

IN THE SUPREME COURT OF THE UNITED STATES

No. 21-887

MIGUEL LUNA PEREZ, PETITIONER

v.

STURGIS PUBLIC SCHOOLS, ET AL.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

MOTION OF THE UNITED STATES
AS AMICUS CURIAE SUPPORTING PETITIONER
FOR LEAVE TO PARTICIPATE IN, ENLARGEMENT OF,
AND DIVIDED ORAL ARGUMENT

Pursuant to Rules 21, 28.3, 28.4, and 28.7 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves that the United States be granted leave to participate in the oral argument in this case, that the time for oral argument be enlarged to 70 minutes, and that the time be allotted as follows: 20 minutes for petitioner, 15 minutes for the United States, and 35 minutes for respondents. Petitioner and respondents consent to this motion.

This case concerns the relationship between the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1400 et seq., and the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. 12101 et seq., in contexts in which a plaintiff files an ADA action alleging that a school has unlawfully discriminated against a disabled child in his public education. A provision of the IDEA, 20 U.S.C. 1415(1), provides that if such a non-IDEA action "seek[s] relief that is also available under [the IDEA]," the plaintiff must exhaust "the procedures under [Section 1415](f) and (g) * * * to the same extent as would be required had the action been brought under [the IDEA]." Ibid. The questions presented in this case concern the extent to which Section 1415(1) requires an ADA plaintiff to further exhaust the IDEA's administrative procedures where the plaintiff and the school have already settled the plaintiff's related IDEA claim.

The United States has a significant interest in the questions presented. The Department of Education administers the IDEA, has promulgated IDEA implementing regulations, 20 U.S.C. 1402, 1406; 34 C.F.R. Pt. 300, and has shared administrative ADA enforcement authority for public educational institutions, 28 C.F.R. 35.172-35.174, 35.190(b)(2). The Department of Justice exercises ADA enforcement authority and has promulgated ADA implementing regulations. See 42 U.S.C. 12133, 12134(a); 28 C.F.R. Pt. 35. At the Court's invitation, the United States filed a brief at the

petition stage of this case. The United States has previously participated in oral argument as amicus curiae in numerous IDEA cases, including a prior case presenting one of the Section 1415(1) questions presented in this case. See Fry v. Napoleon Cmty. Sch., 580 U.S. 154, 165 n.4 (2017); see also, e.g., Endrew F. v. Douglas Cnty. Sch. Dist., 137 S. Ct. 988 (2017); Forest Grove Sch. Dist. v. T.A., 557 U.S. 230 (2009); Winkelman ex rel. Winkelman v. Parma City Sch. Dist., 550 U.S. 516 (2007). The United States' participation in oral argument is therefore likely to be of material assistance to the Court.

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General
Counsel of Record

NOVEMBER 2022