutions, ensuring that self-determination and inclusion are the foundation of individual support.

Council of Parent Attorneys and Advocates (COPAA) is a national not-for-profit organization for parents of children with disabilities, their attorneys, and advocates. COPAA does not undertake individual representation but provides resources, training, and information for parents, advocates, and attorneys to assist in obtaining the free appropriate public education that children are entitled to under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400, *et seq*. COPAA also supports its members in their efforts to safeguard the civil rights guaranteed to those individuals under federal laws, including the Civil Rights Act of 1871, ch. 22, 17 Stat. 13 (codified as amended at 42 U.S.C. § 1983), Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131, *et seq*.

COPAA brings the unique perspective of parents, advocates, and attorneys for children with disabilities. COPAA has filed as *amicus curiae* in the United States Supreme Court, including in *A.J.T. v. Osseo Area Schs.*, 605 U.S. 335 (2025); *Perez v. Sturgis Public Schs.,* 598 U.S. 142 (2023); *Endrew F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. 386 (2017); *Fry v. Napoleon Cmty. Schs.*, 580 U.S. 154 (2017); *Forest Grove Sch. Dist. v. T.A.*, 557 U.S. 230 (2009); *Bd. of Educ. v. Tom F.*, 552 U.S. 1 (2007); *Arlington Cent. Sch. Dist. Bd. of Educ. v. Murphy*, 548 U.S. 291 (2006); *Schaffer v. Weast*, 546 U.S. 49 (2005); and *Winkelman v. Parma City Sch. Dist.*, 550 U.S. 516 (2007), and in all the United States Courts of Appeal that frequently hear special education appeals.

Delaware County Advocacy & Resource Organization (DCARO) is a membership-based, non-profit organization that has advocated for people with intellectual and developmental disabilities since its incorporation in 1956. DCARO provides technical assistance and advocacy to many parents of students with disabilities in Delaware County and its members include parents of students who receive special education services.

Disability Rights Pennsylvania (DRP) is the protection and advocacy system designated by the Commonwealth of Pennsylvania pursuant to federal law to protect the rights of and advocate for Pennsylvanians with disabilities so that they may live the lives they

choose, free of abuse, neglect, discrimination, and segregation. To this end, DRP provides legal advocacy for children and adults with disabilities, including the rights of students in education. DRP joins this *amicus* brief to ensure that children with disabilities and all schoolchildren across the Commonwealth have access to a high-quality education that prepares them to participate in today's economy and democracy.

Juvenile Law Center fights for rights, dignity, equity, and opportunity for youth. Juvenile Law Center works to reduce the harm of the child welfare and justice systems, limit their reach, and ultimately abolish them so all young people can thrive. Founded in 1975, Juvenile Law Center is the first non-profit public interest law firm for children in the country. Juvenile Law Center's legal and policy agenda is informed by—and often conducted in collaboration with—youth, family members, and grassroots partners. Since its founding, Juvenile Law Center has filed influential amicus briefs in state and federal courts across the country to ensure that laws, policies, and practices affecting youth advance racial and economic equity and are consistent with children's unique developmental characteristics and human dignity.

The Public Interest Law Center (Law Center), one of the original affiliates of the Lawyers' Committee for Civil Rights Under Law, uses high-impact legal strategies to advance the civil, social, and

economic rights of communities in the Philadelphia region. In addition to its work in employment, environmental justice, healthcare, housing, and voting rights, the Law Center has a long-standing commitment to ensuring all students, regardless of zip code, race, ethnicity, language, or abilities, have access to a high-quality public education. The Law Center was counsel in the landmark decision of *PARC v. Commonwealth of Pennsylvania*, 343 F. Supp. 279 (E.D. Pa. 1972), which led to the congressional passage of the initial version of the Individuals with Disabilities Education Act. The Law Center was also co-counsel in the historic victory for Pennsylvania's public school students in which the court held that Pennsylvania's school funding system was unconstitutional and that every child in Pennsylvania has a fundamental right to receive a comprehensive, effective, and contemporary public education. *William Penn Sch. Dist. v. Pennsylvania Dep't of Educ.*, 294 A.3d 537 (Pa. Commw. Ct. 2023). Moreover, the Law Center advocates for and litigates on behalf of children with disabilities and their parents. For example, the Law Center recently filed and successfully resolved a class action lawsuit in the Eastern District of Pennsylvania ending Pennsylvania's policy and practice of aging students out of special education services prematurely and extending special education services to eligible students until their 22nd birthdays. *A.P., by and through his parents, U.P. and M.T., individually*

and on behalf of a class of those similarly situated v. Pennsylvania Department of Education, Case No. 2:23-cv-02644 (E.D. Pa. 2023).

The Support Center for Child Advocates (Child Advocates) provides legal assistance and social service advocacy to abused and neglected children in Philadelphia, representing more than 1000 children each year. Child Advocates represents child victims as counsel and guardian *ad litem* in criminal prosecutions of their alleged abusers and in related dependency proceedings. The mission of Child Advocates is to advocate for victims of child abuse and neglect with the goal of securing safety, justice, well-being, and a permanent, nurturing environment for every child.

Introduction

Congress passed the Individuals with Disabilities Education Act (IDEA) to secure the right of every child with a disability to a free appropriate public education. In exchange for federal funding, States take on the obligation to "make such an education available to all children with disabilities" by providing "meaningful access to education based on [their] individual needs." *Fry v. Napoleon Cmty. Schs.*, 580 U.S. 154, 166–67 (2017) (internal quotations omitted). Congress envisioned a "cooperative process," *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 53 (2005), through which parents and schools work together to ensure children receive the services to which they are entitled. When disputes arise been parents and schools, the IDEA requires that state educational agencies (SEAs) resolve them through informal procedures designed to allow parents and children to seek enforcement of their rights speedily and without incurring the expense of full-blown litigation. When the SEA decides the dispute and neither party appeals, the agency's order is final.

Nevertheless, the reality is that those seeking IDEA enforcement must incur significant financial costs while trying to obtain adequate education services against a running clock. This case presents a particularly stark example: the Chichester School District has collaterally attacked a final SEA order that it failed to timely appeal by

seeking preliminary injunctive relief in a separate federal court action. The School District's attempt to perpetually delay its compliance with a final order is nothing more than an effort to out-litigate Y.C.Q. by running out the clock until she graduates and is no longer entitled to services under the IDEA.

These circumstances underscore the need for timely enforcement of final SEA decisions so that they cannot be repeatedly challenged through endless litigation. Injustice will undoubtedly result if schools are allowed to refuse binding agency orders and out-litigate the families of children with disabilities until their obligations to them are minimized or eliminated altogether.

This Court should reverse.

Argument

I. The Right to a Free Appropriate Public Education Is Dependent upon Access to the State Educational Agency and the Enforcement of Its Orders

A. The Purpose and Process of the IDEA

Congress enacted the IDEA to ensure that children with disabilities have equal access to a "free appropriate public education" (FAPE). 20 U.S.C. § 1400(d)(1)(A). Although prior legislation had "improv[ed] educational results for children with disabilities," Congress determined that greater progress had been "impeded by low expectations" and a lack of focus on appropriate teaching methods. 20 U.S.C.

§ 1400(c)(4). Recognizing a persistent pattern of exclusion and neglect, Congress enacted the IDEA to make special education more effective, including by ensuring that children with disabilities are properly diagnosed so that they may receive adequate services, as well as by strengthening the role of parents to ensure they can meaningfully participate in the education of their children. 20 U.S.C. § 1400(c)(2)(C), (5)(B); s*ee also Schaffer v. Weast*, 546 U.S. 49, 52 (2005) (explaining that the IDEA was intended to reverse the historical exclusion and neglect of children with disabilities).

Especially relevant here, Congress acknowledged a discrepancy in assessing and providing services to children learning English as a second language, like Y.C.Q., who are often misdiagnosed and drop out at higher rates than other children. 20 U.S.C. § 1400(c)(11). In addition, children who are or have been in foster care, also like Y.C.Q., face unique hardships that compound their educational challenges. As many as 30–50% of youth in foster care receive special education services, compared with 14% of all students. Cassie A. Powell, *"Every Child Needs a Champion": Foster Children with Disabilities and the Appointment of Surrogate Parents Under IDEA*, 27 Rich. Pub. Int. L. Rev. 245, 248 (2024).

In exchange for federal funds, States agree to provide every child with access to a FAPE by fulfilling their obligations under the IDEA and consistent State regulations. *Schaffer*, 546 U.S. at 53 (describing

the agreement made by state and local agencies receiving IDEA funds). The "central vehicle" through which a FAPE is made accessible to a child with disabilities is the development of an individualized education program (IEP). *Id.*; 20 U.S.C. § 1414.

The IDEA and its implementing regulations outline the "cooperative process" through which schools and parents evaluate a child and determine her eligibility for specialized services. *Schaffer*, 546 U.S. at 53. With the consent of the parents, a local or state educational agency conducts a full, individualized initial evaluation to determine if the child has a disability and to assess her educational needs. If the parent disagrees with the initial evaluation, the IDEA affords them "the right to an independent educational evaluation at public expense." 34 C.F.R. § 300.502(b)(1). The regulations define an "independent educational evaluation" (IEE) as one "conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question." 34 C.F.R. § 300.502(a)(3)(i).

In this way, the IDEA protects the *parent's choice* of evaluator, whose IEE must be provided at no cost to the family, so long as the evaluator meets the public agency's criteria. The right to an IEE "ensures parents access to an expert who can evaluate all materials that the school must make available," and "give an independent opinion" so that parents "are not left to challenge the government without a

realistic opportunity to access necessary evidence, or without an expert with the firepower to match the opposition." *Schaffer*, 546 U.S. at 60–62.

The IDEA includes certain procedural safeguards to ensure that a FAPE is provided to each child, the first of these being the parents' right to obtain their child's educational records and an IEE. 20 U.S.C. § 1415(b)(1). Recognizing that there may be disagreements between parents and schools in the provision of services, disputes are to be resolved through additional procedural mechanisms that are accessible to both parties, such as mediation or a due process hearing. 20 U.S.C. §§ 1415(b)(5)–(6). Due process hearings are conducted before an independent hearing officer empowered to make determinations regarding the special education services to be provided to a child. 20 U.S.C. §§ 1415(c)(2)(D), (f)(3)(E). Decisions by local educational agencies are appealable to state educational agencies, who may review all findings and rulings and render an independent decision. 20 U.S.C. § 1415(g). Further appeals of agency decisions may be brought in a state or federal court. 20 U.S.C. § 1415(i)(2)(A). However, when an appeal is not granted, or the time in which to file an appeal expires, state agency decisions are "final." 20 U.S.C. § 1415(i)(1); 34 C.F.R. § 300.514.

B. State Educational Agencies Enforce the Right to a Free Appropriate Public Education

Local educational agencies (LEA), such as the Chichester School District, are overseen by state educational agencies (SEA), such as the Pennsylvania Department of Education (PDE), which are primarily responsible for ensuring all children with disabilities have access to a FAPE. 20 U.S.C. § 1400(c)(6). The SEA's role in fulfilling the State's obligations under the IDEA cannot be overstated.

The IDEA's implementing regulations make the SEA responsible for ensuring that each special educational program administered by any other state or local agency within the state is carried out in accordance with the standards of the SEA and the IDEA. 34 C.F.R. § 300.149(a). The SEA is responsible for implementing and enforcing the IDEA's procedural safeguards, including providing access to due process hearings directly and upon appeal from local agencies, ensuring parent access to the safeguard procedures, issuing final decisions, and, when necessary, issuing "corrective actions to achieve compliance." 34 C.F.R. §§ 300.150–152. LEAs must employ policies, procedures, and programs that are consistent with the State's policies and procedures, and report information necessary to enable the SEA to carry out its supervisory duties. 34 C.F.R. §§ 300.201, 211. If the SEA determines that a LEA is failing to comply with its requirements, the SEA is directed to reduce or not provide further payments to the LEA

until the SEA is satisfied that the LEA is in compliance. 34 C.F.R. § 300.222.

In other words, Congress's intent is clear: the SEA has the duty to hold LEAs accountable to their students with disabilities and ensuring parents have an opportunity to meaningfully participate in their child's education and any disputes arising therefrom.

The finality of SEA decisions adjudicating disputes is codified by the IDEA and its implementing regulations. When the SEA reaches a decision not subject to further review, such as when appeal has been denied, that decision is "final" and demands compliance. 20 U.S.C. § 1415(i)(1); 34 C.F.R. § 300.514. Courts have consistently held that a hearing decision that is not appealed is "final and binding under the IDEA." *D.E. v. Cent. Dauphin Sch. Dist.*, 765 F.3d 260, 276 (3d Cir. 2014) (citing *Porter v. Bd. of Trs. of Manhattan Beach Unified Sch. Dist.*, 307 F.3d 1064, 1069 (9th Cir. 2002) and *Robinson v. Pinderhughes*, 810 F.2d 1270 (4th Cir. 1987)). When an appeal is not timely taken, this "clear congressional demarcation [in § 1415] of an end point to the due process procedures" requires that the agency order be treated as final. *Id.* (citations omitted) (ultimately holding that individuals seeking to enforce a favorable decision obtained at the agency level upon the school's refusal to carry out the decision may pursue such claims in court).

C. Children with Disabilities Are Substantially Harmed Without Access to State Educational Agencies

The parent's (or appointed decisionmaker's) participation in the IEP process gives life to the right to a FAPE. Indeed, the IDEA relies heavily on parental advocacy to enforce rights—a safeguard largely absent for children in foster care and for much of Y.C.Q.'s life. A parent's access to educational records, independent evaluations, collaboration with the LEA responsible for their child's education, and enforcement of their child's rights by the SEA are the pillars of a parent's "meaningful participation" in their child's education. 20 U.S.C. §§ 1400(c)(5)(B), 1415(b)(1); 34 C.F.R. § 300.501, 502. And effective enforcement of a child's education rights requires fair and timely adjudication of disputes arising from the IDEA and enforcement of final decisions resolving those disputes.

IDEA due process hearings are "deliberately informal," designed to be flexible and accessible venues for parents to present evidence and seek enforcement of their child's educational rights without the need for counsel. *Schaffer*, 546 U.S. at 61. The SEA must organize hearings "at a time and place that is reasonably convenient to the parents and child involved." 34 C.F.R. § 300.515. Notwithstanding their informality, however, parents have a right to be accompanied and advised by counsel at due process hearings, 34 C.F.R. § 300.512, and they may recover attorneys' fees if they prevail, 20 U.S.C.

§ 1415(i)(3)(B). These protections ensure that children and parents are not disadvantaged through the hearing process.

Despite these intentions, studies suggests that due process hearings have become "overly complex, prohibitively expensive, and excessively lengthy," keeping them out of reach for many families of children with disabilities. Prof. Jane R. Wettach & Bailey K. Sanders, JD, PhD., *Insights into Due Process Reform: A Nationwide Survey of Special Education Attorneys*, 20 Conn. Pub. Int. L.J. 239, 239 (2021). Parents seeking a due process hearing must comply with the IDEA's procedures, understand the law, gather evidence, prepare witnesses, and carry the burden of persuasion. And while the IDEA affords parents the right to be accompanied by counsel at due process hearings, the IDEA does not provide for *free* legal counsel. As a result, low-income parents disproportionately do not take advantage of the IDEA's enforcement mechanisms because they cannot afford to pay tens of thousands of dollars in legal fees. *See* Debra Chopp, *School Districts and Families Under the IDEA: Collaborative in Theory, Adversarial in Fact*, 32 J. Nat'l Ass'n Admin. L. Judiciary 423, 450–51 (2012). Even if a parent proceeds *pro se*, they may still incur substantial expenses in the form of expert witnesses and lost wages from missing work to prepare for and attend the hearing—costs that cannot be recovered even if the parent prevails. *Id*. at 451. According to a federally funded national study of the IDEA's private enforcement mechanisms, 52% of

school districts serving high-income families saw IDEA due process cases, mediations, or litigation, while only 10% of middle-income districts and 4% of low-income districts did. *See* Eloise Pasachoff, *Special Education, Poverty, and the Limits of Private Enforcement*, 86 Notre Dame L. Rev. 1413, 1426 (2011).

The disparity between high- and low-income families widens when an agency decision is appealed through the filing of a civil action in state or federal court, at which point the informality and flexibility offered for IDEA due process hearings disappears. At the appellate level of IDEA litigation, parents face an entirely adversarial process and must overcome even greater barriers to success. Courts are under no duty to provide convenient attendance options for the parties, who are no longer before their local or state agency. By the end of litigation, costs can total over $100,000. *See id*. at 1447 n.167. Even if parents obtain a judgment in their favor, the expenses of litigation are likely not recoverable, as the awarding of attorneys' fees is discretionary and subject to various exclusions. *See id*. at 1445–47. Under these circumstances, parents cannot hope to navigate the complexities of the court system without quality representation and ample resources. This significant burden is unfairly compounded when, as here, a school fails to timely seek judicial review of a final, enforceable agency order and yet seeks to escape its obligations under the IDEA through a backdoor injunction filed under a separately pending matter.

The lack of economic means and parental advocacy experienced by youth in the foster system has additional negative implications. "[T]he associations between poverty and education, poverty and disability, and disability and education, alone, can have devastating outcomes. Operating simultaneously, these links may magnify the risk of dire consequences even further." Jennifer Rosen Valverde, *A Poor IDEA: Statute of Limitations Decisions Cement Second-Class Remedial Scheme for Low-Income Children with Disabilities in the Third Circuit*, 41 Fordham Urb. L.J. 599, 617 (2013). Children with disabilities who have experienced foster care, like Y.C.Q., face significant challenges in accessing and securing federally protected rights under the IDEA. *See, e.g.,* Carla A. Peterson *et al.*, *Meeting Needs of Young Children at Risk for or Having a Disability*, Early Childhood Educ. J. 509, 512 (2010).

While litigation is pending, which could be anywhere from a few months to a few years, children may age out of the public education system. Y.C.Q. is currently a senior in high school and, as of the filing of this brief, she has approximately three months until her right to a FAPE expires. Delaying a child's educational support while a case winds through the courts irreparably harms the child—not only because each day that passes is one day closer to graduation, but also because educational gaps today impede long-term academic progress

tomorrow. Jacqueline Huscroft-D'Angelo, *et al.*, *Fostering Educational Success: Program Description and Descriptive Pilot Study*, 47 Educ. Treat. Child. 363, 364 (2024). The psycho-social stressors experienced by children in foster care, who lack parents to advocate for them, greatly diminish their educational outcomes. *Id.* Further, after a child begins her IEP, the IDEA calls for reevaluation every one to three years, or as agreed to by the parents and school, to ensure that the program meets her needs. 20 U.S.C. § 1414(a)(2). It has now been more than a year and a half since Y.C.Q.'s initial evaluation—time during which she should have been receiving supportive educational services and could have benefited from reevaluation.

The right to a *free* appropriate public education is fundamentally undermined by the financial barriers and time constraints imposed by unreasonably protracted litigation. The lack of access to state educational agencies and subsequent litigation significantly harms children with disabilities, especially those who are disadvantaged by a lack of parental advocacy due to foster care placement, resulting in life-long consequences. Preventing such dire outcomes requires equitable access to the IDEA's administrative procedures and the assurance that final agency decisions will be enforced.

II. Upholding the School District's Injunction Would Encourage the Out-Litigating of Children with Disabilities

The financial burden incurred by the families of children with disabilities who seek enforcement of the IDEA is emphasized by the relatively minor risks taken by LEAs when protesting the provision of educational services. The issue underlying this appeal is the School District's refusal to reimburse the cost of Y.C.Q.'s IEE—a key right afforded to a student with a disability and an expense routinely paid by schools when developing an IEP. Unfortunately, the circumstances of this matter are not unusual; the cost of IDEA services that are the subject of disputes are often much smaller than the attorneys' fees required to obtain them. Stefan R. Hanson, *Buckhannon, Special Education Disputes, and Attorneys' Fees: Time for A Congressional Response Again*, 2003 B.Y.U. Educ. & L.J. 519, 522 (2003). While one might assume that this would encourage parents and schools to resolve disputes through collaboration and mediation, studies show that the risk of losing and being left with a legal bill greater than the cost of the services sought only deters parents who cannot afford an attorney. Pasachoff, *supra*, at 1450. Schools are incentivized to out-litigate parents due to insurance coverage and late settlements that allow them to avoid paying attorneys' fees to prevailing parents.

Insurance coverage for school districts is common; "[s]chool districts operate in a highly regulated environment" and integrate "the

demands of the legal system into daily operations." Chopp, *supra*, at 454. Many schools have policies that provide high aggregate limits for defending special education disputes. *Id.* at 456 (noting a Massachusetts's school's policy with a $100,000 annual limit). Insurance coverage emboldens schools to refuse expensive benefits to children with disabilities, knowing they can incur tens, or even hundreds, of thousands of dollars at no marginal cost to the school. *Id.* Under this structure, schools are able to negotiate and litigate more aggressively than parents who are rarely in the same position. Thus, school districts may be inclined to protest IDEA obligations that pose significant expense to parents but relatively little risk to them. *See, e.g.*, Chopp, *supra*, at 455 ("If a school district has such insurance, it significantly alters the risk-reward analysis of going to a hearing.").

That prevailing parents may be able to recover attorneys' fees has proven an inadequate deterrent to litigation. While Congress intended for children with disabilities to recover attorneys' fees incurred in realizing their educational rights, courts determining when to award fees under the IDEA have increasingly narrowed the interpretation of "prevailing," such that parents are not guaranteed to be awarded their fees unless they prevail through a judicial order. Hanson, *supra*, at 547 (discussing varied results where the parties mediated, entered into a settlement agreement, or both prevailed to some

degree). These interpretations of the IDEA have led "mischievous defendants" to "unilaterally grant relief well into hearings," thus "leaving parents holding the bag for their own attorneys' fees" by denying them "the necessary judicial imprimatur" entitling them to fee shifting. *Id.* (quotation marks omitted). Such gamesmanship allows schools to inflate the costs of litigation for parents (while schools are covered by insurance) in an attempt to "out-litigate" them before finally agreeing to the substantially lower-cost service originally sought.

Affirming the district court's injunction here would only encourage similarly evasive and aggressive tactics by LEAs. Following the completion of the IDEA's administrative procedures, the PDE issued a final order instructing the School District to pay for Y.C.Q.'S IEE. The School District refused. When the School District's untimely appeal of that order was denied by the U.S. District Court for the Eastern District of Pennsylvania, the School District filed for an injunction and declaratory relief under a separate matter relating to Y.C.Q.'s pendency educational placement, effectively seeking review of the SEA's final order through a collateral attack, which the district court granted. Upholding this result would greenlight LEAs' use of preliminary injunctions as a means to obtain further review of otherwise final, binding orders entered by the SEA—the agency Congress tasked with implementing the IDEA, coordinating the resolution of disputes,

and ensuring that every child with a disability receives a FAPE. *See D.E.*, 765 F.3d at 276.

Appealing final agency decisions through injunctions would become routine and render the SEA an obsolete steppingstone to the next stage of litigation. Such an outcome would considerably hinder the SEA's ability to ensure that LEAs comply with their obligations under the IDEA and remove any assurance that the IDEA's statutory procedures will produce timely and effective enforcement of education rights. Simply put, the injunction and declaratory relief granted below impermissibly denies a child her right to a FAPE and cannot stand.

Conclusion

For the reasons discussed above, this Court should vacate and reverse the district court's preliminary injunction.

Respectfully submitted,

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Certifications

1. Bar Membership

I hereby certify that I am a member in good standing of the bar of the United States Court of Appeals for the Third Circuit.

2. Certificate of Compliance with Rules 29 and 32(a) and LAR 31.1(c)

This brief complies with the type volume, typeface, and typestyle requirements of Federal Rules of Appellate Procedure 29(a)(5) and 32(a)(5) and (6), because it contains 4,666 words, exclusive of the cover, tables, and certificates, and has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in 14-point Century Schoolbook font.

In accordance with Third Circuit LAR 31.1(c), I certify that the text of the electronic brief is identical to the text of the paper copies being filed. I further certify that the electronic submission was subjected to a virus scan using Microsoft Defender.

3. Certificate of Service

I hereby certify that, on March 2, 2026, a true and correct copy of this document was served on counsel of record through the Court's CM/ECF system.

Dated: March 2, 2026

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