No. 21-887

In the Supreme Court of the United States

MIGUEL LUNA PEREZ,
Petitioner,

v.

STURGIS PUBLIC SCHOOLS; STURGIS PUBLIC SCHOOLS BOARD OF EDUCATION,
Respondents.

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

REPLY BRIEF OF PETITIONER

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INTRODUCTION

According to Sturgis, plaintiffs like Miguel who settle their IDEA claims pursuant to the IDEA's settlement procedures are thereby barred from seeking non-IDEA relief under other federal laws. That result makes no sense. In any given case, Sturgis's approach will either disincentivize settlement or deprive children with disabilities of their rights under non-IDEA statutes. Both results are antithetical to Section 1415(*l*)'s core goals, especially when—as here—the plaintiff has valid claims for both IDEA and non-IDEA relief. And neither result squares with Section 1415(*l*)'s text, structure, history, or precedent.

This Court should reverse on either of two valid grounds. *First*, it could hold that Section 1415(*l*) does not require exhaustion because Miguel's ADA suit for money damages is not "seeking relief that is also available under [the IDEA]." Sturgis twists itself into knots claiming that this language doesn't care about what specific remedies a plaintiff is actually requesting. But the text is crystal clear. And Sturgis's policy arguments about circumvention are misplaced, especially as to plaintiffs—like Miguel—who have already obtained full FAPE relief by settlement.

Second, the Court could hold that the settlement sufficiently exhausted the IDEA's procedures, rendering further exhaustion unnecessary or futile. Sturgis doesn't deny that Miguel did everything right by accepting the settlement. Its claim that doing so nonetheless forfeited his ADA rights is at odds with Section 1415(*l*)'s text, settled exhaustion principles,

precedent from this Court and virtually every circuit, and the IDEA's core purposes.

Either way, the Court should make clear that Miguel did not have to reject an IDEA settlement to preserve his ADA claim for damages. The decision below cannot stand.

ARGUMENT

I. SECTION 1415(*l*) DOES NOT REQUIRE EXHAUSTION IF THE PLAINTIFF IS "SEEKING" ONLY NON-IDEA "RELIEF"

A. Exhaustion Is Unnecessary When The Plaintiff Seeks Only Money Damages

Sturgis argues (at 17) that Section 1415(*l*)'s exhaustion requirement "hinges on whether the action seeks relief for the denial of a FAPE, not the plaintiff's preferred remedy." But that's not what the text says. Section 1415(*l*) does not require exhaustion unless the plaintiff's non-IDEA "civil action" is "seeking relief that is also available under [the IDEA]." That key phrase directs courts to look at the particular relief demanded in a plaintiff's complaint and then determine whether those remedies are authorized by the IDEA. Here, all agree that Miguel seeks only money damages that are unavailable under the IDEA. Section 1415(*l*) does not apply.

1. Sturgis offers no plausible textual analysis to the contrary. In its view, a plaintiff who expressly disclaims all "relief" available under the IDEA is nonetheless still "seeking" that disclaimed relief. That cannot be right.

a. Over and over again, Sturgis insists (e.g., at 18, 19, 20) that Section 1415(*l*) "applies to all actions seeking relief for the denial of a FAPE, no matter" the

remedies "sought," "desired," or "preferred" by the plaintiff. But the provision says exactly the opposite: It turns on what relief the plaintiff's "civil action" is actually "*seeking*." Whether Section 1415(*l*) applies turns "on th[e] choice[s]" made in the "plaintiff's complaint." *Fry v. Napoleon Cmty. Schs.*, 137 S. Ct. 743, 755 (2017). A plaintiff who does not request a particular form of relief is—by definition—not "seeking" that relief.

Sturgis acknowledges that under *Fry*, the word "'seeking' makes [Section] 1415(*l*)'s exhaustion rule turn on the 'crux' of the plaintiff's complaint rather than on what the plaintiff 'could have sought.'" Br. 25 (quoting 137 S. Ct. at 755). But under Sturgis's rule, courts must examine a plaintiff's factual allegations to determine whether he *could have* sought IDEA relief for the injury alleged, regardless of what relief the lawsuit *actually* seeks. That violates *Fry*.

b. Sturgis offers no plausible definition of "relief" that supports its position. At first, Sturgis says "relief" means "'the "redress or benefit" that attends a favorable judgment.'" Br. 17-18 (quoting *Fry*, 137 S. Ct. at 753). That definition supports Miguel: The "redress or benefit" that Miguel's ADA suit seeks is money damages, which are not available under the IDEA.

Elsewhere, Sturgis says Section 1415(*l*) does not use "relief" in that usual sense because the word "*remedy*" can "also refer to the '*means of enforcing* a right or preventing or redressing a wrong.'" Br. 25-26 (emphasis added) (quoting *Booth v. Churner*, 532 U.S. 731, 738 (2001)). But the statutory term at issue here is "relief"—not "remedy"—and "relief" does not carry a means-of-enforcement definition. No such definition would work in Section 1415(*l*), anyway:

A civil action is never "seeking" a "*means of* enforcing a right or preventing or redressing a wrong"—the civil action *is* the means of doing so. Section 1415(*l*) fits together only if "relief" refers to specific remedies.

Sturgis doesn't deny that this is how the rest of Section 1415 uses "relief." *See* 20 U.S.C. § 1415(i)(2)(C)(iii), (3)(D)(i)(III). And it gives no "persuasive reason" for jettisoning the "usual presumption" that a word carries the "'same meaning'" throughout a statute. *Henson v. Santander Consumer USA Inc.*, 137 S. Ct. 1718, 1723 (2017) (citation omitted). Indeed, a means-of-enforcement definition of relief does not work in the other provisions. U.S. Br. 17-18.

Nor does Sturgis square its position (at 27-28) with how the Federal Rules of Civil Procedure and this Court use "relief"—to mean specific remedies. Although Rule 8(a)(3) lets plaintiffs request "different types of relief" in their "demand for the relief sought," that just means they may seek more than one kind of remedy. Rule 54(c) supports Miguel, not Sturgis: The rule twice uses "relief" in the remedy-focused sense, while authorizing courts to award remedies beyond what the plaintiff seeks in his complaint. And this Court's everyday usage of "relief" is a strong indicator of its statutory meaning. *See, e.g.*, *Wooden v. United States*, 142 S. Ct. 1063, 1070 (2022).

c. Finally, Sturgis emphasizes (at 18) Section 1415(*l*)'s use of the word "action," asserting that the "whole point of an 'action' is 'to redress the denial of a right'" and that the "redress sought centers on 'the kind of harm [the plaintiff] wants relief from'—the denial of a FAPE." Maybe, but Section 1415(*l*)'s prefatory phrase triggering the exhaustion requirement—"before the filing of a civil action . . .

seeking relief that is also available under [the IDEA]"—still zeroes in on the specific remedy ("relief") that the plaintiff is actually requesting ("seeking"). It does not turn only on the fact that the plaintiff wants redress for the denial of a FAPE. More generally, Sturgis is wrong to assign significance to Congress's use of "action" in Section 1415(*l*). *See Jones v. Bock*, 549 U.S. 199, 220-21 (2007) (dismissing as "boilerplate" the use of "action" instead of "claim" in prefatory clauses of exhaustion provisions).[1]

2. Sturgis's claims about statutory history are also misplaced. Sturgis argues (at 18-19) that *Smith v. Robinson*, 468 U.S. 992 (1984), supports its position because the Court justified deeming the IDEA the "exclusive avenue" for enforcing the right to a FAPE, based partly on a perceived concern that plaintiffs could otherwise obtain "damages" under non-IDEA

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[1] Sturgis also has no answer to *Honig v. Doe*'s holding that IDEA claims need not be exhausted when administratively available relief is "inadequate," 484 U.S. 305, 326-27 (1988), such as when the hearing officer "lack[s] authority to grant the type of relief requested," *McCarthy v. Madigan*, 503 U.S. 140, 147-48 (1992)—or the fact that Section 1415(*l*)'s "to the same extent" language incorporates that same exception. *See* Perez Br. 18-20. For reasons discussed below (at 17-20), Section 1415(*l*) incorporates the traditional exceptions to exhaustion for inadequacy and futility. And Sturgis's argument (at 39) that the inadequacy exception doesn't apply when "a plaintiff has requested a [damages] remedy that he plainly cannot get from either an agency *or* a reviewing court" misses the mark. Whether an *administrative process* is inadequate turns on whether *that process* can provide the desired relief, not on whether a court can do so. *McCarthy*, 503 U.S. at 147-48. In any event, by requiring application of the IDEA's baseline exhaustion rule to non-IDEA claims, Section 1415(*l*) does not command courts to ignore the reality that the money damages Miguel seeks under the ADA *are* available in court.

statutes, even when "no such award is available under the [IDEA]." *Id.* at 1009, 1019-20. Sturgis indicates (at 19) that if Congress had wanted to overturn that result, it could have expressly "authorize[d] non-IDEA FAPE plaintiffs to go straight to court whenever they want damages."

But Congress *was* express: Section 1415(*l*) says that exhaustion is not required when the plaintiff is "seeking relief" that is not "available" under the IDEA. Sturgis's *Smith*-based argument rests on a conclusory *ipse dixit* to the contrary. It also ignores Section 1415(*l*)'s clear-cut legislative history stating that exhaustion is "not appropriate" when "the hearing officer lacks the authority to grant the relief sought" under the IDEA. H.R. Rep. No. 99-296, at 7 (1985); *see* Harkin Br. 13-15 (explaining that Congress considered and rejected a stricter alternative).

3. Sturgis is likewise wrong to invoke *Fry* (at 20) for the proposition that Section 1415(*l*) exhaustion is always mandatory "when the plaintiff charges a denial of a FAPE." In fact, *Fry* expressly left for "another day" (today) whether Section 1415(*l*) requires exhaustion when such a plaintiff seeks only money damages. 137 S. Ct. at 752 n.4, 754 n.8.

What *Fry did* decide favors Miguel: Just as IDEA hearing officers cannot provide relief for something other than the denial of a FAPE, they cannot award legal remedies redressing harms beyond direct educational losses. Perez Br. 20-21. In both scenarios, the hearing officer "would have to send [the plaintiff] away empty-handed," because the relief sought is not available under the IDEA. *Fry*, 137 S. Ct. at 754. Exhaustion is not required in either.

Beyond *Fry*, Sturgis disregards this Court's other precedents explaining that it would be "anomalous" for Congress to foreclose suit on exhaustion grounds where an administrative decisionmaker "has no power to order [the] corrective action" that the plaintiff wants. Perez Br. 23 (citing cases); *see id.* at 19 & n.3.

Instead, Sturgis points (at 21) to an outlier statute, the Prison Litigation Reform Act (PLRA). But *Fry* distinguished the PLRA and IDEA exhaustion provisions based on the same text at issue here: The Court called the PLRA "stricter" than Section 1415(*l*) because the PLRA makes exhaustion turn on whether administrative remedies are "available," instead of on whether the plaintiff "in fact 'seeks'" the "available" relief (as Section 1415(*l*) does). 137 S. Ct. at 755. The PLRA's harsher regime suits the prison context, where there is a special need to "filter out some frivolous claims" and "mollify passions even when nothing ends up in the [prisoner's] pocket." *Booth*, 532 U.S. at 737. Congress understandably embraced a more generous approach for children with disabilities.

B. Sturgis's Policy Arguments Fail

1. As to policy, Sturgis asserts (at 20, 27) that Miguel's interpretation would let plaintiffs "easily evade" the IDEA administrative process "simply by writing 'damages' in [the] complaint." But no one is arguing that an unexhausted IDEA claim could proceed in court if brought alongside a non-IDEA claim for damages. And for non-IDEA claims, plaintiffs cannot bypass exhaustion by slapping a damages label on what is, in substance, a claim for educational relief. Perez Br. 18 n.2.

At any rate, Sturgis's circumvention argument only makes sense based on an implicit premise that all plaintiffs who have been denied a FAPE can obtain—and therefore should try to obtain—meaningful relief in the IDEA administrative process. That premise is false. Sturgis overlooks the important subset of cases in which plaintiffs no longer need the remedies available under the IDEA. For example, a plaintiff—like Miguel—might have reached a settlement *already* granting him IDEA relief. Other plaintiffs may not need IDEA relief if they have aged out of school, moved to a different district, or passed away. Perez Br. 25-26; U.S. Br. 23.

In each of these situations, circumvention is not a problem: It is both legitimate and efficient for those plaintiffs to forego the full IDEA administrative process and bring non-IDEA claims directly in court. After all, Sturgis's anti-circumvention argument (at 20, 24) rests on the IDEA's core goals of "promot[ing] 'collaboration' between schools and parents" and "securing a FAPE" as "quickly as possible." But forcing plaintiffs in these scenarios to litigate IDEA administrative claims to final decision does not advance those objectives. A settlement itself achieves both goals. And in the other scenarios, cooperation and IDEA remedies are often irrelevant given the termination of the child's relationship with the district. There is no reason to mandate further exhaustion of an IDEA process that cannot provide needed relief.[2]

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[2] Sturgis downplays delays associated with exhaustion (at 24) but overlooks that it usually takes more than six months to obtain a decision in IDEA proceedings. *See* Advocates for

2. Sturgis's circumvention argument also fails as to plaintiffs who *could* potentially benefit from IDEA remedies. Those plaintiffs are not likely to skip the IDEA administrative process and head straight to court on non-IDEA claims. Doing so would forfeit their rights to any remedy an IDEA hearing officer could award, such as ordering the school to provide a FAPE, compensatory education, or reimbursement for private-school tuition. Perez Br. 24-25. And not only are IDEA remedies substantial, but non-IDEA claims are typically harder to prove. *Id.* at 24. Plaintiffs who can still benefit from IDEA relief are far more likely to seek such relief in the administrative process first and then to bring non-IDEA claims in court. Circumvention of the IDEA is not a realistic concern.

Sturgis's argument about *Cummings v. Premier Rehab Keller, P.L.L.C.*, 142 S. Ct. 1562 (2022), reinforces all this. If Sturgis is right (at 29) that *Cummings* precludes emotional distress damages under the ADA and other anti-discrimination statutes, then money damages will be available in only a narrow and extraordinary set of circumstances. Most school-age children, for example, will have a hard time showing that the temporary denial of a FAPE drastically reduced their future earning capacity. Few plaintiffs will abandon readily available IDEA relief for the chance to speed up hard-to-win claims under other statutes.

Sturgis's suggestion (at 24) that greedy parents will focus on "recovering money damages rather than

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Children of N.Y. Br. 25 n.10. And if parents prevail, school districts may appeal the administrative hearing decision, dragging out the process even further.

securing a FAPE for their child as quickly as possible" is both insulting and wrongheaded. When IDEA relief has not yet been obtained and could still benefit the child, few parents would forfeit such relief, bypass the IDEA administrative process, and instead take a flyer on a damages claim. Instead, they would pursue both the IDEA and non-IDEA remedies—just as Miguel properly did here.

3. Beyond circumvention, Sturgis advances other policy points against Miguel's plain-meaning interpretation of Section 1415(*l*). None holds water.

First, Sturgis warns (at 28-29) that Miguel's interpretation might lead to "parallel litigation" of claims in IDEA administrative hearings and non-IDEA court cases. But Sturgis acknowledges that district courts can eliminate the inefficiencies of parallel litigation by staying non-IDEA cases until the administrative process is resolved. *See* Perez Br. 26. And although *McDonough v. Smith*, 139 S. Ct. 2149 (2019), declined to rely on "case-by-case discretion" to "avoid the problems of two-track litigation," Sturgis overlooks (at 28-29) that it did so to avoid a limitations regime that would have *required* criminal defendants to file parallel lawsuits against prosecutors to preserve civil claims as a matter of course. 139 S. Ct. at 2158. Nothing like that is at stake here.

Second, Sturgis says (at 29) that Miguel's plain-text reading would "multiply" the questions a court needs to answer to determine whether exhaustion is required. But in FAPE-based cases, only two questions must be addressed: (1) what remedy is the plaintiff's non-IDEA lawsuit seeking, and (2) is that remedy is authorized by the IDEA? Perez Br. 16-18. Neither is especially complex, and

IDEA officers and courts resolve similar questions about remedies all the time. Here, for example, there is no dispute that Miguel's ADA claim seeks only money damages that are unavailable under the IDEA.[3]

Third, Sturgis protests (at 22) that Miguel's interpretation would undermine exhaustion's goals of leveraging administrative "special expertise" and "promot[ing] efficiency." But the standards governing IDEA and non-IDEA liability are different, and no statute requires courts or juries to defer to IDEA factual findings when adjudicating non-IDEA claims. Perez Br. 23-24.

Sturgis is also wrong to argue (at 28) that an IDEA administrative record would help in "calculating" the non-IDEA damages to which plaintiffs like Miguel are entitled. The issues that bear on lost-income damages—e.g., what jobs Miguel would have been able to perform and is now able to perform—are entirely outside the scope of what IDEA hearing officers typically address. An administrative record will usually be of little assistance in non-IDEA proceedings.[4]

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[3] Contrary to Sturgis (at 29), courts applying Section 1415(*l*) do *not* need to determine whether the "requested damages" are available under the *non*-IDEA statute. That issue has nothing to do with exhaustion. Here, in any event, the ADA authorizes lost-income damages. Perez Suppl. Cert Br. 3-4.

[4] Sturgis's cases relying on administrative records in non-IDEA lawsuits are telling outliers. In two, for example, the hearing officer addressed the non-IDEA claim. *See J.L. v. Lower Merion Sch. Dist.*, 2022 WL 4295291, at *8 (E.D. Pa. Sept. 15, 2022); *Zachary J. v. Colonial Sch. Dist.*, 2022 WL 580309, at *14 (E.D. Pa. Feb. 24, 2022). That is highly unusual, Professors

At bottom, Sturgis's interpretation of Section 1415(*l*) is inconsistent with the purposes of exhaustion. It cannot obviate the need for the non-IDEA lawsuit, and it forces all parties to expend additional time and resources for no good reason. Perez Br. 22-24. Exhaustion was not required here.

II. CHILDREN WITH DISABILITIES DO NOT NEED TO REJECT SETTLEMENTS TO PRESERVE NON-IDEA CLAIMS

This case must proceed, even if Section 1415(*l*) applies to Miguel's ADA suit. Sturgis itself recognizes that Section 1415(*l*) is designed to ensure that a plaintiff with "a money damages claim for the denial of a FAPE under another federal law *has the right to pursue those damages* . . . after following the procedures designed to ensure that he receives a FAPE as quickly as possible." Br. 24 (emphasis added). As Sturgis later confirms: "If parents follow [the IDEA's administrative procedures], then they *can still get money damages*—after the child has obtained the much-needed, and time-sensitive, FAPE." *Id.* (emphasis added).

Under these explanations of Section 1415(*l*), Miguel wins this case. Before bringing suit, Miguel (1) filed an IDEA administrative claim, (2) followed the IDEA-mandated settlement procedures, and (3) secured a favorable settlement requiring Sturgis to provide him a FAPE. He sued for ADA damages only *after* obtaining FAPE relief via settlement, precisely as Sturgis implies he should be able to do.

Br. 9-18, and likely improper under *Fry*, 137 S. Ct. at 755; *see* U.S. Br. 30.

Sturgis nevertheless wants this Court to affirm the dismissal of Miguel's ADA suit and forever deny him the opportunity to seek damages. It relies on a strained reading of Section 1415(*l*) that is at odds with the text and Sturgis's own explanation of its purpose. The Court should disavow Sturgis's theory and hold that victims of discrimination are not required to reject favorable IDEA settlements if they want to preserve claims for additional relief under other statutes.

A. Settlement Counts As Exhaustion Under The IDEA

Sturgis devotes barely more than a page (at 46-47) to Miguel's argument that a settlement conclusively resolving an IDEA claim qualifies as exhaustion for Section 1415(*l*) purposes. Perez Br. 30-41. Nothing it says there is persuasive.

1. Sturgis does not dispute that exhaustion means pursuing an administrative process to an "appropriate conclusion." *Aircraft & Diesel Equip. Corp. v. Hirsch*, 331 U.S. 752, 767 (1947). It does not contest that what conclusions are appropriate depends on "the particular administrative scheme at issue." *Smith v. Berryhill*, 139 S. Ct. 1765, 1776 (2019). It enthusiastically agrees (at 20, 24) "that Congress crafted administrative procedures specifically to deliver a FAPE as quickly as possible" and to "promote 'collaboration' between schools and parents." And it acknowledges (at 5-6) that settlement conclusively terminates IDEA proceedings in precisely the manner contemplated by the IDEA. All this establishes that an IDEA settlement qualifies as exhaustion.

Treating settlement of Miguel's IDEA claim as exhaustion makes perfect sense, particularly given Section 1415(*l*)'s unique scheme. When exhaustion is required, IDEA administrative claims must be resolved before *any* claims—under the IDEA or other statutes—can be brought in court. But Section 1415(*l*) is not intended to *extinguish* non-IDEA claims. It should not be read to do so when a plaintiff pursues the IDEA settlement mechanism to a successful conclusion.

2. Sturgis briefly claims (at 47) that settlement "doesn't exhaust the procedures under subsections (f) and (g)," as Section 1415(*l*) requires. That's wrong. Subsections (f) and (g) establish multiple pathways for resolving IDEA proceedings, *including by settlement*. *See* 20 U.S.C. § 1415(f)(1)(B)(i), (iii) (requiring settlement talks and spelling out what a "[w]ritten settlement agreement" must provide). Indeed, Sturgis itself seems to acknowledge (at 5-6) that settlement is the IDEA's primary—and *preferred*—mechanism for resolving disputes. Here, Sturgis does not dispute that its settlement agreement with Miguel was concluded pursuant to Section 1415(f). Perez Br. 10, 37.

3. Sturgis also argues (at 47) that settlement can't count as exhaustion because (1) Section 1415(*l*) requires a court to look at the non-IDEA case "as an IDEA action," and (2) "the premise of a settlement is that the IDEA action is *resolved*, and without completing the administrative process." That argument is meritless.

Again, Sturgis appears to agree (at 5-6) that settlement is an "appropriate conclusion" of the IDEA dispute-resolution procedures. So contrary to Sturgis,

settlement *does* count as exhaustion of the IDEA claim and *does* complete the administrative process.

Here, for example, Miguel followed the IDEA's procedures until he reached a settlement with Sturgis, just as Section 1415(f) envisions. JA55-56. That Section 1415(f) settlement produced an order from the hearing officer dismissing Miguel's IDEA claim in light of the parties' agreement, conclusively resolving the proceedings. JA56. Sturgis's assertion (at 47) that termination of the proceedings *precludes* settlement from qualifying as exhaustion has things exactly backwards.

Sturgis is wrong to say (at 47) that settlement cannot count as exhaustion because a settling IDEA plaintiff cannot later bring an IDEA lawsuit in court. That lawsuit would surely fail, but *not* due to a failure to exhaust. Rather, it's doomed because the plaintiff has "release[d]" his IDEA claim in the settlement, which the court must enforce. Fed. R. Civ. P. 8(c)(1); *see* 20 U.S.C. § 1415(e)(2)(F)(ii), (f)(1)(B)(iii)(I). That independent barrier to suit is not an exhaustion problem.

Relatedly, Sturgis is wrong to defend (at 47) the Sixth Circuit's view that to satisfy Section 1415(*l*)'s exhaustion requirement, a plaintiff with a non-IDEA claim must be "aggrieved" by a hearing officer's decision under the IDEA. After all, plaintiffs who win their IDEA claims have the strongest non-IDEA FAPE claims. It would be absurd to bar those plaintiffs from vindicating their non-IDEA rights. *See* Perez Br. 38-39; U.S. Br. 30.

Sturgis doesn't deny the absurdity. Instead, it defends (at 47) the Sixth Circuit by arguing that a plaintiff who earns a total victory in IDEA

proceedings nonetheless qualifies as "'aggrieved' because the agency denied him damages"—even if the the plaintiff never asked for such damages (which of course the IDEA does not authorize). That upside-down understanding of "aggrieve[ment]" shows the contortions needed to justify Sturgis's implausible exhaustion theory. Aggrievement is different from exhaustion and doesn't refute Miguel's settlement-is-exhaustion argument. Perez Br. 38-41.

4. With no persuasive response on the merits, Sturgis claims (at 46-47) that whether settlement qualifies as exhaustion is not properly presented. Wrong again: That argument was pressed and passed upon below, and Miguel expressly preserved it in the argument of his petition for certiorari. Perez C.A. Br. 21-22; Pet. App. 9a; Pet. 28 n.7.

That issue is also fairly included within Miguel's questions presented. The prefatory paragraph introducing those questions emphasized the parties' settlement, and the relevant question then asked: "Whether, *and in what circumstances*, courts should excuse *further* exhaustion of the IDEA's administrative proceedings under Section 1415(*l*) when such proceedings would be futile." Pet. i (emphasis added); *see* Sup. Ct. R. 14.1(a). Miguel's first answer is that further exhaustion is excused because the settlement itself sufficiently exhausts the IDEA administrative procedures.

In any event, this Court has long treated matters "essential to analysis of the decisions below or to the correct disposition of the other issues" as "subsidiary issues fairly comprised by the question presented." *City of Sherrill v. Oneida Indian Nation*, 544 U.S. 197, 214 n.8 (2005). That rule certainly applies here, where the whole case turns on a proper

understanding of Section 1415(*l*)'s exhaustion requirement. Sturgis cannot duck Miguel's arguments on forfeiture grounds. *See* U.S. Br. 32.

B. Miguel's IDEA Settlement Rendered Further Exhaustion Futile

1. Section 1415(*l*) Incorporates The IDEA's Preexisting Futility Exception

Eleven circuits—plus Sturgis's amici—recognize that Section 1415(*l*) contains a futility exception. Perez Br. 44-45; AASA Br. 16-17. Sturgis disagrees, arguing (at 30-31) that because Section 1415(*l*) is a "statutory exhaustion requirement[]" with "mandatory" language, it is not subject to the standard administrative law exceptions. That argument conflicts with Section 1415(*l*)'s unique text and history, and with general exhaustion principles.

a. By providing that the IDEA's administrative procedures "shall be exhausted to the same extent as would be required had the [non-IDEA] action been brought [under the IDEA]," Section 1415(*l*) extends to non-IDEA claims the IDEA's *preexisting* exhaustion requirement for IDEA claims. That preexisting requirement is implicit, judge-made, and subject to the usual administrative law exceptions to exhaustion—including for futility. *See* Perez Br. 41-44, 47; U.S. Br. 24-26.

Sturgis denies (at 34, 36) that the IDEA contained any futility exception applicable to IDEA claims in 1986, when Section 1415(*l*) was enacted. But this Court's 1984 *Smith* decision had already noted the lower courts' view that such an exception existed, citing an express statement by the IDEA's lead sponsor in 1975. 468 U.S. at 1014 n.17. And in *Honig v. Doe*, 484 U.S. 305 (1988), the Court directly

confirmed that "parents may bypass the administrative process where exhaustion would be futile or inadequate." *Id.* at 326-27 (citing *Smith* and the 1975 history). Section 1415(*l*) applies the IDEA's exhaustion requirement to non-IDEA claims; it necessarily carries over the IDEA's futility exception too.

Sturgis dismisses (at 45) *Honig*'s recognition of an IDEA futility exception as "dictum," but doesn't respond to Miguel's explanation of why it's a binding holding. Perez Br. 46; U.S. Br. 26-27. And Sturgis's attempt (at 45) to cabin that holding to cases involving the IDEA's "stay-put" provision is unavailing: The whole basis for *Honig*'s conclusion that schools can invoke a futility exception in the stay-put context was that such an exception is available to parents in the FAPE context. 484 U.S. at 326-27.

Finally, Sturgis has no real answer to the 1986 House and Senate Reports making clear that Section 1415(*l*) would not require exhaustion when "futile." Perez Br. 45 (quoting legislative history). That history powerfully confirms Miguel's textual argument.

b. Sturgis cites a series of cases for the proposition that statutory exhaustion provisions with mandatory language necessarily foreclose a futility exception. Br. 30-36 (invoking *Booth*, *Ross v. Blake*, 578 U.S. 632 (2016), and *United States v. Palomar-Santiago*, 141 S. Ct. 1615 (2021)). Crucially, though, none of those cases involved provisions that—like Section 1415(*l*)—expressly incorporate an implicit

exhaustion requirement containing a recognized futility exception. *Supra* at 17.[5]

In any event, Sturgis overreads the cases. Statutory exhaustion requirements generally foreclose only the creation of new, "'freewheeling' exceptions" to exhaustion—*not* recognition of the "well-established" exceptions (like futility), which are typically baked into "what the term ['exhaust'] means in administrative law." *Ross*, 578 U.S. at 649-50 (Breyer, J., concurring in part). For example, although the Social Security Act statutorily requires exhaustion, this Court has held that it contains a futility exception. *Bowen v. City of New York*, 476 U.S. 467, 485 (1986).

Sturgis's cases do not establish otherwise. In *Booth*, the Court rejected a futility exception in the PLRA because Congress specifically amended the statute to jettison that and other discretionary exceptions to exhaustion. 532 U.S. at 738-41. *Ross* likewise addressed the PLRA's unusually stringent exhaustion regime and expressly noted that an exhaustion provision with "a different text and history" could well "incorporate standard administrative-law exceptions." 578 U.S. at 642 n.2. And *Palomar-Santiago* did not involve futility or the other traditional exceptions. 141 S. Ct. at 1620. None of those cases undermines the long-settled view that

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[5] For similar reasons, Sturgis gains nothing by emphasizing (at 33-34) that (1) Congress created various express exceptions to other IDEA requirements unrelated to exhaustion, and (2) Congress codified futility and other exceptions to exhaustion in other non-IDEA statutes using different language. None of Sturgis's cited provisions refutes Section 1415(*l*)'s clear incorporation of the IDEA's pre-existing exhaustion scheme.

the IDEA—and with it, Section 1415(*l*)—incorporates a futility exception.

2. Settlement Triggers The Futility Exception

Sturgis does not dispute that Miguel's IDEA claim is fully resolved; that the settlement gave him all appropriate IDEA relief; or that Miguel had nothing to gain—and much to lose—from rejecting Sturgis's offer and pursuing the administrative process further. *See* Perez Br. 49-51. Further administrative proceedings would be pointless. Section 1415(*l*)'s futility exception therefore applies.

Sturgis argues that an IDEA plaintiff who fully resolves his claim by settlement could not qualify for a futility exception because the resolution means "there is nothing left to exhaust." Br. 44, *see also id.* at 41-42. And it says that because Section 1415(*l*) requires exhaustion of non-IDEA claims "to the same extent" as would be required had those claims been brought under the IDEA, the futility exception can't apply to non-IDEA claims either. *Id.*

Sturgis is mistaken. Further exhaustion of a claim that has been satisfactorily resolved in an IDEA administrative proceeding—whether by a merits decision, settlement, or otherwise—is *always* futile. After all, the resolution grants the plaintiff full relief, and the administrative process can provide nothing further. That's the very definition of futility.

In such cases, of course, the successful resolution ensures that the IDEA plaintiff would not want or need to file any IDEA action in court. Exhaustion

would never be litigated, and the fact that further exhaustion is futile simply doesn't matter.[6]

Here, though, futility *does* matter. That's because in this case, unlike in the hypothetical IDEA action, there's a need for a follow-on court proceeding on Miguel's separate ADA claim, even after the IDEA claim is resolved. Given that need, Miguel is free to invoke futility, based on the settlement, to defeat Sturgis's exhaustion defense.

Sturgis is right (at 43) that other statutory exhaustion schemes don't require this sort of analysis. But Section 1415(*l*) is a one-of-a-kind provision that mandates exhaustion of administrative procedures on one claim before a lawsuit can be brought on a *different* claim. Perez Br. 34-37. And Sturgis is wrong to suggest (at 43) that no precedent supports Miguel: Every circuit that addressed this issue before the Sixth Circuit's ruling below agreed that settlement of an IDEA claim renders further exhaustion futile under Section 1415(*l*). Pet. 17-20. That consensus is correct.

C. Sturgis's Rule Would Undermine The Speedy Provision Of FAPE Relief And Nullify Victim Rights Under Non-IDEA Statutes

Sturgis states (at 35, 46) that "getting students prompt FAPE relief through the statute's administrative procedures is the IDEA's primary

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[6] As noted above, any IDEA plaintiff who settled his administrative IDEA claim but then nonetheless tried to file an IDEA suit in court would lose for non-exhaustion reasons. *Supra* at 15. Sturgis is right (at 42) that such an IDEA plaintiff could not pursue his claim in court—but wrong to identify failure to exhaust as the reason.

goal." True. But only Miguel's approach serves that goal, while also protecting the rights of children with disabilities under other statutes.

1. Remarkably, Sturgis says (at 40-41) that spurning a settlement offer that promises a FAPE—in favor of exhausting administrative proceedings all the way through a merits decision—somehow "maximizes the likelihood that the student will *receive* a FAPE" and obtain that relief "faster."

That makes no sense. The fastest and most reliable way to receive a FAPE is—obviously—to accept a FAPE when one is offered in a binding settlement agreement. That's why the IDEA facilitates and incentivizes settlements throughout the administrative process—and *penalizes* parents who reject settlement offers and then fail to obtain more favorable relief later. Perez Br. 5, 31-34. Sturgis's position, however, exacts a forfeiture of non-IDEA rights as the price of promptly receiving a FAPE via settlement. That draconian regime deters the very kind of mutual resolution that Congress sought to encourage.

2. Sturgis's rule barring non-IDEA lawsuits following IDEA settlements would also interfere with parties' ability to reach fair settlements that ensure the child receives a FAPE as quickly as possible. Sturgis *says* (at 16) that "[p]arties will remain free to contract around whatever rule the Court announces" in this case. But in fact Sturgis's rule would outlaw the type of settlement the parties reached here—an agreement to resolve only IDEA claims, while leaving non-IDEA claims for another day. On Sturgis's view, either the plaintiff must surrender the non-IDEA claim, or that claim must be resolved as part of the

settlement. There is no middle ground, and that makes settlement much harder.

By contrast, Miguel's approach lets the parties reach whatever bargain they deem mutually acceptable, whether it resolves all claims or (as here) just the IDEA claim. That is just and efficient, and consistent with how parties typically litigate cases with multiple claims. For example, the parties might agree that a FAPE was denied (making an IDEA settlement easy), but disagree on the nature of the school's intent, the strength of non-IDEA defenses, or the measure of money damages (making a non-IDEA settlement hard). Perez Br. 36 & n.4. In that situation, Sturgis's rule offers no good way for the parties to reach a settlement, inevitably delaying the child's receipt of a FAPE. The parties will have to litigate *all* claims, for as long as it takes.

Sturgis warns (at 42, 48) that Miguel's position will encourage schools to "demand that students release their non-IDEA FAPE claims as a condition of settlement." But Sturgis acknowledges (at 48) that schools "typically" do that already. As well they should: A school that wants a global resolution of non-IDEA claims must negotiate—and provide consideration for—a written release of such claims. That is only fair.

Under Sturgis's rule, no negotiated release or compensation is necessary, because any IDEA-only settlement automatically extinguishes the student's rights under other statutes. So plaintiffs like Miguel—who never would have signed a general release giving up his non-IDEA claim for nothing—are treated as if they had. That is deeply unfair.

Sturgis's related criticism (at 48) that Miguel's approach would make settlements harder to reach rests on the same (illegitimate) premise that schools should be able to evade liability for violating non-IDEA anti-discrimination statutes without compensating their victims. Congress rejected that premise when it overturned *Smith*.

3. More generally, Sturgis repeatedly claims (e.g., at 35, 40-42) that its rule is designed to help children with disabilities. This Court should not be fooled. In reality, Sturgis's approach is a transparent effort to nullify the non-IDEA remedies Congress intended Section 1415(*l*) to protect. Sturgis would require children with disabilities to turn down favorable IDEA settlements if they want to preserve their legal rights to other relief under different statutes. That result contradicts Section 1415(*l*)'s goals of promoting settlements, getting students FAPE relief as quickly as possible, and preserving the full range of protections against discrimination.

This Court should reject Sturgis's rule and let Miguel's case proceed.

CONCLUSION

The Sixth Circuit's judgment should be reversed.

Respectfully submitted,

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