

No. 21A590

IN THE

Supreme Court of the United States

COALITION FOR TJ,

APPLICANT,

v.

FAIRFAX COUNTY SCHOOL BOARD,

RESPONDENT.

*To the Honorable John G. Roberts, Jr., Chief Justice
and Circuit Justice for the Fourth Circuit*

MOTION FOR LEAVE TO FILE AMICUS BRIEF IN SUPPORT OF APPLICANT

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April 11, 2022

MOTION

The Liberty Justice Center respectfully moves for permission to file this amicus brief in support of the Applicant Coalition for TJ. *See Memorandum to those intending to file an amicus curiae brief in the Supreme Court of the United States*, Clerk of the Supreme Court (October 2019), § 6 (“the Clerk’s Office will accept such briefs only if they are presented along with a motion for leave to file the brief”).

Liberty Justice Center is counsel to plaintiffs in two cases in the Fourth Circuit applying an *Arlington Heights* analysis to racially motivated policies. In the first, LJC represents three families in Loudoun County Public Schools who are challenging a leadership program initially only open to students of color but now facially open to all students. *Menders v. Loudoun County School Board*, No. 22-1168 (4th Cir.). In the second, LJC represents the Catholic Diocese of Charleston and South Carolina Independent Colleges & Universities, Inc., the trade association for nonpublic institutions of higher learning in the Palmetto State, in a challenge to the South Carolina Constitution’s Blaine Amendment. *Bishop of Charleston v. Adams*, No. 22-1175 (4th Cir.).

In both cases, the plaintiffs and defendants disagree about the standard set in *Arlington Heights*. And in *Menders* in particular, the school argued, and the district court ruled, that the goal of helping students of color did not constitute an intent to discriminate against white students. As a result, LJC has a substantial interest on behalf of its clients in this Court’s resolution of this application.

In its brief, Amicus situates this case in the larger context of these and other recent cases applying *Arlington Heights*, including many from outside the education

arena. Amicus highlights the varying approaches taken by lower courts. By doing so, the brief provides the Court with a broader view of the need for its ultimate review, which is the first prong of the test for a stay in these circumstances. *See Coleman v. Paccar, Inc.*, 424 U.S. 1301, 1304 (1976) (Rehnquist, J., in chambers) (applicants must show the “case could and very likely would be reviewed here upon final disposition in the court of appeals.”).

Amicus contacted counsel for both parties over the weekend and has secured consent from each for filing. For the foregoing reasons, Amicus respectfully requests that the Court grant this unopposed motion to file the attached amicus brief and accept it in the format and at the time submitted.

Respectfully submitted,

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