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October 24, 2024

Honorable Scott S. Harris  
Clerk of Court  
Supreme Court of the United States  
1 First Street, NE  
Washington, DC 20543

Re: *A.J.T., by and through her parents, A.T. & G.T. v. Osseo Area Schools, Independent School District No. 279, et al.*, No. 24-249  
Opposition to Respondents' Extension Request

Dear Mr. Harris:

I am writing on behalf of petitioner A.J.T. (Ava) in the above-referenced matter to oppose respondents' request for an extension of time to file their response to the petition for a writ of certiorari. The petition was filed on September 3, 2024, and the response is currently due on November 18, 2024—i.e., *76 days* after Ava filed her petition. Respondents (the "District") now seek an additional 60 days for filing the response, which would give them more than *four months* to draft their submission. Granting that request would preclude this Court from hearing the case this Term, further delaying Ava's pursuit of much-needed relief. We respectfully ask the Court to deny the District's request, or at least to limit any extension, so that the case may be argued this Term if certiorari is granted.

As Ava's petition explains, the circuits are deeply and intractably divided on an important question of federal law that affects countless children with disabilities and their families. The Council of Parent Attorneys and Advocates, National Center for Youth Law, National Disability Rights Network, Learning Rights Law Center, and Education Law Center have filed a brief as amici curiae stressing the nationwide importance of this case and urging this Court's review. And as petitioner's supplemental brief notes, the United States recently filed a statement of interest in a district court case emphasizing the circuit split and embracing Ava's arguments on the merits.

For several months, the District has had every reason to know that Ava would be seeking certiorari. The Eighth Circuit's decision was issued on March 21, 2024. The panel's opinion explicitly criticized circuit precedent imposing a uniquely

stringent standard on children with disabilities who, like Ava, are seeking education-related relief under Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. After engaging specialist Supreme Court counsel, Ava filed a petition for rehearing en banc, emphasizing the longstanding circuit split on this issue. After the Eighth Circuit denied rehearing en banc on June 5, 2024, the next step was obvious: Ava timely filed and served a petition for certiorari on September 3.

Despite the importance of the question presented and the clear and acknowledged circuit split, the District waited the full 30 days—until October 7—before waiving its right to respond to the petition. That same day, within minutes of being served with the waiver, Ava’s undersigned counsel responded by email to the District’s then-counsel of record, explaining that Ava would likely *not* consent to any request to extend the deadline for a response (if the Court called for one), given her family’s desire to have the case heard this Term:

Thanks for passing along this waiver. We anticipate that the petition will be distributed to the Justices soon, for consideration at their November 1 conference. I wanted to give you a heads up that if the Court requests a response from you, it is unlikely that we will be in a position to agree to any extension of the 30-day deadline for responding, given the holiday breaks and our strong desire to have the Court make a decision on cert in time for the case to be heard this Term. I apologize in advance, as usually I like to take extensions (and freely give them). But here these other considerations will make that extremely difficult, given the timing of your waiver request. I wanted to give you as much advance notice of this as possible, for planning purposes.

The District’s counsel responded by email later that day, thanking Ava’s counsel for the advance notice.

On October 16, the petition was distributed to the Justices, and the next day the Court called for a response, due November 18. That deadline gives the District *76 days* after the petition was filed to prepare the response. Crucially, it ensures that the Court can consider Ava’s petition at its January 10, 2024 conference and set the case for argument this Term if certiorari is granted.

Granting the extension requested by the District’s new counsel, however, would postpone the opposition until January 17, 2025, delay consideration of the petition until the February 21, 2025 conference, and push any oral argument to October or November 2025 (if review is granted). The extension could thus postpone this Court’s ultimate resolution of Ava’s case by up to a year. But Ava and her family cannot afford such delays. Ava needs further professional help to remediate

significant communication and toileting deficits caused by the District's years of neglect and noncompliance. Ava needs that help now, but her parents cannot presently pay for such services. Avoiding undue delay is essential.

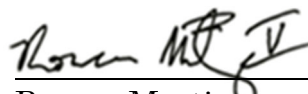
These considerations weigh strongly against granting the 60-day extension request, especially given the District's extreme and unexplained delay in filing the waiver. *See* Stephen M. Shapiro et al., *Supreme Court Practice* § 6.37(c) (11th ed. 2019) (noting that relevant circumstances bearing on whether to grant or deny extension include "the possibility that the request comes at a late period in the term so that an extension would delay the Court's consideration of the case until the following term"); *see also, e.g., Ohio State Univ. v. Snyder-Hill*, No. 22-896 (May 10, 2024) (denying extension request in similar circumstances).

Counsel for the District has failed to point to any unusual circumstances that would warrant the requested extension. Although we appreciate Ms. Blatt's busy schedule, the District's new legal team has informed us that the District will also be represented by Ms. Blatt's partner, Mr. Luke McCloud, another top-flight advocate and veteran of the Solicitor General's office. Especially given Mr. McCloud's involvement alongside Ms. Blatt, we are confident that the District's team has the bandwidth and expertise necessary to address the Court's request for a response on a timely basis.

To be clear, undersigned counsel generally appreciates the value of extensions, and ordinarily would consent to an extension as a matter of courtesy. Ava's opposition here stems entirely from the fact that the requested extension would unduly delay this Court's consideration of her case on the merits. Undersigned counsel sought to make these points clear to the District as soon as possible after receiving the District's waiver, so as to avoid any inconvenience to the District.

If the Court wishes to grant the District some relief, Ava would not object to a 21-day extension for the District to file its brief (until December 9, 2024). In that circumstance, the petition could be distributed in the ordinary course on December 24, for consideration at the Court's conference on January 10, 2025.

Respectfully submitted,



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Roman Martinez

LATHAM & WATKINS LLP

*Counsel of Record for Petitioner*

cc: Lisa Blatt, Luke McCloud, Christian Richard Elias Shafer  
*Counsel for Respondents*