No. 21-887

In the Supreme Court of the United States

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

BRIEF FOR THE UNITED STATES
AS AMICUS CURIAE SUPPORTING PETITIONER

ELIZABETH B. PRELOGAR
Solicitor General
Counsel of Record
KRISTEN CLARKE
Assistant Attorney General
BRIAN H. FLETCHER
Deputy Solicitor General
ANTHONY A. YANG
Assistant to the Solicitor General
BONNIE I. ROBIN-VERGEER
TERESA KWONG
JANEA L. LAMAR
Attorneys
Department of Justice
Washington, D.C. 20530-0001
SupremeCtBriefs@usdoj.gov
(202) 514-2217

LISA BROWN
General Counsel
FRANCISCO LOPEZ
ERIC MOLL
Attorneys
U.S. Department of Education
Washington, D.C. 20202

QUESTIONS PRESENTED

Section 1415(*l*) of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1400 *et seq*., provides that nothing in the IDEA shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. 12101 *et seq*., or other federal laws protecting the rights of children with disabilities, "except that before the filing of a civil action under such laws seeking relief that is also available under [the IDEA], the procedures under [20 U.S.C. 1415](f) and (g)"—which specify an administrative process for resolving IDEA claims—"shall be exhausted to the same extent as would be required had the action been brought under [the IDEA]." 20 U.S.C. 1415(*l*). The questions presented are:

1. Whether Section 1415(*l*)'s requirement to exhaust the IDEA's administrative remedies before filing a suit "seeking relief that is also available under [the IDEA]" applies to an ADA action seeking only money damages that are not available under the IDEA.

2. Whether Section 1415(*l*) requires individuals who have entered into a settlement resolving their IDEA claims to further exhaust the IDEA's administrative process before filing an ADA action.

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INTEREST OF THE UNITED STATES

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.* 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.

STATEMENT

1. The IDEA and ADA both protect the rights of "children with disabilities." *Fry* v. *Napoleon Cmty. Sch.*, 580 U.S. 154, 159 (2017). This case concerns the extent to which the IDEA requires a plaintiff to exhaust the IDEA's administrative procedures before bringing an ADA action.

a. In 1970, Congress enacted the statute now known as the IDEA. See Education of the Handicapped Act, Pub. L. No. 91-230, Tit. VI, 84 Stat. 175.[1] In 1975, Congress amended the statute to issue grants to States to provide "special education and related services" to children with disabilities, 20 U.S.C. 1411(a)(1), and to require, as a condition of receiving those funds, that each State and its school districts make a "free appropriate public education" (FAPE) available to every eligible child with a disability in the State. 20 U.S.C. 1412(a)(1)(A); see 20 U.S.C. 1401(9) (defining FAPE); Education for All Handicapped Children Act of 1975, Pub. L. No. 94-142, §§ 3(a), 4(a)(4), and 5(a), 89 Stat. 775-794 (amending 20 U.S.C. 1401(18), 1411-1420 (1976)).

A school district must provide each eligible child with an "individualized education program" (IEP), 20 U.S.C. 1412(a)(4), 1414(d), which "serves as the 'primary vehicle' for providing [the] child with the promised FAPE." *Fry*, 580 U.S. at 158 (citation omitted). A proper IEP must establish a program of special education and related services designed to meet "all of the child's 'educational needs'" resulting from his disability, *ibid.* (quoting 20 U.S.C. 1414(d)(1)(A)(i)(II)(bb)), and must

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[1] Congress renamed the statute in 1990. See *Fry*, 580 U.S. at 160 n.1. For simplicity, this brief refers to the pre-1990 statute as the IDEA.

be "reasonably calculated to enable [the] child to make progress appropriate in light of the child's circumstances," *Endrew F.* v. *Douglas Cnty. Sch. Dist.*, 137 S. Ct. 988, 999 (2017).

The IDEA establishes procedures for resolving disputes that may arise between parents and school districts. As a general matter, parents who are not satisfied with a proposed IEP, or with other matters relating to the "identification, evaluation, or educational placement of the child, or the provision of a [FAPE]," must first notify the district of their complaint. 20 U.S.C. 1415(b)(6)(A); see 20 U.S.C. 1415(b)(7). The IDEA then encourages settlement through mediation and a separate resolution session. 20 U.S.C. 1415(e) and (f)(1)(B). If those efforts are unsuccessful, parents may obtain "an impartial due process hearing" before a state or local educational agency. 20 U.S.C. 1415(f)(1)(A). The hearing officer's decision must generally determine "whether the child received a [FAPE]." 20 U.S.C. 1415(f)(3)(E)(i). If a local agency conducted the hearing, a party may appeal to the relevant state agency. 20 U.S.C. 1415(g).

"Any party aggrieved by the [resulting administrative] findings and decision" may "bring a civil action with respect to the complaint presented [under Section 1415]." 20 U.S.C. 1415(i)(2)(A). Although such "review is normally not available * * * until all administrative proceedings are completed," this Court has determined that parents and schools "may bypass the administrative process" and pursue relief in court "where exhaustion would be futile or inadequate." *Honig* v. *Doe*, 484 U.S. 305, 326-327 (1988) (interpreting 20 U.S.C. 1415(e)(2) (1982), now 20 U.S.C. 1415(i)(2)).

The court hearing an IDEA action must receive the records of any prior administrative proceedings, take "additional evidence" at the request of any party, and render an independent decision based "on the preponderance of the evidence." 20 U.S.C. 1415(i)(2)(C); see *Board of Educ. of the Hendrick Hudson Cent. Sch. Dist.* v. *Rowley*, 458 U.S. 176, 205-207 (1982). The court then may "grant such relief as [it] determines is appropriate," 20 U.S.C. 1415(i)(2)(C)(iii), and award reasonable attorneys' fees to a prevailing-party parent, 20 U.S.C. 1415(i)(3)(B)(i)(I). If the parent previously rejected a timely settlement offer and then failed to obtain "relief * * * more favorable * * * than the offer of settlement," however, the IDEA generally prohibits an award of attorneys' fees and costs "for services performed subsequent to the time of [the] written offer of settlement." 20 U.S.C. 1415(i)(3)(D)(i); see 20 U.S.C. 1415(i)(3)(E) (exception if rejection was "substantially justified").

This Court and the courts of appeals have generally held that the "'appropriate' relief" authorized by the IDEA is equitable in nature and encompasses both (1) future special education and related services that ensure a FAPE or redress past denials of a FAPE, and (2) financial compensation to "reimburse parents" for past educational expenditures that should have been borne by the State. *School Comm. of the Town of Burlington* v. *Department of Educ.*, 471 U.S. 359, 369-370 (1985) (*Burlington*); see, *e.g.*, *Florence Cnty. Sch. Dist. Four* v. *Carter ex rel. Carter*, 510 U.S. 7, 16 (1993) ("equitable relief"); *Doe* v. *East Lyme Bd. of Educ.*, 790 F.3d 440, 454 (2d Cir. 2015), cert. denied, 578 U.S. 976 (2016). This Court has distinguished that relief from compensatory "damages," *Burlington*, 471 U.S. at 370-371, and has concluded that the IDEA does "not allow for dam-

ages," *Fitzgerald* v. *Barnstable Sch. Comm.*, 555 U.S. 246, 254 n.1 (2009).

b. Title II of the ADA, 42 U.S.C. 12131 *et seq.*, prohibits discrimination against "both adults and children with disabilities, in both public schools and other settings," *Fry*, 580 U.S. at 159, by prohibiting any "'public entity'"—including any instrumentality of a State or local government, 42 U.S.C. 12131(1)—from discriminating against any qualified "individual with a disability" in its provision of "services, programs, or activities," 42 U.S.C. 12132. A person alleging a violation of Section 12132 may bring a civil action "for injunctive relief or money damages." *Fry*, 580 U.S. at 160; see *Barnes* v. *Gorman*, 536 U.S. 181, 185 (2002).

c. In *Smith* v. *Robinson*, 468 U.S. 992 (1984), this Court held that the IDEA "was 'the exclusive avenue' through which a child with a disability (or his parents) could challenge the adequacy of his education." *Fry*, 580 U.S. at 160 (quoting *Smith*, 468 U.S. at 1009). In 1986, Congress responded by enacting an IDEA provision "[n]ow codified at 20 U.S.C. § 1415(*l*)" that both "overturned *Smith*'s preclusion of non-IDEA claims" and set forth "a carefully defined exhaustion requirement." *Id.* at 161. The questions presented concern the proper interpretation of Section 1415(*l*), which provides that:

> Nothing in [the IDEA] shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, the [ADA], * * * or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under such laws seeking relief that is also available under [the IDEA], the procedures under [Section 1415](f) and (g) shall be exhausted to the same

> extent as would be required had the action been brought under [the IDEA].

20 U.S.C. 1415(*l*). In *Fry*, this Court held that a non-IDEA claim "seek[s] relief that is also available under [the IDEA]," *ibid.*, only if the "gravamen" of the claim "seeks redress for a school's failure to provide a FAPE." 580 U.S. at 170. But the Court left "for another day a further question about the meaning of [Section] 1415(*l*)": Whether "exhaustion [is] required when the plaintiff complains of the denial of a FAPE, but the specific remedy she requests * * * is not one that an IDEA hearing officer may award." *Id.* at 165 n.4.

2. Petitioner is deaf and required a qualified sign-language interpreter to communicate in school. J.A. 48-49.[2] In 2004, at the age of nine, petitioner began attending Sturgis Public Schools (Sturgis), a respondent here. J.A. 49. Petitioner later attended Sturgis Public High School for four years, anticipated graduating with a diploma in June 2016, and planned to attend college. J.A. 53-54.

Petitioner contends that Sturgis and respondent the Sturgis Public Schools Board of Education (Board) discriminated against him based on his disability in violation of the ADA. J.A. 49, 56-57. The ADA requires a public entity to "furnish appropriate auxiliary aids and services"—including qualified interpreters for the deaf—"where necessary to afford individuals with disabilities * * * an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity." 28 C.F.R. 35.160(b)(1); see 28 C.F.R. 35.104 (defining "[a]uxiliary aids and services" and "[q]ualified interpreter")

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[2] This brief relies on the facts alleged in the amended complaint (J.A. 46-59) because the case was dismissed on the pleadings.

(emphasis omitted). Sturgis, however, never provided petitioner with a qualified sign-language interpreter. J.A. 50.

Sturgis instead provided an educational assistant, who served as petitioner's "sole communication facilitator" from approximately 2006 to May 2016. J.A. 50-51. The assistant did not know sign language and had no credentials indicating any qualification to interpret for the deaf. J.A. 50. The assistant later tried to learn sign language without formal training, but she "essentially invented the signing system she used" and her "command of sign language remained so poor that, when briefly paired with a different deaf student who used sign language, the other deaf student could not understand her at all." J.A. 50, 52. As a result, petitioner "was learning nothing in his classes." J.A. 54.

Sturgis knew that the assistant was not a qualified sign-language interpreter, but it misrepresented to petitioner and his parents that she "used 'Signed English'" and was "qualified," J.A. 50-51, and that petitioner had been given "sufficient" auxiliary aids and services to allow him to participate in, and benefit from, classroom instruction, J.A. 53. Sturgis also "intentionally misrepresented [petitioner's high-school] academic achievement," awarding him "A" or "B" grades in "nearly all his classes" and honor-roll status every term. *Ibid.* Petitioner's parents—who spoke only Spanish and did not know sign language (J.A. 49, 52)—were misled into believing that petitioner was "receiving meaningful communication access" and would earn a high-school diploma. J.A. 54; see J.A. 52.

In March 2016, shortly before petitioner's graduation, petitioner and his parents learned that he would receive only a "certificate of completion," not a diploma.

J.A. 54. Two months later, petitioner's parents and respondents agreed that, after completing high school in June 2016, petitioner should attend "for the following school years" the Michigan School for the Deaf, where high-school classes are conducted in American Sign Language and petitioner would have "full access to all his classes." *Ibid.* In August 2016, petitioner began attending the Michigan School for the Deaf, *ibid.*, from which it was anticipated that he would receive a merit diploma after four years, J.A. 78.

3. In December 2017, petitioner filed an administrative complaint (J.A. 16-45) alleging violations of, *inter alia*, the IDEA and ADA. J.A. 35-38, 42-43, 55. In May 2018, a state hearing officer dismissed the ADA claim for want of jurisdiction. Pet. App. 37a-38a.

In June 2018, respondents proffered "a written offer of settlement" to resolve petitioner's claims under the IDEA and its state-law counterpart. J.A. 78. The parties then settled those claims. *Ibid.* Under the settlement, respondents agreed to pay for petitioner's attendance at the Michigan School for the Deaf, any post-secondary compensatory education, sign-language instruction for petitioner and his family, and the family's attorneys' fees. Pet. App. 2a. In August 2018, the hearing officer dismissed petitioner's remaining claims under the IDEA and its state-law counterpart because the settlement had "resolv[ed] [those] claims." J.A. 56.

4. In December 2018, petitioner filed this ADA action seeking "compensatory damages." J.A. 47, 58. The district court granted Sturgis's motion to dismiss. Pet. App. 43a-53a. The court concluded that Section 1415(*l*) required petitioner to exhaust his IDEA claim before filing his ADA action, *id.* at 48a-49a, and that petitioner "did not exhaust the available administrative reme-

dies," *id.* at 50a-51a. The court deemed "irrelevant" petitioner's contention that "further exhaustion of his [IDEA] claim would [have been] futile." *Id.* at 51a-52a. The court granted the Board's separate motion to dismiss on "the same reasoning." *Id.* at 54a-55a.

5. A divided panel of the court of appeals affirmed. Pet. App. 1a-35a.

a. The panel majority held that "the decision to settle [petitioner's IDEA claim] means that [he] is barred from bringing a similar case against [respondents] in court—even under a different federal law"—because Section 1415(*l*)'s exhaustion requirement required him to "complete the IDEA's administrative process." Pet. App. 1a, 4a.

The majority first determined that Section 1415(*l*)'s exhaustion requirement applied because petitioner's ADA action sought "relief that is also available under [the IDEA]." Pet. App. 5a-8a (quoting 20 U.S.C. 1415(*l*)) (brackets in original). The majority concluded that the gravamen of the ADA complaint was that respondents violated petitioner's right under the IDEA to a FAPE by "den[ying] him an appropriate education." *Id.* at 5a-6a. And although petitioner sought only "compensatory damages" on his ADA claim—a "remedy that is unavailable under the IDEA"—the majority concluded that the "choice of remedy make[s] [no] difference." *Id.* at 7a. The majority reasoned that a non-IDEA claim seeks "relief" available under the IDEA within the meaning of Section 1415(*l*) if it "seeks relief for the wrong that the IDEA was enacted to address." *Id.* at 7a-8a.

The majority then determined that petitioner failed to satisfy Section 1415(*l*)'s exhaustion requirement. Pet. App. 8a-9a. The majority stated that Section

1415(*l*) permits an ADA claim to be filed only if the plaintiff "could also bring an IDEA action in court." *Id.* at 9a. The court then reasoned that "[a]n IDEA plaintiff cannot come to court until a state determines"—after an administrative "hearing"—"that the student has not been denied a [FAPE]," because "only then" will a "plaintiff [be] 'aggrieved by the [agency] findings and decision.'" *Ibid.* (quoting 20 U.S.C. 1415(i)(2)(A)). And because "[petitioner's] parents accepted [respondents'] settlement offer," resulting in the hearing officer's dismissal of his IDEA claim, the court held that "[petitioner] did not exhaust the IDEA's procedures" and "could never file the IDEA claim or any other corresponding statutory claim in court." *Ibid.*

For two reasons, the majority rejected petitioner's contention that Section 1415(*l*) excused further exhaustion as futile because he had already "obtained [by settlement] all the educational relief the IDEA" could provide. Pet. App. 10a-14a (citation omitted). First, the majority concluded that "Section 1415(*l*) does not come with a 'futility' exception," and that this Court's discussion of futility in *Honig* was "dictum." *Id.* at 10a-11a. Second, the majority concluded that "[e]ven assuming that a general futility exception exists," *id.* at 11a, it would not apply where, as here, a plaintiff "settle[s] his claim before allowing the [administrative] process to run its course," *id.* at 13a. The majority reasoned that "when an available administrative process could have provided relief, it is not futile, even if the plaintiff decides not to take advantage of it." *Ibid.* And the majority added that the administrative adjudication of petitioner's IDEA claim "would not have been an empty bureaucratic exercise" because the resulting "administrative record [on petitioner's IDEA claim] would have im-

proved the accuracy and efficiency of judicial proceedings" on his ADA claim. *Ibid.*

b. Judge Stranch dissented. Pet. App. 14a-35a. As relevant here, Judge Stranch agreed with other courts of appeals that have held that Section 1415(*l*) embodies a futility exception that applies where, as here, plaintiffs settle their IDEA claims. *Id.* at 24a-35a. Judge Stranch explained that the majority's contrary holding "is exactly the opposite of what Congress intended" when it reaffirmed the viability of the ADA as a separate vehicle for protecting children with disabilities. *Id.* at 26a-27a. She emphasized that the majority's view demands that a litigant "reject an acceptable IDEA settlement offer" to pursue an IDEA process "incapable of compensating th[e] harm" that the ADA would redress and thus "forces students to choose between immediately obtaining the FAPE to which they are entitled, or forgoing that education so they can enforce their ADA right[s]." *Id.* at 26a-28a.

SUMMARY OF ARGUMENT

For three independent reasons, the court of appeals erred in holding that Section 1415(*l*) required dismissal of petitioner's ADA action because of his purported failure to exhaust the IDEA administrative process.

I. Section 1415(*l*)'s exhaustion requirement for a non-IDEA action applies only if the action "seek[s] relief that is also available under [the IDEA]." 20 U.S.C. 1415(*l*). That requirement does not apply here because petitioner's ADA action seeks "relief" that is *not* available under the IDEA.

The term "relief" in the legal context is also called a "remedy" and means the redress or benefit that a party obtains from a tribunal. The term is therefore most naturally used to refer collectively to the remedy or reme-

dies that a tribunal may award as redress for an injury. Other Section 1415 provisions use the term "relief" exactly in that manner, 20 U.S.C. 1415(i)(2)(C)(iii) and (3)(D)(i)(III), and this Court in *Fry* construed Section 1415(*l*) using that legal understanding of "relief." Applying that understanding here, petitioner's ADA claim does not seek "relief" available under the IDEA because it seeks compensatory damages for lost years of work and lost earning capacity that cannot be obtained under the IDEA.

Notwithstanding Congress's direction that exhaustion is not required for an action "seeking relief" that is unavailable under the IDEA, 20 U.S.C. 1415(*l*), the court of appeals concluded that "[t]he focus" of Section 1415(*l*) is "*not the kind of relief the plaintiff wants*, but the *kind of harm* he wants relief from." Pet. App. 7a-8a (emphases added). That loose, colloquial interpretation contradicts Section 1415(*l*)'s plain text.

Adhering to that plain text would not disrupt the IDEA's administrative process. Parents who seek relief available under the IDEA cannot pursue that relief in court until they have completed the IDEA's administrative process. Parents who seek both IDEA and non-IDEA relief will ordinarily have every incentive to complete the administrative process before turning to court (as petitioner's parents did here). And if a parent attempts to simultaneously seek IDEA relief in the administrative process and non-IDEA relief in court, courts have ample tools to avoid any duplicative proceedings or inefficiency.

II. Even if Section 1415(*l*)'s exhaustion requirement were applicable, it merely provides that "the procedures under [Section 1415](f) and (g) shall be exhausted to the same extent as would be required had the [non-

IDEA] action been brought under [the IDEA]." 20 U.S.C. 1415(*l*). Petitioner satisfied that requirement for two alternative reasons: Further administrative proceedings on his IDEA claims would have been both futile and unnecessary.

A. Section 1415(*l*) incorporated the IDEA's exhaustion requirement by requiring exhaustion "to the same extent" as would be required if the non-IDEA action had been brought under the IDEA. Although the IDEA contains no text expressly mandating exhaustion before an IDEA action is filed, this Court has held that the statute "normally" requires exhaustion of its comprehensive administrative procedures. *Honig* v. *Doe*, 484 U.S. 305, 326-327 (1988). But the Court has also long recognized that the IDEA does not require exhaustion "where exhaustion would be futile or inadequate." *Id.* at 327. And Congress has twice ratified that interpretation by reenacting the IDEA's civil-action provisions without material change.

Section 1415(*l*) thus does not require exhaustion where, as here, further exhaustion of an IDEA claim would be futile because the parties have settled. Once an IDEA claim has been settled, there is nothing left for an IDEA hearing officer to do. Requiring continued pursuit of an IDEA claim in these circumstances when administrative proceedings can offer no further relief would needlessly delay a student's receipt of educational relief that all parties agree should be provided and would punish parents by denying them attorneys' fees for declining a favorable settlement in order to pursue an ADA claim that Section 1415(*l*) was expressly enacted to preserve.

B. Alternatively, no further exhaustion was necessary because the settlement of petitioner's IDEA claims

itself exhausted the IDEA's administrative procedures. Those procedures include multiple provisions to facilitate resolution of IDEA complaints through settlement. Where, as here, a settlement is reached, those procedures have been exhausted because they have been pursued to an appropriate conclusion.

ARGUMENT

I. SECTION 1415(*l*)'S EXHAUSTION REQUIREMENT DOES NOT APPLY BECAUSE PETITIONER'S ADA ACTION SEEKS RELIEF THAT IS NOT AVAILABLE UNDER THE IDEA

Section 1415(*l*) serves two related functions. First, it instructs that the IDEA shall not be construed to "restrict or limit" the "rights, procedures, and remedies" available under the Constitution, the ADA, or "other Federal laws protecting the rights of children with disabilities." 20 U.S.C. 1415(*l*). Section 1415(*l*) thus overturned the Court's holding in *Smith* v. *Robinson*, 468 U.S. 992 (1984), that the IDEA was the exclusive avenue to challenge the adequacy of a disabled child's public education and "'reaffirm[ed] the viability' of federal statutes like the ADA * * * 'as separate vehicles,' no less integral than the IDEA, 'for ensuring the rights of handicapped children.'" *Fry* v. *Napoleon Cmty. Sch.*, 580 U.S. 154, 161 (2017) (citation omitted). Second, Section 1415(*l*) "imposes a limit" on a subset of those non-IDEA actions by providing a "carefully defined exhaustion requirement," *ibid.*, that applies if—but only if—the non-IDEA action "seek[s] relief that is also available under [the IDEA]," 20 U.S.C. 1415(*l*). That exhaustion requirement does not apply here because petitioner's ADA action "seek[s] relief" that is *not* "available" under the IDEA. *Ibid.*

A. Section 1415(*l*) Requires Exhaustion Only If A Non-IDEA Action Seeks Relief Available Under The IDEA

Section 1415(*l*)'s exhaustion requirement applies only when a non-IDEA action "seek[s] relief that is also available under [the IDEA]." 20 U.S.C. 1415(*l*). That condition compares the relief "s[ought]" in the non-IDEA action to the relief "available" under the IDEA.

First, because Section 1415(*l*) "asks whether a [non-IDEA] lawsuit in fact 'seeks' relief available under the IDEA—not, as a stricter exhaustion statute might, whether the suit 'could have sought' relief available under the IDEA"—the text "treats the plaintiff as 'the master of the [non-IDEA] claim'" by making her "choice" of the "remedial basis" for that claim the triggering criterion for IDEA exhaustion. *Fry*, 580 U.S. at 169 (citation omitted). A court seeking to determine the relief the plaintiff seeks for purposes of applying Section 1415(*l*) thus must examine "the plaintiff's complaint," which is "the principal instrument by which she describes her case," to determine the relief she is seeking. *Ibid.*; see Fed. R. Civ. P. 8(a)(3) (a complaint must include "a demand for the relief sought" and may identify "different types of relief"). And if the complaint leaves any uncertainty, a court considering exhaustion under Section 1415(*l*) can require the plaintiff to clarify the scope of the relief sought.

Second, because Section 1415(*l*) "compels exhaustion when a plaintiff seeks 'relief' that is 'available' under the IDEA," the plaintiff's pursuit of relief in her non-IDEA action will trigger that requirement only when "such relief is 'available'"—*i.e.*, "when it is 'accessible or may be obtained'"—under the IDEA. *Fry*, 580 U.S. at 166 (citation omitted). That second criterion reflects the common-sense determination that "it is not appro-

priate to require the use of [the IDEA's administrative process]" if an IDEA "hearing officer lacks the authority to grant the relief sought." H.R. Rep. No. 296, 99th Cong., 1st Sess. 7 (1985) (*1985 House Report*).

This Court in *Fry* partially resolved the proper application of those principles, concluding that exhaustion is required only if the "relief" sought in the non-IDEA action is relief "for" the denial of a FAPE. *Fry*, 580 U.S. at 166; see *id.* at 165-169. The Court determined that "the only 'relief' the IDEA makes 'available'"—and "[t]he only relief that an IDEA [hearing] officer can give"—is "relief for the denial of a FAPE." *Id.* at 165-166 (citation omitted). Section 1415(*l*) thus requires exhaustion only if, *inter alia*, "the gravamen of a [plaintiff's non-IDEA] complaint seeks redress for a school's failure to provide a FAPE." *Id.* at 170; see *id.* at 158.

B. Petitioner's ADA Action Seeks "Relief" Not Available Under The IDEA

The Court in *Fry* reserved the further question whether a non-IDEA action seeks "relief" available under the IDEA and thus triggers Section 1415(*l*)'s exhaustion requirement, 20 U.S.C. 1415(*l*), if the "plaintiff complains of the denial of a FAPE, but the specific remedy she requests * * * is not one that an IDEA hearing officer may award." *Fry*, 580 U.S. 165 n.4; see *id.* at 168 n.8. Section 1415(*l*)'s use of the term "relief" demonstrates that the answer is no.

1. The term "'relief' in the legal context * * * [is] also termed a 'remedy'" and "means 'redress or benefit . . . that a party asks of a court.'" *D.D.* v. *Los Angeles Unified Sch. Dist.*, 18 F.4th 1043, 1060 (9th Cir. 2021) (en banc) (Bumatay, J., concurring in part and dissenting in part) (quoting *Black's Law Dictionary* 1544 (11th ed. 2019)), petition for cert. pending, No. 21-1373 (filed

Apr. 18, 2022); accord *McMillen* v. *New Caney Indep. Sch. Dist.*, 939 F.3d 640, 648 (5th Cir. 2019), cert. denied, 140 S. Ct. 2803 (2020); see *Webster's Third New International Dictionary of the English Language* 1918 (1971) ("legal remedy or redress"). In adjudicatory contexts, "relief" is therefore most naturally used to refer collectively to the remedy or remedies that a tribunal may award as redress for an injury. Indeed, in *Fry*, this Court interpreted Section 1415(*l*) in light of the "ordinary meaning of 'relief' in the context of a lawsuit" and concluded that the term refers to "the 'redress or benefit' that attends a favorable judgment." *Fry*, 580 U.S. at 166 (quoting *Black's Law Dictionary* 1161 (5th ed. 1979)) (brackets omitted). The Court in *Fry* therefore repeatedly used "remedy" and "remedies" as synonyms for the term "relief."[3]

That equivalency is confirmed by the principle that "identical words and phrases within the same statute should normally be given the same meaning." *Powerex Corp.* v. *Reliant Energy Servs., Inc.*, 551 U.S. 224, 232 (2007). Section 1415 repeatedly uses "relief" in its legal sense as a synonym for a claim's remedy or remedies. Congress, for instance, directed that the court in an IDEA action shall "grant such *relief* as the court determines is appropriate." 20 U.S.C. 1415(i)(2)(C)(iii) (emphasis added) (formerly 20 U.S.C. 1415(e)(2) (1982)). That provision authorizes the court to determine "[t]he type of relief" warranted to redress an IDEA violation

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[3] See, *e.g.*, *Fry*, 580 U.S. at 166, 169 (using "remedies available" and "remedies [that] 'are' available" to mean "'relief' that is 'available'"); *id.* at 168 & n.7 (using "remedy sought" when discussing a "lawsuit [that] seeks relief"; describing a "substantive [IDEA] remedy" as a "kind of relief"); *id.* at 173 (describing "relief for the denial of a FAPE" as a "remedy").

and includes—"as an available *remedy*"—an order directing the "retroactive reimbursement" of past educational expenses. *School Comm. of the Town of Burlington* v. *Department of Educ.*, 471 U.S. 359, 369-370 (1985) (emphasis added). Furthermore, when Congress enacted Section 1415(*l*)'s text in 1986, it also generally barred parents who reject a school's settlement offer from recovering attorneys' fees for later work if "the *relief* finally obtained by the parents is not more favorable" than the offer. 20 U.S.C. 1415(i)(3)(D)(i)(III) (emphasis added).[4] That prohibition clearly uses "relief" in its legal sense and requires a comparison of the remedies awarded on an IDEA claim to those offered in the settlement.

2. Petitioner's ADA action does not "seek[] relief that is also available under [the IDEA]," 20 U.S.C. 1415(*l*), because it seeks "compensatory damages" unavailable under the IDEA, J.A. 47, 58.

Petitioner's complaint, fairly read, alleges that ADA violations curtailed his educational development, requiring that he redo high school at the Michigan School for the Deaf and putting him "years behind where he should have been" (Pet. App. 6a) on his road to employment. See pp. 6-8, *supra*. Petitioner seeks damages for those four years of lost income. See Cert. Reply Br. 10. Petitioner's administrative complaint also alleges that, because of the prolonged "'linguistic deprivation'" caused by respondents' years of allegedly unlawful action, petitioner suffered "permanent" developmental harm preventing him from "develop[ing] the language fluency or literacy levels needed to pursue higher edu-

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[4] See Handicapped Children's Protection Act of 1986, Pub. L. No. 99-372, §§ 2-3, 100 Stat. 796-797 (adding 20 U.S.C. 1415(e)(4)(D)(iii) and (f) (1988), now 20 U.S.C. 1415(i)(3)(D)(i)(III) and (*l*)).

cation," likely foreclosing his ability to enter "most vocational or technical programs," and "most likely" limiting him "to unskilled labor." J.A. 32-33. Petitioner seeks additional damages for his alleged corresponding loss of "earning capacity." Cert. Reply Br. 11. Those types of consequential damages are forms of "relief" unavailable under the IDEA, which does "not allow for damages." *Fitzgerald* v. *Barnstable Sch. Comm.*, 555 U.S. 246, 254 n.1 (2009); see p. 4, *supra*.

That conclusion does not turn solely on the fact that the IDEA does not authorize "damages" awards. The criteria for triggering Section 1415(*l*)'s exhaustion requirement "consider substance, not surface" and, for that reason, the "particular labels and terms" used in the complaint are "not what matters." *Fry*, 580 U.S. at 169. In some circumstances, a plaintiff who seeks a type of ADA relief at law (damages) may obtain the same "relief" as an equitable remedy under the IDEA. See, *e.g.*, *Burlington*, 471 U.S. at 370 ("retroactive reimbursement" of educational expenses). But in this case, petitioner' ADA action seeks purely consequential damages for harms caused by the failure to provide him a qualified interpreter that are not available as equitable educational relief under the IDEA. Because petitioner's ADA action "seek[s] relief" that is not "available under [the IDEA]," Section 1415(*l*)'s exhaustion requirement is inapplicable. 20 U.S.C. 1415(*l*).

C. The Court Of Appeals' Decision Is Incorrect

The court of appeals correctly determined that petitioner's ADA action "requests a specific remedy that is unavailable under the IDEA." Pet. App. 7a. The court also correctly recognized that the meaning of "the word 'relief'" in Section 1415(*l*) is "key" to deciding whether

the provision's exhaustion requirement applies. *Ibid.* The court, however, erred in interpreting that term.

Notwithstanding Congress's direction that exhaustion is not required for an action "seeking relief" unavailable under the IDEA, 20 U.S.C. 1415(*l*), the court of appeals concluded that "[t]he focus" of Section 1415(*l*) is "*not the kind of relief the plaintiff wants*, but the *kind of harm* he wants relief from." Pet. App. 8a (emphases added). The court reasoned that when a non-IDEA action "seeks relief for the wrong that the IDEA was enacted to address," the same "relief" is available under the IDEA, because "we say that people come to court for relief when they have been wronged." *Id.* at 7a; see Br. in Opp. 12-13 (making same argument). But the question posed by Section 1415(*l*) is not whether the plaintiff's action seeks *some* relief for a wrong that the IDEA was enacted to redress; it is whether the *particular* "relief" the plaintiff "seek[s]" is "also available under [the IDEA]." And ordinary English speakers would not say that a suit seeks relief that is available under a statute if the statute does not authorize the requested remedy.

Even if the court of appeals' approach could be reconciled with some loose, colloquial reading of Section 1415(*l*)'s text, this Court should reject it. "In statutory drafting, where precision is both important and expected, the sort of colloquial usage [suggested by the Sixth Circuit] is not customary." *Allison Engine Co.* v. *United States ex rel. Sanders*, 553 U.S. 662, 670 (2008). And when Congress addresses legal concepts, it uses terms as they are used in legal contexts. See *Sheldon* v. *Sill*, 49 U.S. (8 How.) 441, 444 (1850) (applying that "old and familiar rule"). As previously explained, the term "relief" in the context of a lawsuit is most naturally

read to refer to the remedy or remedies that a tribunal may award as redress for an injury. See pp. 16-18, *supra*.

The court of appeals' contrary view does not purport to rely on any relevant meaning of "relief" and cannot be squared with the meaning applicable in adjudicatory contexts. The court's interpretation also fundamentally undermines the judgment animating Section 1415(*l*)'s text: "[I]t is not appropriate to require the use of [the IDEA's administrative process]" if an IDEA "hearing officer lacks the authority to grant the relief sought." *1985 House Report* 7; cf. *Reiter* v. *Cooper*, 507 U.S. 258, 269 (1993) (explaining that the traditional "doctrine of exhaustion of administrative remedies" applies "[w]here relief is available from an administrative agency," not where the agency has "no power" to grant the relief); *McCarthy* v. *Madigan*, 503 U.S. 140, 148 (1992) (doctrine presumes agency has "authority to grant the type of relief requested"). Where, as here, a plaintiff seeks a type of relief unavailable under the IDEA, Section 1415(*l*) does not require exhaustion of the IDEA's administrative remedies.

D. Policy Concerns Provide No Reason To Depart From Section 1415(*l*)'s Plain Text

Some courts that have adopted the Sixth Circuit's interpretation have worried that interpreting Section 1415(*l*)'s exhaustion requirement to turn on the relief actually sought would allow plaintiffs to evade "the exhaustion requirement" by adding a "plea for damages." See, *e.g.*, *D.D.*, 18 F.4th at 1056-1058. That concern is misplaced: Adhering to Section 1415(*l*)'s plain text would not lead to circumvention or disruption of the administrative process.

Under Section 1415(*l*), a plaintiff who seeks relief that is available under the IDEA cannot avoid exhaustion simply by tacking on a request for damages. The exhaustion requirement unambiguously applies to any claim for relief that is available under the IDEA. If the plaintiff has failed to exhaust, the court should dismiss the unexhausted claim while retaining jurisdiction over any claim for which Section 1415(*l*)'s exhaustion requirement does not apply or has been satisfied. See *Jones* v. *Bock*, 549 U.S. 199, 219-224 (2007) (explaining that a requirement to exhaust before filing a civil "action" means that "if a complaint contains both good and bad claims, the court proceeds with the good and leaves the bad").

In an appropriate case, moreover, a district court would have discretion to defer consideration of claims that do not require exhaustion until the plaintiff had exhausted any related IDEA claims. See generally, *e.g.*, *Clinton* v. *Jones*, 520 U.S. 681, 706 (1997) ("The District Court has broad discretion to stay proceedings as an incident to its power to control its own docket."). In a somewhat analogous context, when "claims properly cognizable in court" implicate an "issue within the special competence of an administrative agency," federal courts "stay[] further proceedings so as to give the parties reasonable opportunity to seek an administrative ruling." *Reiter*, 507 U.S. at 268 & n.3 (discussing doctrine of primary jurisdiction); see *United States* v. *Michigan Nat'l Corp.*, 419 U.S. 1, 4-5 (1974) (per curiam). A similar approach could be applied if a court concludes that ongoing IDEA administrative proceedings would shed light on the claims before the court or otherwise promote the efficient resolution of the dispute without unduly burdening the parties.

As a practical matter, moreover, parents generally have every incentive to pursue relief through the IDEA process before turning to court if that process could reasonably be expected to provide appropriate educational relief for their children. See *Board of Educ. of the Hendrick Hudson Cent. Sch. Dist.* v. *Rowley*, 458 U.S. 176, 209 (1982) (concluding that "parents and guardians will not lack ardor in seeking to ensure that handicapped children receive all of the benefits to which they are entitled by the [IDEA]"). The parents who are likely to choose to proceed directly to court without pursuing the IDEA's administrative process are those who (1) do not believe that the IDEA was violated at all, (2) are no longer eligible for relief available under the IDEA, or (3) have already reached a resolution with the school providing them with all the IDEA relief they seek. Those are precisely the parents who should not be forced to exhaust an unnecessary administrative process as a prerequisite to filing an inevitable civil action in court.

II. PETITIONER SATISFIED SECTION 1415(*l*)'S EXHAUSTION REQUIREMENT BECAUSE FURTHER EXHAUSTION WOULD BE FUTILE OR UNNECESSARY

Even if Section 1415(*l*)'s exhaustion requirement applied here, it was satisfied because petitioner's parents pursued the IDEA's administrative process to the very conclusion that Congress sought to encourage: A settlement fully resolving his IDEA claims. In such circumstances, Section 1415(*l*) does not require further exhaustion for two independent reasons: Such exhaustion would be both futile and unnecessary.

A. Section 1415(*l*) Does Not Require Further Administrative Exhaustion After IDEA Claims Are Settled Because Such Proceedings Would Be Futile

Even if Section 1415(*l*)'s exhaustion requirement were applicable here, petitioner satisfied it. Under that requirement, "the procedures under [Section 1415](f) and (g) shall be exhausted to the same extent as would be required had the action been brought under [the IDEA]." 20 U.S.C. 1415(*l*). The IDEA, in turn, has long been interpreted not to require exhaustion "where exhaustion would be futile or inadequate." *Honig* v. *Doe*, 484 U.S. 305, 326-327 (1988). And because further IDEA exhaustion is futile after the parties have settled the relevant IDEA claim, Section 1415(*l*) does not require that exercise in futility.

1. IDEA actions are subject to an exhaustion requirement with a futility exception

a. The IDEA provides that "[t]he district courts of the United States shall have jurisdiction of [IDEA] actions brought under [Section 1415]." 20 U.S.C. 1415(i)(3)(A). Section 1415(i)(2) further provides that "[a]ny party aggrieved by the findings and decision" of an IDEA hearing officer or state appellate tribunal "shall have the right to bring [such] a civil action." 20 U.S.C. 1415(i)(2)(A). Those civil-action provisions do not expressly require "exhaustion." And although this Court has construed them to incorporate an implied exhaustion requirement, it has also recognized that the requirement is subject to a futility exception.

Section 1415(i)(2)'s text does not mention exhaustion, much less expressly require it before an IDEA action is filed. Congress instead employed "aggrieved"-party language to identify *who* has statutory standing to sue. The term "'aggrieved'" has "a long history" as

"a term of art" used to "designate those who have standing to challenge or appeal an agency decision," *Director, Office of Workers' Compensation Programs* v. *Newport News Shipbuilding & Dry Dock Co.*, 514 U.S. 122, 126 (1995), that "cast[s] the standing net broadly," *FEC* v. *Akins*, 524 U.S. 11, 19 (1998). A litigant's "statutory standing" is analytically distinct from a requirement to "exhaust administrative remedies." See *Viking River Cruises, Inc.* v. *Moriana*, 142 S. Ct. 1906, 1914 (2022); *Schweiker* v. *Chilicky*, 487 U.S. 412, 424-425 (1988) (distinguishing "exhaust[ion]" from identifying persons with "standing" to challenge "the administrative process"). The IDEA is thus unlike other statutes with text mandating administrative exhaustion. Cf., *e.g.*, 28 U.S.C. 2675(a) ("An action shall not be instituted" unless the claimant "first present[s]," and the agency "finally denie[s]," his claim); 42 U.S.C. 1997e(a) ("No [relevant] action shall be brought * * * until such administrative remedies as are available are exhausted.").

This Court has nonetheless concluded that "judicial review is normally not available under [Section] 1415(e)(2) [now Section 1415(i)(2)] until all administrative proceedings are completed." *Honig*, 484 U.S. at 326-327. But that exhaustion requirement, like "judge-made exhaustion doctrines" more generally, is subject to "judge-made exceptions," including one for futility. *Ross* v. *Blake*, 578 U.S. 632, 639 (2016); see *Carr* v. *Saul*, 141 S. Ct. 1352, 1361 (2021) ("[T]his Court has consistently recognized a futility exception to exhaustion requirements."). And in 1988, the Court in *Honig* held that an IDEA plaintiff need not exhaust the IDEA's "administrative process where exhaustion would be futile or inadequate." 484 U.S. at 327. Since then, as Judge Stranch explained, every other court of appeals

that hears IDEA claims has recognized the IDEA's "futility and inadequacy exceptions to exhaustion." Pet. App. 29a-30a.

b. The panel majority in this case departed from that uniform view based on its erroneous belief that *Honig*'s recognition of a futility exception was "dictum." Pet. App. 10a-11a. In *Honig*, the Court considered a school district's attempt to expel two children with emotional disabilities for violent and disruptive conduct in light of the IDEA's so-called "stay-put" provision, which provided that, absent an agreement by all parties, a "'child shall remain in [his] then current educational placement'" "'[d]uring the pendency of any proceedings conducted pursuant to [Section 1415].'" 484 U.S. at 312 (quoting 20 U.S.C. 1415(e)(3) (1982), now 20 U.S.C. 1415(j)). The Court rejected the district's contention that the stay-put provision included a "'dangerousness' exception" permitting a child's removal. *Id.* at 323; see *id.* at 323-325. But the Court determined that schools could invoke "the aid of the courts under [Section] 1415(e)(2) [now Section 1415(i)(2)], which empowers courts to grant any appropriate relief," in order to obtain an injunction to remove a child by showing that continuing his current placement would be "substantially likely to result in injury either to [the child] or to others," *id.* at 326, 328. See *id.* at 326-328.

In so holding, *Honig* rejected the school district's contention that "the availability of judicial relief [to remove a child from his current placement] is more illusory than real, because a party seeking review under [Section] 1415(e)(2) must exhaust time-consuming administrative remedies." *Honig*, 484 U.S. at 326. The Court acknowledged that "judicial review is normally not available under [Section] 1415(e)(2) until all admin-

istrative proceedings are completed," but it concluded that "parents may bypass the administrative process where exhaustion would be futile or inadequate." *Id.* at 326-327. And the Court extended that interpretation of Section 1415(e)(2) to schools because it found "no reason to believe that Congress meant" to treat them differently. *Id.* at 327. *Honig* accordingly concluded that exhaustion is not required under Section 1415(e)(2) (now Section 1415(i)(2)) if "the school [can] demonstrate the futility or inadequacy of administrative review." *Ibid.* That reasoning was central to *Honig*'s holding.

Furthermore, "Congress is presumed to be aware of [this Court's] interpretation of a statute and to adopt that interpretation when it re-enacts a statute without change." See *Forest Grove Sch. Dist.* v. *T.A.*, 557 U.S. 230, 239-240 (2009) (citation omitted) (interpreting 1997 IDEA amendments). And after *Honig* held that the IDEA contains a futility exception, Congress twice ratified *Honig*'s interpretation of the IDEA civil-action provisions (which the courts of appeals had uniformly followed until this case) by reenacting those provisions in Section 1415(i)(2)—as well as Section 1415(*l*)—without material change. See Individuals with Disabilities Education Improvement Act of 2004, Pub. L. No. 108-446, § 101, 118 Stat. 2647, 2723-2724, 2730; Individuals with Disabilities Education Act Amendments of 1997, Pub. L. No. 105-17, § 101, 111 Stat. 37, 92, 98.

2. Section 1415(l) incorporates the IDEA's exhaustion requirement and its futility exception

a. Section 1415(*l*) simply extends the IDEA's exhaustion requirement—including its futility exception—to the non-IDEA actions for which Section 1415(*l*) requires exhaustion. Section 1415(*l*) does so by requiring "exhaust[ion] *to the same extent* as would be required

had the [non-IDEA] action been brought under [the IDEA]." 20 U.S.C. 1415(*l*) (emphasis added).

That conclusion reflects Section 1415(*l*)'s central function. In 1986, Congress enacted Section 1415(*l*) (then Section 1415(f)) in order to "overturn[]" *Smith*'s holding that an IDEA action was the "'exclusive avenue'" to relief—and "preclu[ded]" all other "non-IDEA claims"—in this educational context. *Fry*, 580 U.S. at 160-161 (citation omitted). *Smith*, in turn, had emphasized that courts had long excused an IDEA plaintiff from exhausting the IDEA's administrative process if such proceedings "would be futile or inadequate." *Smith*, 468 U.S. at 1014 n.17. Congress therefore drafted Section 1415(*l*) to restore the viability of non-IDEA actions and simultaneously enacted Section 1415(*l*)'s "to the same extent" language to excuse "[e]xhaustion of [IDEA] administrative remedies" when "they would not be required to be exhausted under the [IDEA]," including "when resort to those proceedings would be futile." S. Rep. No. 112, 99th Cong., 1st Sess. 15 (1985) (additional views on proposed substitute to reported bill); 131 Cong. Rec. 21,389 (1985) (adopting that substitute); see *1985 House Report* 7 (stating that such "exhaust[ion]" is not required for non-IDEA actions if "it would be futile to use the [agency] due process procedures").

b. The panel majority mistakenly believed (Pet. App. 10a) that *Ross* counseled otherwise because *Ross* reflects the principle that statutory exhaustion provisions with "mandatory language" are not subject to "judge-made exceptions." *Ross*, 578 U.S. at 639. But Section 1415(*l*)'s exhaustion requirement by its own terms requires exhaustion only "to the same extent" that it would be required if the plaintiff's action had been brought under the IDEA. 20 U.S.C. 1415(*l*). And

as noted, the IDEA's civil-action provisions do not expressly mandate exhaustion; this Court in *Honig* held that the exhaustion normally required in IDEA actions is subject to a futility exception; and Congress has twice ratified that interpretation, which 1415(*l*) incorporated. See pp. 24-27, *supra*. Section 1415(*l*)'s text thus extends that futility exception to non-IDEA actions.

c. The panel majority also deemed exhaustion necessary because, it stated, Section 1415(*l*) permits a non-IDEA claim to be filed only if the plaintiff "could also bring an IDEA action in court," and "[a]n IDEA plaintiff cannot come to court until a state determines"—after an administrative "hearing"—"that the student has not been denied a [FAPE]." Pet. App. 9a. The majority stated that "only then" is a plaintiff entitled to file an IDEA action as a party "'aggrieved by the findings and decision rendered'" in IDEA proceedings. *Ibid.* (quoting 20 U.S.C. 1415(i)(2)(A)). That is wrong for several reasons.

First, the majority erroneously confused Section 1415(i)(2)'s "aggrieved"-party provision—which imposes a statutory-standing requirement—with an exhaustion requirement. The principles are distinct. See pp. 24-25, *supra*.

Second, Section 1415(*l*) does not limit non-IDEA actions to contexts in which the plaintiff "could also bring an IDEA action in court." Pet. App. 9a. Section 1415(*l*) requires that the IDEA's "*procedures*" be "exhausted to the same extent as would be required had the [non-IDEA] action been brought under [the IDEA]," not that those procedures produce an adverse agency *decision* that could be challenged in an IDEA action. 20 U.S.C. 1415(*l*) (emphasis added). No ADA action is brought under the IDEA or involves judicial review of an IDEA

agency decision. Section 1415(*l*) simply requires exhaustion of the IDEA's administrative "procedures" to the same extent that would be required *if* the plaintiff could have brought his non-IDEA action under the IDEA. And as explained, IDEA exhaustion is subject to a futility exception.

Finally, the necessary implication of the court of appeals' interpretation is that a plaintiff may bring a non-IDEA action only if he has not merely exhausted the IDEA process, but also *lost* on his IDEA claim—otherwise, he would not be aggrieved by the administrative decision. That would perversely deny plaintiffs with the *strongest* IDEA claims—those that prevail in agency proceedings—the ability to bring a separate action under the ADA or another non-IDEA statute. Congress did not mandate that counterintuitive result.

3. Petitioner's further exhaustion of the IDEA's administrative procedures would be futile

This case satisfies Section 1415(*l*)'s futility exception. When a student like petitioner settles his IDEA claims and obtains all relief that the IDEA would offer, it would be futile to require him to further exhaust the IDEA's administrative process. The only function of that process is to resolve the parties' dispute under the IDEA. See pp. 2-3, *supra*. Once the parties have settled an IDEA claim and agreed on appropriate relief, there is nothing left for a hearing officer to do. The IDEA does not, for instance, authorize hearing officers to decide claims or award relief under "another federal law []like the ADA." *Fry*, 580 U.S. at 168. And neither the court of appeals nor respondents have identified any precedent for requiring parties to further exhaust administrative procedures on an already settled claim.

The court of appeals suggested that further exhaustion "would not have been an empty bureaucratic exercise" because it could have developed an administrative record that might have helped the courts hearing petitioner's ADA claim. Pet. App. 13a. But the court did not explain how an IDEA hearing officer would develop such a record when the parties had already settled the only claim the officer would have had authority to decide. And statutes like the ADA—unlike the IDEA, see 20 U.S.C. 1415(i)(2)(C)(i)—do not contemplate that courts will decide cases based on an administrative record. Furthermore, an ADA discrimination claim rests on substantive requirements *different* from those imposed by the IDEA. See pp. 5-6, *supra* (discussing ADA); see also *K.M.* v. *Tustin Unified Sch. Dist.*, 725 F.3d 1088, 1096-1097, 1101 (9th Cir. 2013), cert. denied, 571 U.S. 1237 (2014).

Requiring a student to forgo a favorable IDEA settlement in order to pursue a non-IDEA claim would also be inconsistent with other aspects of the IDEA. It would needlessly delay the student's receipt of prospective educational relief that both parties agree should be provided. And it would be inconsistent with the IDEA's detailed provisions encouraging settlements. The IDEA requires the local education agency to meet with parents to attempt "to resolve the[ir] complaint" before an administrative hearing, unless both parties agree either to a more formal mediation process or waive the meeting in writing. 20 U.S.C. 1415(f)(1)(B)(i). If the parties resolve their disagreements after that meeting or mediation, the IDEA specifically requires "a legally binding agreement" settling the dispute. 20 U.S.C. 1415(e)(2)(F) and (f)(1)(B)(iii). Significantly, moreover, the IDEA *punishes* parents who reject a settlement offer and fail

to obtain "relief * * * more favorable * * * than the offer of settlement" by prohibiting them from obtaining attorneys' fees and costs "for services performed subsequent to the time of [the] written offer of settlement." 20 U.S.C. 1415(i)(3)(D)(i).

In short, Congress enacted Section 1415(*l*) to "'reaffirm[] the viability' of federal statutes like the ADA * * * 'as separate vehicles,' no less integral than the IDEA, 'for ensuring the rights of handicapped children.'" *Fry*, 580 U.S. at 161 (citation omitted). It is not plausible that, in so doing, Congress also required parents to forgo favorable IDEA settlements and attorneys fees, delay educational relief, and pursue pointless administrative proceedings in order to bring the ADA claims that Section 1415(*l*) was specifically designed to preserve.

B. Alternatively, Petitioner's Settlement Of His IDEA Claims Exhausted The IDEA's Administrative Process

Petitioner argues (Br. 30-41) that the settlement of his IDEA claims did, in fact, exhaust the IDEA's administrative process and, for that reason, "further exhaustion" is unnecessary. That issue, though properly presented (see Pet. i, 28 & n.7), was not one of the certiorari petition's two primary contentions. The questions whether Section 1415(*l*) applies to claims seeking remedies that are not available under the IDEA (pp. 14-23, *supra*) and whether Section 1415(*l*) incorporates the IDEA's futility exception (pp. 23-32, *supra*) are more significant issues that extend beyond the context of IDEA settlements. And if this Court agrees that further exhaustion is unnecessary because it would be futile when IDEA claims have been settled, the question whether a settlement itself exhausts the IDEA process would have little practical effect. The government

therefore respectfully suggests that the Court may wish to address one or both of the issues previously presented in this brief before turning to this question, if that proves necessary.

If the Court does reach the issue, it should hold that the IDEA's relevant procedures can be exhausted by settlement. "[E]xhaustion" requires the pursuit of "prescribed administrative procedures * * * to their appropriate conclusion," *Aircraft & Diesel Equip. Corp.* v. *Hirsch*, 331 U.S. 752, 767 (1947), in light of "the particular administrative scheme at issue," *Smith* v. *Berryhill*, 139 S. Ct. 1765, 1776 (2019) (citation omitted). Section 1415(*l*) requires the "exhaust[ion]" of "the procedures under [Section 1415](f) and (g)," 20 U.S.C. 1415(*l*), which govern the administrative resolution of an IDEA "complaint." See, *e.g.*, 20 U.S.C. 1415(b)(6), (f)(1)(A), and (g). One appropriate conclusion under those procedures is the resolution of a complaint by settlement.

The relevant procedures include a pre-hearing resolution session in which local-educational-agency personnel must meet with the parents to try to "resolve the complaint." 20 U.S.C. 1415(f)(1)(B)(i)(IV). That session is mandatory unless both sides waive it or the parties instead agree to use the "mediation process described in [Section 1415](e)." 20 U.S.C. 1415(f)(1)(B)(i). The mediation process that Section 1415(f)'s procedures incorporate as a substitute for a resolution session (*ibid.*) enables parents to resolve "disputes involving any matter" using an impartial mediator who is paid by the State. 20 U.S.C. 1415(e)(1), (2)(A)(iii), and (D). The parties may obtain an extension of time to negotiate. 34 C.F.R. 300.510(c)(3); 34 C.F.R. 300.515(c). If the IDEA complaint is resolved through either Section 1415(f)

procedure, an enforceable settlement agreement must be entered, 20 U.S.C. 1415(e)(2)(F) and (f)(1)(B)(iii), thus "resolv[ing]" the "dispute[] in a timely manner so that the child's interests are best served" with the "needed services and education." H.R. Rep. No. 77, 108th Cong., 1st Sess. 86, 114 (2003). In addition, the IDEA's administrative process more generally contemplates that the parties may settle their dispute before an administrative hearing. See 20 U.S.C. 1415(i)(3)(D)(i) (addressing consequences of rejecting a "written offer of settlement" made "before the proceeding begins"). Such settlements will then, as here, lead to orders that formally conclude the administrative proceedings by dismissing IDEA claims "resolve[d]" by agreement. J.A. 56.

Those provisions reflect Congress's preference for settlements that resolve IDEA complaints within the IDEA's administrative process. See, *e.g.*, S. Rep. No. 185, 108th Cong., 1st Sess. 37-38 (2003) (noting the "high value [placed by the relevant congressional committee] on the successful use of mediation" or on otherwise "resolv[ing] matters" before an "adversarial" hearing). A settlement thus properly exhausts the IDEA's administrative process by pursuing it to an appropriate conclusion.

CONCLUSION

The judgment of the court of appeals should be reversed and the case remanded for further proceedings.

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General
KRISTEN CLARKE
Assistant Attorney General
BRIAN H. FLETCHER
Deputy Solicitor General
ANTHONY A. YANG
Assistant to the Solicitor General
BONNIE I. ROBIN-VERGEER
TERESA KWONG
JANEA L. LAMAR
Attorneys

LISA BROWN
General Counsel
FRANCISCO LOPEZ
ERIC MOLL
Attorneys
U.S. Department of Education

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APPENDIX

20 U.S.C. 1415 provides in pertinent part:

Procedural safeguards

(a) Establishment of procedures

Any State educational agency, State agency, or local educational agency that receives assistance under this subchapter shall establish and maintain procedures in accordance with this section to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free appropriate public education by such agencies.

(b) Types of procedures

The procedures required by this section shall include the following:

> (1) An opportunity for the parents of a child with a disability to examine all records relating to such child and to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain an independent educational evaluation of the child.
>
> * * * * *
>
> (3) Written prior notice to the parents of the child, in accordance with subsection (c)(1), whenever the local educational agency—
>
> (A) proposes to initiate or change; or
>
> (B) refuses to initiate or change,

the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child.

* * * * *

(5) An opportunity for mediation, in accordance with subsection (e).

(6) An opportunity for any party to present a complaint—

(A) with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child; and

(B) which sets forth an alleged violation that occurred not more than 2 years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the complaint, or, if the State has an explicit time limitation for presenting such a complaint under this subchapter, in such time as the State law allows, except that the exceptions to the timeline described in subsection (f)(3)(D) shall apply to the timeline described in this subparagraph.

(7)(A) Procedures that require either party, or the attorney representing a party, to provide due process complaint notice in accordance with subsection (c)(2) (which shall remain confidential)—

(i) to the other party, in the complaint filed under paragraph (6), and forward a copy of such notice to the State educational agency; and

(ii) that shall include—

(I) the name of the child, the address of the residence of the child (or available contact information in the case of a homeless child), and the name of the school the child is attending;

(II) in the case of a homeless child or youth (within the meaning of section 11434a(2) of title 42), available contact information for the child and the name of the school the child is attending;

(III) a description of the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem; and

(IV) a proposed resolution of the problem to the extent known and available to the party at the time.

(B) A requirement that a party may not have a due process hearing until the party, or the attorney representing the party, files a notice that meets the requirements of subparagraph (A)(ii).

(8) Procedures that require the State educational agency to develop a model form to assist parents in filing a complaint and due process complaint notice in accordance with paragraphs (6) and (7), respectively.

(c) Notification requirements

(1) Content of prior written notice

The notice required by subsection (b)(3) shall include—

* * * * *

(2) Due process complaint notice

(A) Complaint

The due process complaint notice required under subsection (b)(7)(A) shall be deemed to be sufficient unless the party receiving the notice notifies the hearing officer and the other party in writing that the receiving party believes the notice has not met the requirements of subsection (b)(7)(A).

(B) Response to complaint

(i) Local educational agency response

(I) In general

If the local educational agency has not sent a prior written notice to the parent regarding the subject matter contained in the parent's due process complaint notice, such local educational agency shall, within 10 days of receiving the complaint, send to the parent a response that shall include—

(aa) an explanation of why the agency proposed or refused to take the action raised in the complaint;

(bb) a description of other options that the IEP Team considered and the reasons why those options were rejected;

(cc) a description of each evaluation procedure, assessment, record, or report the agency used as the basis for the proposed or refused action; and

(dd) a description of the factors that are relevant to the agency's proposal or refusal.

(II) Sufficiency

A response filed by a local educational agency pursuant to subclause (I) shall not be construed to preclude such local educational agency from asserting that the parent's due process complaint notice was insufficient where appropriate.

(ii) Other party response

Except as provided in clause (i), the noncomplaining party shall, within 10 days of receiving the complaint, send to the complaint a response that specifically addresses the issues raised in the complaint.

(C) Timing

The party providing a hearing officer notification under subparagraph (A) shall provide the notification within 15 days of receiving the complaint.

(D) Determination

Within 5 days of receipt of the notification provided under subparagraph (C), the hearing officer shall make a determination on the face of the notice of whether the notification meets the requirements of subsection (b)(7)(A), and shall immediately notify the parties in writing of such determination.

(E) Amended complaint notice

(i) In general

A party may amend its due process complaint notice only if—

(I) the other party consents in writing to such amendment and is given the opportunity to resolve the complaint through a meeting held pursuant to subsection (f)(1)(B); or

(II) the hearing officer grants permission, except that the hearing officer may only grant such permission at any time not later than 5 days before a due process hearing occurs.

(ii) Applicable timeline

The applicable timeline for a due process hearing under this subchapter shall recommence at the time the party files an amended notice, including the timeline under subsection (f)(1)(B).

(d) Procedural safeguards notice

* * * * *

(e) Mediation

(1) In general

Any State educational agency or local educational agency that receives assistance under this subchapter shall ensure that procedures are established and implemented to allow parties to disputes involving any matter, including matters arising prior to the fil-

ing of a complaint pursuant to subsection (b)(6), to resolve such disputes through a mediation process.

(2) Requirements

Such procedures shall meet the following requirements:

(A) The procedures shall ensure that the mediation process—

(i) is voluntary on the part of the parties;

(ii) is not used to deny or delay a parent's right to a due process hearing under subsection (f), or to deny any other rights afforded under this subchapter; and

(iii) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

(B) OPPORTUNITY TO MEET WITH A DISINTERESTED PARTY.—A local educational agency or a State agency may establish procedures to offer to parents and schools that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party who is under contract with—

(i) a parent training and information center or community parent resource center in the State established under section 1471 or 1472 of this title; or

(ii) an appropriate alternative dispute resolution entity,

to encourage the use, and explain the benefits, of the mediation process to the parents.

(C) LIST OF QUALIFIED MEDIATORS.—The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.

(D) COSTS.—The State shall bear the cost of the mediation process, including the costs of meetings described in subparagraph (B).

(E) SCHEDULING AND LOCATION.—Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

(F) WRITTEN AGREEMENT.—In the case that a resolution is reached to resolve the complaint through the mediation process, the parties shall execute a legally binding agreement that sets forth such resolution and that—

(i) states that all discussions that occurred during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding;

(ii) is signed by both the parent and a representative of the agency who has the authority to bind such agency; and

(iii) is enforceable in any State court of competent jurisdiction or in a district court of the United States.

(G) MEDIATION DISCUSSIONS.—Discussions that occur during the mediation process shall be confi-

dential and may not be used as evidence in any subsequent due process hearing or civil proceeding.

(f) Impartial due process hearing

(1) In general

(A) Hearing

Whenever a complaint has been received under subsection (b)(6) or (k), the parents or the local educational agency involved in such complaint shall have an opportunity for an impartial due process hearing, which shall be conducted by the State educational agency or by the local educational agency, as determined by State law or by the State educational agency.

(B) Resolution session

(i) Preliminary meeting

Prior to the opportunity for an impartial due process hearing under subparagraph (A), the local educational agency shall convene a meeting with the parents and the relevant member or members of the IEP Team who have specific knowledge of the facts identified in the complaint—

(I) within 15 days of receiving notice of the parents' complaint;

(II) which shall include a representative of the agency who has decisionmaking authority on behalf of such agency;

(III) which may not include an attorney of the local educational agency unless the parent is accompanied by an attorney; and

(IV) where the parents of the child discuss their complaint, and the facts that form the basis of the complaint, and the local educational agency is provided the opportunity to resolve the complaint,

unless the parents and the local educational agency agree in writing to waive such meeting, or agree to use the mediation process described in subsection (e).

(ii) Hearing

If the local educational agency has not resolved the complaint to the satisfaction of the parents within 30 days of the receipt of the complaint, the due process hearing may occur, and all of the applicable timelines for a due process hearing under this subchapter shall commence.

(iii) Written settlement agreement

In the case that a resolution is reached to resolve the complaint at a meeting described in clause (i), the parties shall execute a legally binding agreement that is—

(I) signed by both the parent and a representative of the agency who has the authority to bind such agency; and

(II) enforceable in any State court of competent jurisdiction or in a district court of the United States.

(iv) Review period

If the parties execute an agreement pursuant to clause (iii), a party may void such agree-

ment within 3 business days of the agreement's execution.

(2) Disclosure of evaluations and recommendations

(A) In general

Not less than 5 business days prior to a hearing conducted pursuant to paragraph (1), each party shall disclose to all other parties all evaluations completed by that date, and recommendations based on the offering party's evaluations, that the party intends to use at the hearing.

(B) Failure to disclose

A hearing officer may bar any party that fails to comply with subparagraph (A) from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

(3) Limitations on hearing

(A) Person conducting hearing

A hearing officer conducting a hearing pursuant to paragraph (1)(A) shall, at a minimum—

(i) not be—

(I) an employee of the State educational agency or the local educational agency involved in the education or care of the child; or

(II) a person having a personal or professional interest that conflicts with the person's objectivity in the hearing;

(ii) possess knowledge of, and the ability to understand, the provisions of this chapter, Fed-

eral and State regulations pertaining to this chapter, and legal interpretations of this chapter by Federal and State courts;

(iii) possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and

(iv) possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.

(B) Subject matter of hearing

The party requesting the due process hearing shall not be allowed to raise issues at the due process hearing that were not raised in the notice filed under subsection (b)(7), unless the other party agrees otherwise.

(C) Timeline for requesting hearing

A parent or agency shall request an impartial due process hearing within 2 years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the complaint, or, if the State has an explicit time limitation for requesting such a hearing under this subchapter, in such time as the State law allows.

(D) Exceptions to the timeline

The timeline described in subparagraph (C) shall not apply to a parent if the parent was prevented from requesting the hearing due to—

(i) specific misrepresentations by the local educational agency that it had resolved the problem forming the basis of the complaint; or

(ii) the local educational agency's withholding of information from the parent that was required under this subchapter to be provided to the parent.

(E) Decision of hearing officer

(i) In general

Subject to clause (ii), a decision made by a hearing officer shall be made on substantive grounds based on a determination of whether the child received a free appropriate public education.

(ii) Procedural issues

In matters alleging a procedural violation, a hearing officer may find that a child did not receive a free appropriate public education only if the procedural inadequacies—

(I) impeded the child's right to a free appropriate public education;

(II) significantly impeded the parents' opportunity to participate in the decision-making process regarding the provision of a free appropriate public education to the parents' child; or

(III) caused a deprivation of educational benefits.

(iii) Rule of construction

Nothing in this subparagraph shall be construed to preclude a hearing officer from ordering a local educational agency to comply with procedural requirements under this section.

(F) Rule of construction

Nothing in this paragraph shall be construed to affect the right of a parent to file a complaint with the State educational agency.

(g) Appeal

(1) In general

If the hearing required by subsection (f) is conducted by a local educational agency, any party aggrieved by the findings and decision rendered in such a hearing may appeal such findings and decision to the State educational agency.

(2) Impartial review and independent decision

The State educational agency shall conduct an impartial review of the findings and decision appealed under paragraph (1). The officer conducting such review shall make an independent decision upon completion of such review.

(h) Safeguards

Any party to a hearing conducted pursuant to subsection (f) or (k), or an appeal conducted pursuant to subsection (g), shall be accorded—

(1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;

(2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses;

(3) the right to a written, or, at the option of the parents, electronic verbatim record of such hearing; and

(4) the right to written, or, at the option of the parents, electronic findings of fact and decisions, which findings and decisions—

(A) shall be made available to the public consistent with the requirements of section 1417(b) of this title (relating to the confidentiality of data, information, and records); and

(B) shall be transmitted to the advisory panel established pursuant to section 1412(a)(21) of this title.

(i) Administrative procedures

(1) In general

(A) Decision made in hearing

A decision made in a hearing conducted pursuant to subsection (f) or (k) shall be final, except that any party involved in such hearing may appeal such decision under the provisions of subsection (g) and paragraph (2).

(B) Decision made at appeal

A decision made under subsection (g) shall be final, except that any party may bring an action under paragraph (2).

(2) Right to bring civil action

(A) In general

Any party aggrieved by the findings and decision made under subsection (f) or (k) who does not

have the right to an appeal under subsection (g), and any party aggrieved by the findings and decision made under this subsection, shall have the right to bring a civil action with respect to the complaint presented pursuant to this section, which action may be brought in any State court of competent jurisdiction or in a district court of the United States, without regard to the amount in controversy.

(B) Limitation

The party bringing the action shall have 90 days from the date of the decision of the hearing officer to bring such an action, or, if the State has an explicit time limitation for bringing such action under this subchapter, in such time as the State law allows.

(C) Additional requirements

In any action brought under this paragraph, the court—

(i) shall receive the records of the administrative proceedings;

(ii) shall hear additional evidence at the request of a party; and

(iii) basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

(3) Jurisdiction of district courts; attorneys' fees

(A) In general

The district courts of the United States shall have jurisdiction of actions brought under this

section without regard to the amount in controversy.

(B) Award of attorneys' fees

(i) In general

In any action or proceeding brought under this section, the court, in its discretion, may award reasonable attorneys' fees as part of the costs—

(I) to a prevailing party who is the parent of a child with a disability;

(II) to a prevailing party who is a State educational agency or local educational agency against the attorney of a parent who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or

(III) to a prevailing State educational agency or local educational agency against the attorney of a parent, or against the parent, if the parent's complaint or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

(ii) Rule of construction

Nothing in this subparagraph shall be construed to affect section 327 of the District of Columbia Appropriations Act, 2005.

(C) Determination of amount of attorneys' fees

Fees awarded under this paragraph shall be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this subsection.

(D) Prohibition of attorneys' fees and related costs for certain services

(i) In general

Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under this section for services performed subsequent to the time of a written offer of settlement to a parent if—

(I) the offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than 10 days before the proceeding begins;

(II) the offer is not accepted within 10 days; and

(III) the court or administrative hearing officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement.

(ii) IEP Team meetings

Attorneys' fees may not be awarded relating to any meeting of the IEP Team unless such meeting is convened as a result of an administrative proceeding or judicial action, or, at the

discretion of the State, for a mediation described in subsection (e).

(iii) Opportunity to resolve complaints

A meeting conducted pursuant to subsection (f)(1)(B)(i) shall not be considered—

(I) a meeting convened as a result of an administrative hearing or judicial action; or

(II) an administrative hearing or judicial action for purposes of this paragraph.

(E) Exception to prohibition on attorneys' fees and related costs

Notwithstanding subparagraph (D), an award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer.

(F) Reduction in amount of attorneys' fees

Except as provided in subparagraph (G), whenever the court finds that—

(i) the parent, or the parent's attorney, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;

(ii) the amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience;

(iii) the time spent and legal services furnished were excessive considering the nature of the action or proceeding;

(iv) the attorney representing the parent did not provide to the local educational agency the appropriate information in the notice of the complaint described in subsection (b)(7)(A),

the court shall reduce, accordingly, the amount of the attorneys' fees awarded under this section.

(G) Exception to reduction in amount of attorneys' fees

The provisions of subparagraph (F) shall not apply in any action or proceeding if the court finds that the State or local educational agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of this section.

(j) Maintenance of current educational placement

Except as provided in subsection (k)(4), during the pendency of any proceedings conducted pursuant to this section, unless the State or local educational agency and the parents otherwise agree, the child shall remain in the then-current educational placement of the child, or, if applying for initial admission to a public school, shall, with the consent of the parents, be placed in the public school program until all such proceedings have been completed.

(k) Placement in alternative educational setting

* * * * *

(*l*) Rule of construction

Nothing in this chapter shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.], title V of the Rehabilitation Act of 1973 [29 U.S.C. 790 et seq.], or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under such laws seeking relief that is also available under this subchapter, the procedures under subsections (f) and (g) shall be exhausted to the same extent as would be required had the action been brought under this subchapter.

(m) Transfer of parental rights at age of majority

* * * * *

(n) Electronic mail

* * * * *

(*o*) Separate complaint

Nothing in this section shall be construed to preclude a parent from filing a separate due process complaint on an issue separate from a due process complaint already filed.