No. 24-249

# In the Supreme Court of the United States

A.J.T., BY AND THROUGH HER PARENTS, A.T. AND G.T.,

*Petitioner*,

v.

OSSEO AREA SCHOOLS, INDEPENDENT SCHOOL DISTRICT NO. 279; OSSEO SCHOOL BOARD,

*Respondents*.

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

## BRIEF FOR PETITIONER


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## QUESTION PRESENTED

Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act require public entities and organizations that receive federal funding to provide reasonable accommodations for people with disabilities. In the decision below, the Eighth Circuit held that for discrimination claims "based on educational services" brought by children with disabilities, these statutes are violated only if school officials acted with "bad faith or gross misjudgment." Pet.App.3a. That test arbitrarily departs from the more lenient standards that all courts—including the Eighth Circuit—apply to ADA and Rehabilitation Act claims brought by other plaintiffs outside the school setting.

The question presented is:

Whether the ADA and Rehabilitation Act require children with disabilities to satisfy a uniquely stringent "bad faith or gross misjudgment" standard when seeking relief for discrimination relating to their education.

## RELATED PROCEEDINGS

The following proceedings are directly related to this petition under Rule 14.1(b)(iii):

- *A.J.T. v. Osseo Area Schools, Independent School District No. 279*, No. 23-1399, United States Court of Appeals for the Eighth Circuit, judgment entered March 21, 2024 (96 F.4th 1058), rehearing denied June 5, 2024 (2024 WL 2845774).
- *A.J.T. v. Osseo Area Schools, Independent School District No. 279*, No. 21-cv-1760, United States District Court for the District of Minnesota, judgment entered February 1, 2023 (2023 WL 2316893).

The following proceedings involve the same parties and operative facts:

- *Osseo Area Schools, Independent School District No. 279 v. A.J.T.*, No. 22-3137, United States Court of Appeals for the Eighth Circuit, judgment entered March 21, 2024 (96 F.4th 1062), rehearing denied May 24, 2024 (2024 WL 2702397).
- *Osseo Area Schools, Independent School District No. 279 v. A.J.T.*, No. 21-cv-1453, United States District Court for the District of Minnesota, judgment entered September 13, 2022 (2022 WL 4226097).

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## OPINIONS BELOW

The Eighth Circuit's decision (Pet.App.1a-5a) is published at 96 F.4th 1058. The court's denial of rehearing en banc (Pet.App.44a-45a) is not published, but available at 2024 WL 2845774. The opinion of the United States District Court for the District of Minnesota granting respondents' motion for summary judgment (Pet.App.6a-43a) is not published but available at 2023 WL 2316893.

## JURISDICTION

The Eighth Circuit entered judgment on March 21, 2024 (Pet.App.1a-5a) and denied A.J.T.'s timely petition for rehearing en banc on June 5, 2024 (Pet.App.44a-45a). This Court has jurisdiction under 28 U.S.C. § 1254(1).

## STATUTORY PROVISIONS INVOLVED

Relevant statutory provisions are reproduced in the addendum (Add. 1a-5a).

## INTRODUCTION

This case raises a simple question: Do children with disabilities seeking relief for education-related discrimination need to satisfy a more stringent legal test than all other plaintiffs suing under Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act? The answer to that question is emphatically *no*. The same standards apply to everyone.

As a general matter, plaintiffs suing under the ADA and Rehabilitation Act can establish a statutory violation and obtain injunctive relief without proving intentional disability discrimination, and they can recover compensatory damages by proving that the defendant was deliberately indifferent to their federally protected rights. But over four decades ago, in *Monahan v. Nebraska*, 687 F.2d 1164 (8th Cir. 1982), the Eighth Circuit invented a more stringent test for children with disabilities who suffer discrimination in the school setting. Those plaintiffs—and only those plaintiffs—must prove that school officials acted with "bad faith or gross misjudgment" to establish a violation and obtain any kind of relief whatsoever. *Id.* at 1170-71; Pet.App.5a n.2.

Since then, four other circuits and many district courts have reflexively adopted *Monahan*'s rule and required children with disabilities to show "bad faith or gross misjudgment" to prove education-related violations of the ADA and Rehabilitation Act. Hundreds of children with disabilities have seen their claims rejected under *Monahan*'s heightened standard.

That standard has absolutely no basis in the relevant statutory text. Neither the ADA nor the Rehabilitation Act authorizes courts to impose a uniquely stringent standard on children with disabilities bringing claims against their schools. On the contrary, both statutes broadly prohibit disability discrimination and provide relief to "any person" subjected to it. *See* 29 U.S.C. §§ 794(a), 794a(a)(2); 42 U.S.C. §§ 12132, 12133. Nothing in that text permits exceptions or special rules making it more difficult for children with disabilities to prove discrimination in the school setting. Indeed, this Court has firmly rejected the "dangerous principle that judges can give the same statutory text different meanings in different cases." *Clark v. Martinez*, 543 U.S. 371, 386 (2005). Yet that is exactly what *Monahan* requires.

It is inconceivable that when Congress enacted laws to combat disability discrimination, it silently singled out school-age children—perhaps the most vulnerable subset of people with disabilities—for disfavored treatment. And there is no reason to think that the ADA and Rehabilitation Act are violated only if the defendant acts with bad faith or gross misjudgment given Congress's explicit recognition that disability discrimination is "most often the product, not of invidious animus" or egregious misconduct, "but rather of thoughtlessness and indifference—of benign neglect." *Alexander v. Choate*, 469 U.S. 287, 295 (1985).

Below, the Eighth Circuit rejected ADA and Rehabilitation Act claims brought by petitioner A.J.T. (Ava), a teenage girl who suffers from severe epilepsy and cognitive deficits. The Eighth Circuit acknowledged that Ava presented evidence showing

that her Minnesota school district had been "negligent or even deliberately indifferent" in steadfastly refusing reasonable accommodations that her prior Kentucky school district had provided for years. Pet.App.3a. Nonetheless, the court rejected her claims because it was "constrained" by *Monahan*. *Id.* at 4a-5a. Under the baseline standards that the Eighth Circuit applies in ADA and Rehabilitation Act cases outside the school setting, Ava's evidence would have been sufficient to survive summary judgment. *Id.* at 3a. "[B]ut under *Monahan*," her evidence was "just not enough." *Id.*

Remarkably, the Eighth Circuit sharply criticized *Monahan*—its own precedent—for jacking up the standard for school-age children to prove violations of the ADA and Rehabilitation Act. The court observed that *Monahan*'s "judicial gloss" on the ADA and Rehabilitation Act lacked "any anchor in statutory text" and was built instead on misguided "speculat[ion]" about Congress's intent. *Id.* at 5a n.2. That criticism echoed the Sixth Circuit's recent discomfort with its own uncritical embrace of *Monahan*'s "impossibly high bar" for education-related claims brought by children with disabilities. *Knox County v. M.Q.*, 62 F.4th 978, 1002 (6th Cir. 2023). Nevertheless, the decision below concluded that *Monahan* "remains the law" in the Eighth Circuit and must be followed. Pet.App.5a n.2.

*Monahan* should not be the law anywhere. This Court should enforce the plain meaning of the ADA and Rehabilitation Act—and restore the full protections against discrimination that Congress granted children with disabilities. The decision below cannot stand.

## STATEMENT OF THE CASE

This case involves Ava's claims of disability discrimination against respondents Osseo Area Schools, Independent School District No. 279, and its board (together, the District) under the ADA, Rehabilitation Act, and Individuals with Disabilities Education Act (IDEA). The district court and Eighth Circuit held that the District violated Ava's rights under the IDEA by denying her a full day of education based on "shifting," "pretextual," and "not credible" reasons. JA468, 471, 498, 544; *see* Pet.App.49a-50a. But both courts rejected Ava's claims under the ADA and Rehabilitation Act because she could not satisfy *Monahan*'s heightened standard for establishing a violation of those statutes.

### A. Legal Background

1. Multiple federal laws protect children with disabilities from education-related discrimination. The IDEA—like its predecessor, the Education for All Handicapped Children Act (EHA)—guarantees all children a "free appropriate public education [or FAPE]." 20 U.S.C. § 1400(d)(1)(A). To that end, the IDEA ensures that children with disabilities receive an "'individualized education program [or IEP]'" that "spells out a personalized plan to meet all of the child's 'educational needs.'" *Fry v. Napoleon Cmty. Schs.*, 580 U.S. 154, 158 (2017).

The IDEA creates specialized procedures for resolving IEP-related disputes between families and schools, 20 U.S.C. § 1415, but it allows courts to award only limited "equitable relief," *Florence Cnty. Sch. Dist. Four v. Carter ex rel. Carter*, 510 U.S. 7, 15-16 (1993). Such relief may include an "injunction" or "reimbursement" for educational expenses, *Sch.*

*Comm. of Burlington v. Dep't of Educ. of Mass.*, 471 U.S. 359, 369-70 (1985). But the IDEA "d[oes] not allow for damages." *Fitzgerald v. Barnstable Sch. Comm.*, 555 U.S. 246, 254 n.1 (2009).

The ADA and Rehabilitation Act provide additional protections to victims of disability discrimination. Unlike the IDEA, which applies only to the education of school-age children, the ADA and Rehabilitation Act protect all Americans, both inside and outside the school setting. As relevant here, the ADA states that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." 42 U.S.C. § 12132. Section 504 of the Rehabilitation Act contains a similarly phrased prohibition that applies to recipients of federal funding. 29 U.S.C. § 794(a).

Despite some "overlap in coverage" with the IDEA, the ADA and Rehabilitation Act do different work when it comes to primary and secondary schools' treatment of children with disabilities. *Fry*, 580 U.S. at 170-71. Whereas "the IDEA guarantees individually tailored educational services"—namely, an IEP designed to ensure that the child receives a FAPE—the ADA and Rehabilitation Act "promise non-discriminatory access" to education. *Id.* A school district can therefore "establish a FAPE in compliance with the IDEA, while nevertheless engaging in discriminatory conduct under the ADA [and Rehabilitation Act]." *Lartigue v. Northside Indep. Sch. Dist.*, 100 F.4th 510, 521 (5th Cir. 2024); *accord Le Pape v. Lower Merion Sch. Dist.*, 103 F.4th 966, 981 (3d Cir. 2024).

The ADA and Rehabilitation Act both recognize that failing to provide "reasonable accommodations" that would enable people with disabilities to "participate equally" in a given service or program is disability discrimination. *Fry*, 580 U.S. at 170; *see also id.* at 159-60. Indeed, since the Rehabilitation Act became law in 1973, courts have uniformly understood that "a refusal to accommodate the needs of a disabled person" can "amount[] to discrimination against the handicapped" if the requested accommodations are reasonable. *Se. Cmty. Coll. v. Davis*, 442 U.S. 397, 412-13 (1979); *accord Choate*, 469 U.S. at 300-01 & n.21. In 1990, Congress reaffirmed and adopted this longstanding principle when enacting the ADA. *See* 42 U.S.C. § 12131(2) (providing that people with disabilities are "qualified" for public services, programs, or activities if they can participate with "reasonable modifications"); 28 C.F.R. § 35.130(b)(7) (requiring "reasonable modifications" when "necessary to avoid discrimination on the basis of disability").

Under both the ADA and Rehabilitation Act, accommodations are reasonable so long as they do not entail "a fundamental alteration" of the service in question or impose "undue financial [or] administrative burdens" on the regulated party. 28 C.F.R. § 35.150(a)(3) (ADA); *see also id.* § 41.53 (Rehabilitation Act); *Choate*, 469 U.S. at 300 & n.20; *K.M. ex rel. Bright v. Tustin Unified Sch. Dist.*, 725 F.3d 1088, 1097 (9th Cir. 2013); *Gorman v. Bartch*, 152 F.3d 907, 912 (8th Cir. 1998).

2. The ADA and Rehabilitation Act "expressly incorporate[]" the same "rights and remedies provided under Title VI" of the Civil Rights Act of 1964. *Cummings v. Premier Rehab Keller, P.L.L.C.*, 596

U.S. 212, 218 (2022). The ADA provides that "[t]he remedies, procedures, and rights set forth in" the Rehabilitation Act "shall be the remedies, procedures, and rights this subchapter provides to any person alleging discrimination on the basis of disability in violation of [the ADA]." 42 U.S.C § 12133. And the Rehabilitation Act, in turn, states that "[t]he remedies, procedures, and rights set forth" in Title VI "shall be available to any person aggrieved by" disability discrimination inflicted by a person or entity subject to the Rehabilitation Act. 29 U.S.C. § 794a(a)(2).

Accordingly, both the ADA and Rehabilitation Act follow Title VI in "authoriz[ing] individuals," including children with disabilities, "to seek redress for violations" by "bringing suits" for both "injunctive relief" and "money damages." *Fry*, 580 U.S. at 160; *see also Alexander v. Sandoval*, 532 U.S. 275, 279-80 (2001) (observing that "private individuals may sue" under "Title VI and obtain both injunctive relief and damages"). In cases outside the educational context, the courts of appeals unanimously agree that ADA and Rehabilitation Act plaintiffs can establish a statutory violation—and with it, eligibility for injunctive relief—if they show, on the merits, that the defendant failed to provide a reasonable accommodation to a covered person with a disability.[1]

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[1] *See, e.g.*, *Sosa v. Mass. Dep't of Corr.*, 80 F.4th 15, 30 (1st Cir. 2023); *Hamilton v. Westchester County*, 3 F.4th 86, 91 (2d Cir. 2021); *Durham v. Kelley*, 82 F.4th 217, 225-26 (3d Cir. 2023); *Richardson v. Clarke*, 52 F.4th 614, 619 (4th Cir. 2022); *Bennett-Nelson v. La. Bd. of Regents*, 431 F.3d 448, 455 (5th Cir. 2005); *Finley v. Huss*, 102 F.4th 789, 820-21 (6th Cir. 2024); *Wis. Cmty. Servs., Inc. v. City of Milwaukee*,

Such plaintiffs need not make any specific showing of wrongful intent to prove a statutory violation and obtain injunctive relief.

For compensatory damages, however, every circuit requires "a showing of intentional discrimination." *S.H. ex rel. Durrell v. Lower Merion Sch. Dist.*, 729 F.3d 248, 262 (3d Cir. 2013) (collecting cases). Because "private individuals [may] not recover compensatory damages under Title VI except for intentional discrimination," *Sandoval*, 532 U.S. at 282-83, and because the ADA and Rehabilitation Act incorporate Title VI's rights and remedies, *supra* at 7-8, ADA and Rehabilitation Act plaintiffs may not obtain damages without proving that the defendant acted with a wrongful state of mind. *See S.H.*, 729 F.3d at 262.

The "vast majority" of courts hold that this intent requirement for damages demands proof that the defendant was, at a minimum, "deliberately indifferent" to the plaintiff's federally protected rights. *Pierce v. District of Columbia*, 128 F. Supp. 3d 250, 278-79 (D.D.C. 2015) (Jackson, J.) (collecting cases). Those courts have done so based on this Court's precedent adopting a deliberate indifference standard under Title IX, which was likewise "modeled after Title VI." *Gebser v. Lago Vista Indep. Sch. Dist.*,

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465 F.3d 737, 750-51 (7th Cir. 2006) (en banc); *Hall v. Higgins*, 77 F.4th 1171, 1180-81 (8th Cir. 2023); *Payan v. L.A. Cmty. Coll. Dist.*, 11 F.4th 729, 738 (9th Cir. 2021); *Brooks v. Colo. Dep't of Corr.*, 12 F.4th 1160, 1167 (10th Cir. 2021); *Charles v. Johnson*, 18 F.4th 686, 702 (11th Cir. 2021); *Chenari v. George Washington Univ.*, 847 F.3d 740, 746-47 (D.C. Cir. 2017).

524 U.S. 274, 286, 290 (1998).[2] This "deliberate indifference" test requires that a defendant ignore a "strong likelihood" that the challenged action (or inaction) would "result in a violation of federally protected rights." *Meagley v. City of Little Rock*, 639 F.3d 384, 389 (8th Cir. 2011).

3. Although the circuits largely agree on the standards governing ADA and Rehabilitation Act claims outside the educational setting, they are divided over whether those same standards apply to children with disabilities bringing education-related claims.

The Third and Ninth Circuits apply the same standards in these cases as they do in all others. Pet.17-19.[3] So do various district courts sitting in other circuits. Pet.20 n.3.[4] Five circuits, though, hold that children with disabilities seeking relief for education-related discrimination cannot establish a

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[2] *See, e.g.*, *Loeffler v. Staten Island Univ. Hosp.*, 582 F.3d 268, 275 (2d Cir. 2009); *S.H.*, 729 F.3d at 263-64; *Basta v. Novant Health Inc.,* 56 F.4th 307, 316-17 (4th Cir. 2022); *Lacy v. Cook County*, 897 F.3d 847, 863 (7th Cir. 2018); *Meagley v. City of Little Rock*, 639 F.3d 384, 389 (8th Cir. 2011); *Mark H. v. Lemahieu*, 513 F.3d 922, 938 (9th Cir. 2008); *Powers v. MJB Acquisition Corp.,* 184 F.3d 1147, 1153 (10th Cir. 1999); *Silberman v. Miami Dade Transit*, 927 F.3d 1123, 1134 (11th Cir. 2019).

[3] *See, e.g.*, *D.E. v. Cent. Dauphin Sch. Dist.*, 765 F.3d 260, 268-69 (3d Cir. 2014); *Mark H. v. Hamamoto*, 620 F.3d 1090, 1097 (9th Cir. 2010).

[4] *See, e.g.*, *Robertson v. District of Columbia*, 2025 WL 211056, at *11 (D.D.C. Jan. 16, 2025); *Miles v. Cushing Pub. Schs.*, 2008 WL 4619857, at *2 (W.D. Okla. Oct. 16, 2008); *E.W. v. Sch. Bd. of Miami-Dade Cnty.*, 307 F. Supp. 2d 1363, 1370-71 (S.D. Fla. 2004); *S.W. v. Holbrook Pub. Schs.*, 221 F. Supp. 2d 222, 228 (D. Mass. 2002).

statutory violation—and thus cannot obtain either an injunction or damages—unless they prove that school officials acted with "bad faith or gross misjudgment." Pet.17-20.[5]

The Eighth Circuit first invented this stringent, context-specific standard in *Monahan v. Nebraska*, 687 F.2d 1164 (8th Cir. 1982). There, the court affirmed the dismissal without prejudice of a "cryptic" Rehabilitation Act claim alleging an "improper educational placement." *Id.* at 1169-70. To offer "a few words [of] guidance" on remand, the court opined that "bad faith or gross misjudgment should be shown" before a Rehabilitation Act "violation can be made out" in "the context of education of handicapped children." *Id.* at 1170-71. This heightened standard requires proof that school officials departed so "substantially from accepted professional judgment, practice or standards as to demonstrate" that they "actually did not base the decision on [professional] judgment." *Est. of Barnwell ex rel. Barnwell v. Watson*, 880 F.3d 998, 1004 (8th Cir. 2018).

*Monahan* justified this harsh test based on a perceived "duty to harmonize the Rehabilitation Act" with the IDEA's predecessor—the EHA—given that the EHA specifically addressed the educational needs of children with disabilities. 687 F.2d at 1171. According to *Monahan*, a heightened standard was necessary to "give each of these statutes the full play

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[5] *See, e.g.*, *C.L. v. Scarsdale Union Free Sch. Dist.*, 744 F.3d 826, 841 (2d Cir. 2014); *Sellers ex rel. Sellers v. Sch. Bd. of the City of Manassas*, 141 F.3d 524, 529 (4th Cir. 1998); *D.A. ex rel. Latasha A. v. Houston Indep. Sch. Dist.*, 629 F.3d 450, 454-55 (5th Cir. 2010); *G.C. v. Owensboro Pub. Schs.*, 711 F.3d 623, 635 (6th Cir. 2013); Pet.App.5a & n.2.

intended by Congress" and achieve "what [the court] believe[d] to be a proper balance between the rights of handicapped children, the responsibilities of state educational officials, and the competence of courts to make judgments in technical fields." *Id.* *Monahan* therefore construed the EHA to limit the relief available to school-age children with disabilities under the Rehabilitation Act. *Id.*

The Eighth Circuit subsequently extended *Monahan*'s bad-faith-or-gross-misjudgment standard to claims brought by children under the ADA. *See Hoekstra ex rel. Hoekstra v. Indep. Sch. Dist., No. 283*, 103 F.3d 624, 626-27 (8th Cir. 1996).

4. Two years after *Monahan*, Congress amended the EHA by enacting what is now Section 1415(*l*) of the IDEA. *See Fry*, 580 U.S. at 161. That provision, as amended, states in relevant part:

> Nothing in [the IDEA] shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, the [ADA], [Rehabilitation Act], or other Federal laws protecting the rights of children with disabilities . . . .

20 U.S.C. § 1415(*l*). In other words, Congress declared that the IDEA does *not* "restrict or limit" the ability of children with disabilities to obtain relief under the ADA or Rehabilitation Act. *Id.*

Nevertheless, the Eighth Circuit has continued to rely on the IDEA to restrict ADA and Rehabilitation Act relief for school-age children with disabilities by limiting liability to cases involving "bad faith or gross misjudgment" by school officials. *See, e.g.*, *B.M. ex rel. Miller v. S. Callaway R-II Sch. Dist.*, 732 F.3d 882,

887 (8th Cir. 2013); *M.P. ex rel. K. v. Indep. Sch. Dist. No. 721*, 326 F.3d 975, 981-82 (8th Cir. 2003). So have the Second, Fourth, Fifth, and Sixth Circuits. *Supra* at 10-11 & n.5 (collecting cases).

**B. Factual Background**

Because this case comes to the Court on the District's motion for summary judgment, the evidence must be viewed "in the light most favorable to [Ava]." *Tolan v. Cotton*, 572 U.S. 650, 657 (2014) (per curiam). That evidence shows that the District has systematically discriminated against Ava in violation of the IDEA, ADA, and Rehabilitation Act.

Since Ava was six months old, she has suffered from "a rare form of epilepsy" known as Lennox-Gastaut Syndrome. Pet.App.6a, 50a. Ava's condition severely impacts her ability to function. For example, Ava has "significantly diminished intellectual capacities" and she requires "assistance with everyday tasks like walking and toileting." *Id.* Ava also suffers from "seizures throughout the day." *Id.* at 50a. Her seizures "creat[e] safety concerns and interfer[e] with her capacity to learn." JA515. The seizures "are so frequent in the morning that [Ava] can't attend school before noon." Pet.App.50a. From then on, however, Ava is "alert and able to learn until about 6:00 p.m." *Id.*

Ava's parents and physicians recognized this pattern early on and developed a plan to help her achieve her educational and personal goals. JA479-81, 510-16. Since preschool, Ava has slept late and avoided activities before midday. JA479-81. And until Ava was 10 years old, educational professionals respected these limitations. *See, e.g.*, JA497-507. Indeed, Ava's public school district in Kentucky

adequately addressed her needs, including by providing "evening instruction at home." Pet.App.50a.

In 2015, when Ava was ten years old, her family moved to Minnesota. But her new school district there, respondent Osseo Area Schools, refused to provide her with the same accommodation. *Id.* "Year after year," the District "denied [Ava's] parents' requests for evening instruction" based on "a series of shifting explanations." *Id.* Initially, the District "claimed that state law d[id] not require" adjusting Ava's instructional hours. *Id.* Then, the District "said it needed to avoid setting unfavorable precedent for itself and other districts." *Id.* "And later, it said that the home environment would be too restrictive," while demanding more "data" to justify a "programming change." *Id.*

All told, over her first three years in Minnesota, Ava received only 4.25 hours of instruction per day—just 65% of what her non-disabled peers received. *Id.*; *see id.* at 8a. Rather than provide a full day of professional instruction by a teacher, the District opined that Ava's parents "should hire a personal care attendant after school hours." JA495.

In 2018, the District insisted on truncating Ava's instructional time even further. As Ava prepared to enter middle school, the District abruptly amended her IEP to "cut[] back her day to about 3 hours"—less than half of what her peers would receive. Pet.App.51a; *see id.* at 8a. Despite this latest setback, Ava's parents continued to seek a workable compromise with the District. They made "various proposals to at least maintain [Ava's] 4.25-hour day," including keeping her at the elementary school,

where the school day was longer. *Id.* at 51a. The District rejected all of their proposals. *Id.*

Throughout this period, Ava's parents repeatedly complained to the District that its refusal to provide Ava "a full day of school equal to her peers was discriminatory and did not comply with" the ADA and Rehabilitation Act. JA484, 440-41. But despite federal regulatory requirements and a written District policy requiring investigation of such complaints, the District refused to investigate or resolve these complaints. *See* 34 C.F.R. § 104.7; 28 C.F.R. § 35.107; JA80-83, 485.

Instead, the District claimed credit for supposedly giving Ava an "equal opportunity" to other students, based on its willingness to tolerate Ava's delayed start to the school day and its restraint in not filing a juvenile "truancy action" against her parents. JA70-73, 84.

**C. Procedural History**

1. After years of frustration, Ava's parents "[r]ealiz[ed] that an agreement [with the District] was beyond reach," so they filed an IDEA complaint with the Minnesota Department of Education. Pet.App.51a. An administrative law judge (ALJ) held a five-day hearing and concluded that the District had violated the IDEA by depriving Ava of a FAPE. *See* JA450-78.

The ALJ found that the District's "proffered reasons" for denying her a full school day were "not credible" and "more pretextual than real." JA468, 471. It explained that the District's "prevailing and paramount consideration" had never been Ava's "need for instruction," but rather its own desire "to

safeguard the ordinary end-of-the-workday departure times for its faculty and staff." JA468, 471-72, 475.

The ALJ accordingly ordered the District to "revise" Ava's IEP to include evening instruction and other services. JA476-77. In so doing, the ALJ rejected the District's proposal of providing a mere three hours of daily instructional time and instead directed the District to provide 5.75 hours, which is what Ava had received in Kentucky. JA444, 473-78. The ALJ also ordered "495 hours of compensatory educational instruction," limiting relief to what the ALJ believed was the proper two-year "limitations period" under the IDEA. JA474, 477.[6]

2. The parties then proceeded to federal court. The District challenged the ALJ's IDEA ruling. For her part, Ava sued the District under the ADA and Rehabilitation Act.

Ava's lawsuit under the ADA and Rehabilitation Act sought an injunction that would "permanently secure [her] rights to a full school day." JA21, 24-25; *see also* JA496. That injunction would also give her "the opportunity" to participate in non-instructional services that "typical kids get," such as extracurricular activities, where feasible with reasonable accommodations for her disability. JA2, 20-25, 27-28, 318; *see also* 20 U.S.C. § 1414(d)(4) (permitting school officials to revise IEPs "periodically").

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[6] The District continued to evade its obligations after the ALJ's order. For example, the District "consistently cancelled instructional sessions," and its instructors were regularly "late." JA491. The District also took six months to comply with the ALJ's order to provide eye-gaze technology, Ava's "most efficient and versatile means of communication." JA464, 491.

In addition, Ava requested "compensatory damages" for the entire duration of her mistreatment, invoking the six-year limitations period governing ADA and Rehabilitation Act claims brought in Minnesota. JA2, 24, 28; *see also Gaona v. Town & Country Credit*, 324 F.3d 1050, 1054-56 (8th Cir. 2003) (noting absence of express statute of limitations under the ADA and Rehabilitation Act and applying Minnesota's "six-year limitations period for personal injury actions"); 20 U.S.C. § 1415(f)(3)(C) (establishing a two-year statute of limitations under the IDEA). Those damages included expenses that would "not be fully reimbursed in the IDEA proceedings," such as costs of hiring outside specialists to assist Ava with speech, walking, and toileting. JA23-24.

The district court upheld Ava's victory on her IDEA claim before the ALJ. *See* JA542-95. The court agreed with the ALJ that "the District's shifting reasons for denying the in-home instruction [Ava] seeks to make up for the morning hours she is not in school were never based on [Ava]'s needs." JA544. Rather, "when there was a conflict between [Ava's] need for instruction and the school's regular hours, the regular hours of the faculty were always the prevailing consideration." JA574. The court criticized the District's "steadfast[] refusal" to extend Ava's school day, noting that "[a]dministrative convenience is not an excuse for impermissibly shortening the instructional time a disabled child receives." JA574-75.

The district court further noted the harm associated with the District's unwillingness to provide Ava a full day of instruction. It emphasized that Ava had "lost the capacity" to "use a variety of signs that

she had used in Kentucky," to "void on the toilet 50% of the time," and to "interact with peers by using assistive technology to initiate or return a greeting." JA582-83.

The court ultimately held that Ava "requires more than 4.25 hours of schooling a day to have an educational program" that "will allow her to meet challenging objectives." JA595. It thus agreed that "[e]xtending [Ava's] instructional day until 6:00 pm and including compensatory hours of instruction" was "the appropriate remedy" under the IDEA. *Id.*

As to the ADA and Rehabilitation Act, however, the district court granted summary judgment against Ava and in favor of the District. The court explained that to prove a violation of those statutes under *Monahan*, Ava had to show that the District had acted with "bad faith or gross misjudgment." Pet.App.24a-25a; *see Monahan*, 687 F.2d at 1171. Applying *Monahan*'s heightened standard, the district court concluded that the District's actions "did not rise to th[at] level." Pet.App.30a.

3. In two published opinions by Judge Kobes issued in March 2024, the Eighth Circuit unanimously affirmed both rulings. *See id.* at 49a-57a (IDEA decision); *id.* at 1a-5a (ADA and Rehabilitation Act decision).

In the IDEA ruling, the Eighth Circuit agreed that Ava had not received a FAPE based on "[s]everal" facts. *Id.* at 54a. First, Ava had made "only slight progress in a few areas" while in the District's care. *Id.* Second, Ava "regressed in toileting" so drastically that the District had "removed her toileting goal" altogether, citing only a "lack of time in the short day—not [a] lack of ability to improve." *Id.* at

55a-56a. Third, "expert testimony" confirmed that Ava "would have made more progress" with "evening instruction." *Id.* at 56a-57a. The court also sharply criticized the District, emphasizing that its decisions had "[n]ever been grounded in [Ava]'s individual needs." *Id.* at 57a.

Despite ruling for Ava on her IDEA claim, the Eighth Circuit regretfully rejected her ADA and Rehabilitation Act claims. Like the district court, the Eighth Circuit found itself "constrained" by *Monahan*, which required Ava to establish "'bad faith or gross misjudgment'" by the District. *Id.* at 3a-4a (quoting 687 F.2d at 1171). The court recognized that Ava "may have established a genuine dispute about whether the district was negligent or even deliberately indifferent." *Id.* at 3a. "[B]ut under *Monahan*," the court explained, "that's just not enough." *Id.* Because her case involved "'educational services for disabled children,'" Ava had to "prove that school officials acted with 'either bad faith or gross misjudgment.'" *Id.* The court held that Ava "ha[d] failed to identify conduct clearing *Monahan*'s bar"—and thus could not obtain any relief as a matter of law. *Id.* at 4a-5a.

Notably, the Eighth Circuit expressed deep discomfort with *Monahan* imposing "such a high bar for claims based on educational services" brought by children with disabilities. *Id.* at 5a n.2. The court emphasized that "much less" is required "in other disability-discrimination contexts." *Id.* In every other scenario, the court observed, "no intent [is] required" to establish liability and obtain injunctive relief on a "failure-to-accommodate claim," while "damages" claims require only "deliberate indifference." *Id.*

The Eighth Circuit conceded that *Monahan*'s carve-out for school-age children with disabilities lacks "any anchor in statutory text." *Id.* Rather, *Monahan* had "speculated that Congress intended the IDEA's predecessor"—the EHA—"to limit [the Rehabilitation Act]'s protections" (and thus the ADA's). *Id.* But the court pointed out that "Congress rejected [that] premise" in amendments to the EHA enacted "just a few years later." *Id.* (citing Handicapped Children's Protection Act of 1986, Pub. L. No. 99-372, 100 Stat. 796 (codified at 20 U.S.C. § 1415(*l*))). Despite those amendments, the Eighth Circuit lamented, *Monahan*'s heightened standard "spread like wildfire" across other courts. *Id.*

The Eighth Circuit concluded that *Monahan* has "been questioned" by courts and commentators alike. *Id.* It declared that the decision stands as "a lesson in why" courts should not "'add provisions'" to "'federal statute[s]'" that aren't there. *Id.* (alteration in original) (quoting *Alabama v. North Carolina*, 560 U.S. 330, 352 (2010)). Nevertheless, the court observed that *Monahan* "remains the law of [this] circuit"—at least "for the time being." *Id.*

4. In June 2024, the Eighth Circuit denied Ava's petition for rehearing en banc. *Id.* at 44a-45a. Judges Grasz, Stras, and Kobes dissented, noting that they would grant the petition. *Id.* at 44a.

## SUMMARY OF ARGUMENT

In *Monahan v. Nebraska*, 687 F.2d 1164 (8th Cir. 1982), the Eighth Circuit invented a rule stating that, unlike all other ADA and Rehabilitation Act plaintiffs, children with disabilities seeking relief for education-related discrimination must prove "bad faith or gross misjudgment" to establish a statutory

violation. *Id.* at 1170-71. *Monahan* is wrong. The ADA and Rehabilitation Act require courts to apply the same legal standards to all plaintiffs, including children with disabilities bringing claims arising in the educational setting.

A. Nothing in the ADA or Rehabilitation Act remotely suggests that those statutes apply different legal standards to different categories of plaintiffs. The statutes' substantive prohibitions establish uniform, across-the-board protections against disability discrimination. *See* 42 U.S.C. § 12132; 29 U.S.C. § 794(a). And their remedial provisions state that "any person" who suffers disability discrimination may obtain the same relief—without exceptions or limitations for school-age children or anyone else. *See* 42 U.S.C § 12133; 29 U.S.C. § 794a(a)(2).

By reading the same operative language in the ADA and Rehabilitation Act to establish a different standard in this single factual context, *Monahan* engaged in nothing less than "interpretive contortion." *United States v. Santos*, 553 U.S. 507, 522 (2008). This Court has firmly rejected the "dangerous principle that judges can give the same statutory text different meanings in different cases." *Clark v. Martinez*, 543 U.S. 371, 386 (2005). So the ADA and Rehabilitation Act's plain text forecloses *Monahan*'s bespoke standard uniquely disfavoring children with disabilities victimized by discrimination at school.

B. *Monahan* adopted its atextual rule because the Eighth Circuit perceived a need to "harmonize" the IDEA and the Rehabilitation Act, so as to "give each of these statutes the full play intended by Congress." 687 F.2d at 1170-71. That reasoning violates

Congress's later unambiguous command in 20 U.S.C. § 1415(*l*) that "[n]othing in [the IDEA] shall be construed to restrict or limit the rights, procedures, and remedies available" to children with disabilities under the ADA, Rehabilitation Act, and other federal laws. Construing the IDEA to restrict the relief available to school-age children with disabilities under other statutes is exactly what Section 1415(*l*) forbids.

C. The ADA and Rehabilitation Act's history and purposes confirm that *Monahan* is deeply misguided. Congress enacted these laws to protect "*all* disabled individuals"—equally. 135 Cong. Rec. 19895 (Sept. 7, 1989) (Statement of Sen. Joe Lieberman) (emphasis added); *see, e.g.*, 119 Cong. Rec. 29632 (Sept. 13, 1973). And Congress recognized that disability discrimination is "most often the product, not of invidious animus, but rather of thoughtlessness and indifference—of benign neglect." *Alexander v. Choate*, 469 U.S. 287, 295 (1985).

Given those legislative goals, it is clear that the ADA and Rehabilitation Act do not treat school-age children with disabilities worse than other plaintiffs. And the statutes were not meant to condition liability—for anyone—on a showing of outright animus or severe misconduct. *Monahan* was plainly wrong to require children to prove "bad faith or gross misjudgment" to prove disability discrimination, particularly given their special vulnerabilities and the acute risks of lifelong harms in the educational context.

D. *Monahan*'s rule is unfair and leads to bizarre results. Its additional barrier to relief senselessly disadvantages vulnerable children like Ava by making it harder for them to prove ADA and

Rehabilitation Act claims. In doing so, *Monahan* undermines incentives for schools to comply with their statutory obligations in the first place. And despite severely disadvantaging primary and secondary students in this way, *Monahan* inexplicably excuses from its heightened standard college students bringing education-related claims for disability discrimination. That disparate treatment makes no sense.

E. At its core, *Monahan*'s asymmetric standard is based on flawed policy, not law. *Monahan* purported to seek "a proper balance between the rights of handicapped children, the responsibilities of state educational officials, and the competence of courts to make judgments in technical fields." 687 F.2d at 1171. But Congress itself struck that proper balance by granting broad relief to *all* plaintiffs under the uniform standards set forth in the ADA and Rehabilitation Act. In any event, *Monahan*'s policy concerns are themselves misguided: There is no sound basis for singling out school-age children with disabilities for disfavored treatment under those statutes.

## ARGUMENT

### *MONAHAN*'S ATEXTUAL AND ASYMMETRIC RULE SHOULD BE REJECTED

Forty-three years ago, in *Monahan v. Nebraska*, 687 F.2d 1164 (8th Cir. 1982), the Eighth Circuit offered this "guidance" to lower courts: Before a Rehabilitation Act "violation can be made out" in "the context of education of handicapped children," the plaintiff must show that the defendant acted with "bad faith or gross misjudgment." *Id.* at 1170-71. *Monahan* is wrong. Courts must apply the same legal

standards to all claims brought under the ADA and Rehabilitation Act, regardless of who the plaintiff is or how her claims arose.

### A. The Statutory Text Establishes Uniform Rules Governing All Claims

The Eighth Circuit's decision below correctly recognized that *Monahan*'s "judicial gloss" on the ADA and Rehabilitation Act is "without any anchor in statutory text." Pet.App.5a n.2. The ADA and Rehabilitation Act's substantive prohibitions and remedial provisions offer "no indication that Congress intended" for the legal standard a plaintiff must satisfy "to turn on the type of [claim] being [brought]." *Ali v. Fed. Bureau of Prisons*, 552 U.S. 214, 220-21 (2008). Rather, they establish uniform standards that courts must apply even-handedly—to everyone. So the baseline rules that govern in all other ADA and Rehabilitation Act cases must govern claims brought by children with disabilities challenging discrimination at school.

1. The ADA and Rehabilitation Act's substantive prohibitions create a single standard governing all claims brought under each statute. Section 202 of the ADA provides that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." 42 U.S.C. § 12132. Section 504 of the Rehabilitation Act establishes a materially identical prohibition for recipients of federal funding. *See* 29 U.S.C. § 794(a).

These expansive prohibitions forbid not just actions motivated by "invidious animus" or other

egregious misconduct toward people with disabilities, but also conduct stemming from mere "thoughtlessness and indifference" toward their unique needs. *Alexander v. Choate*, 469 U.S. 287, 295 (1985) (addressing Rehabilitation Act). The provisions accordingly require "reasonable accommodations" in order "to assure meaningful access" to public or federally funded services, programs, and activities to which "otherwise qualified handicapped individuals" are "entitled." *Id.* at 301. Failure to provide such accommodations violates both statutes. *See Fry v. Napoleon Cmty. Schs.*, 580 U.S. 154, 170 (2017); *supra* at 7. And contrary to *Monahan*, nothing in either law remotely suggests that "bad faith or gross misjudgment" must be shown—by anyone—before a statutory "violation" can be "made out." 687 F.2d at 1170-71.

The text of the ADA and Rehabilitation Act's prohibitions gives no hint that education-related claims brought by children with disabilities should be treated differently from all other claims seeking relief under the same operative provision. And this Court has firmly rejected the "dangerous principle that judges can give the same statutory text different meanings in different cases." *Clark v. Martinez*, 543 U.S. 371, 386 (2005). The "same word[s]" in the "same statutory provisions" must have the same meaning, even "in different factual contexts." *United States v. Santos*, 553 U.S. 507, 522 (2008) (emphasis omitted).

By reading the same operative language to establish a different standard in just one circumstance, *Monahan* engaged in nothing less than "interpretive contortion." *Id.* The ADA and Rehabilitation Act are not "chameleon[s]." *Id.* (quoting *Clark*, 543 U.S at 382). Their meaning

"cannot change" whenever a child with disabilities alleges discrimination at the hands of school officials. *Id.* Accordingly, the ADA and Rehabilitation Act's across-the-board prohibitions apply equally in all cases seeking relief under these statutes, no matter a plaintiff's age, the nature of her disability, or whether she suffered discrimination in a school setting.

2. The statutes' remedial provisions reinforce that all plaintiffs must be treated equally. Section 203 of the ADA states that "[t]he remedies, procedures, and rights set forth in" the Rehabilitation Act "shall be the remedies, procedures, and rights" that the ADA "provides to *any person* alleging discrimination on the basis of disability in violation of [the ADA]." 42 U.S.C § 12133 (emphasis added). And Section 505 of the Rehabilitation Act, in turn, provides that "[t]he remedies, procedures, and rights set forth in [T]itle VI" are "available to *any person* aggrieved" by disability discrimination under the Rehabilitation Act. 29 U.S.C. § 794a(a)(2) (emphasis added).

"Any person" means just that—*any* person. This language requires equal treatment of all ADA and Rehabilitation Act plaintiffs. It leaves no room for exceptions or special rules making it more difficult for certain classes of plaintiffs to prove their claims. "When used (as here) with a 'singular noun in affirmative contexts,' the word 'any' ordinarily 'refer[s] to a member of a particular group or class without distinction or limitation' and in this way 'impl[ies] *every* member of the class or group.'" *SAS Inst., Inc. v. Iancu*, 584 U.S. 357, 363 (2018) (alterations in original) (quoting *Oxford English Dictionary* (3d ed. 2016)).

*Monahan* thus had no textual basis "to restrict the unqualified language" of the ADA and Rehabilitation

Act's remedial provisions by making it more difficult for children with disabilities to prove discrimination in the educational context. *Brogan v. United States*, 522 U.S. 398, 403 (1998); *accord* Pet.App.5a n.2; Mark C. Weber, *Accidently on Purpose: Intent in Disability Discrimination Law*, 56 B.C. L. Rev. 1417, 1455-61 (2015); Thomas Simmons, *The ADA Prima Facie Plaintiff: A Critical Overview of Eighth Circuit Case Law*, 47 Drake L. Rev. 761, 822-23 & nn.370-71 (1999). Like the statutes' substantive prohibitions, the remedial provisions expressly incorporating Title VI's rights and remedies apply equally to victims of disability discrimination "of whatever kind." *United States v. Gonzales*, 520 U.S. 1, 5 (1997).

As for Title VI itself, that landmark civil-rights law likewise demands evenhanded enforcement. Title VI provides that "[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. § 2000d. This Court's "prior decisions have found an implied right of action" for anyone who suffers such discrimination under Title VI, which "Congress has acknowledged" in subsequent "amendments to the statute." *Barnes v. Gorman*, 536 U.S. 181, 185 (2002).

Title VI's across-the-board ban on racial discrimination supplies no basis for imposing a uniquely stringent standard on any class of plaintiffs, let alone school-age children. And no Title VI case has ever adopted a *Monahan*-like "bad faith or gross misjudgment" rule for establishing a statutory violation or obtaining any form of relief in the school setting. *See Alexander v. Sandoval*, 532 U.S. 275,

279-80 (2001) (noting that "both injunctive relief and damages" are available under Title VI). It follows that courts "cannot curate" ADA and Rehabilitation Act claims and treat some differently from others. *SAS Inst.*, 584 U.S. at 359-60. Rather, courts "must decide them all" under the same legal standards. *Id.*

3. This is not the only case this Term where the Court will address whether to impose a more stringent—and non-textual—legal standard on only a subset of anti-discrimination plaintiffs under the same statute. In *Ames v. Ohio Department of Youth Services*, No. 23-1039, the Sixth Circuit held that Title VII plaintiffs who are members of a majority group—but not members of minority groups—must satisfy not only "the usual [requirements] for establishing a prima-facie case" of discrimination, but also an *additional* requirement of showing "'background circumstances to support the suspicion that the defendant is that unusual employer who discriminates against the majority.'" *Ames v. Ohio Dep't of Youth Servs.*, 87 F.4th 822, 825 (6th Cir. 2023). This Court granted certiorari to decide whether that extra requirement is correct.

Notably, the *Ames* respondent has now abandoned the Sixth Circuit's rule and conceded that "the same legal standard applies to all Title VII plaintiffs," *Ames* Resp. Br. 1, and that "it is wrong to hold some litigants to a higher standard" than others, *Ames* Oral Argument Tr. 39. Both parties in *Ames*, along with the United States, are thus "in radical agreement" that Title VII "applies the same to everybody," no matter who they are or the nature of their discrimination claim. *Ames* Oral Arg. Tr. 39; *Ames* U.S. Amicus Br. 11-31. This Court seems similarly inclined. *See Ames* Oral Arg. Tr. 43-45,

49-51, 54-56, 58-60. The same even-handed approach should govern the ADA and Rehabilitation Act, too.

4. Neither the ADA nor the Rehabilitation Act expressly sets forth an intent requirement for proving a statutory violation or for obtaining particular kinds of relief. And while this Court has not squarely addressed the issue, the lower courts generally agree on the baseline standards governing ADA and Rehabilitation Act claims.

Outside the educational context, the courts of appeals uniformly hold that plaintiffs can show a violation of the ADA and Rehabilitation Act—and by extension, establish eligibility for injunctive relief—if they prove that the defendant failed to provide a reasonable accommodation to a covered person with a disability. *Supra* at 8-9 & n.1. No showing of wrongful intent is required. *Id.*

For damages, though, virtually all courts have held that plaintiffs outside the educational setting must prove a form of wrongful intent, consistent with this Court's case interpreting Title VI. *Supra* at 9; *see also Sandoval*, 532 U.S. at 282-83 (requiring wrongful intent for damages claims under Title VI). The overwhelming majority have held that plaintiffs may satisfy this intent requirement by proving that the defendant acted with deliberate indifference—i.e., ignored a "strong likelihood" that its conduct would "result in a violation of federally protected rights." *Meagley v. City of Little Rock*, 639 F.3d 384, 389 (8th Cir. 2011); *see also supra* at 10 & n.2; *Gebser v. Lago Vista Indep. Sch. Dist.*, 524 U.S. 274, 290 (1998) (holding that deliberate indifference is sufficient to show such intent under Title IX, which was likewise "modeled after Title VI"); *Barnes*, 536 U.S. at 185-89 (looking to Title IX precedent in determining the

scope of private damages remedies available under the ADA, Rehabilitation Act, and Title VI).

For the reasons explained above, the ADA and Rehabilitation Act subject all discrimination plaintiffs to the same legal standards. As the United States has noted, "where courts have interpreted" the ADA and Rehabilitation Act "to require proof of certain elements for claims outside of the school context, they must do the same with claims in the school context." Suppl.Br.Add.11a (filed Oct. 7, 2024). So whichever baseline legal standards apply under these statutes in other contexts must apply in this one too. There is no textual basis for disfavoring children with disabilities who suffer education-related discrimination.[7]

### B. *Monahan* Violates Section 1415(*l*)

*Monahan* justified its atextual rule primarily by "speculat[ing] that Congress intended the IDEA's predecessor" statute—the EHA—"to limit [the Rehabilitation Act's] protections." Pet.App.5a n.2. Two years later, Congress refuted that reasoning by providing that "[n]othing" in the IDEA "restrict[s] or limit[s]" relief available under the ADA and

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[7] Ava's question presented focuses only on whether children with disabilities bringing education-related claims should be subject to a heightened, context-specific standard for proving violations of the ADA and Rehabilitation Act. *Supra* at i. It does not ask the Court to decide what standard should uniformly govern all claims. That said, the courts of appeals are clearly correct that intentional discrimination is not required to establish a violation of either statute, especially when the claim alleges that the defendant failed to provide a reasonable accommodation. *Supra* at 8-9 & n.1.

Rehabilitation Act. 20 U.S.C. § 1415(*l*). *Monahan* directly violates Section 1415(*l*)'s command.

1. *Monahan* perceived a need to "harmonize" the EHA (now the IDEA) and Rehabilitation Act and prevent the latter from becoming a cause of action "for educational malpractice" that would supplant the EHA. 687 F.2d at 1170-71. In other words, *Monahan* construed the EHA as an implicit constraint on Rehabilitation Act claims brought in the school setting—one limiting liability and restricting relief to rare cases where children with disabilities can prove "bad faith or gross misjudgment" by school officials. *Id.* According to *Monahan*, this step was needed to "give each of these statutes the full play intended by Congress." *Id.* at 1171.

Two years after *Monahan* was decided, this Court embraced a version of *Monahan*'s logic. In *Smith v. Robinson*, 468 U.S. 992 (1984), the Court held that the EHA provided the "*exclusive* avenue" for children with disabilities to bring discrimination claims related to their education. *Id.* at 1009 (emphasis added). The Court reasoned that the EHA establishes "a comprehensive scheme" that focused directly on "public education for handicapped children." *Id.* Because that scheme gives "local and state educational agencies the primary responsibility for developing a plan to accommodate the needs of each individual handicapped child," the Court found it "difficult to believe that Congress also meant to leave undisturbed the ability of a handicapped child" to assert other "virtually identical" causes of action. *Id.* at 1009, 1011. *Smith* thus decreed that the EHA did not just limit Rehabilitation Act relief for school-age children with disabilities (as *Monahan* had

concluded), but fully displaced that statute in the school setting.

Congress swiftly repudiated *Smith*'s reasoning—and with it, *Monahan*'s as well. In 1986, Congress amended the EHA (now the IDEA) to "'reaffirm[] the viability' of federal statutes like the ADA [and Rehabilitation Act] 'as separate vehicles,' no less integral than the IDEA, 'for ensuring the rights of handicapped children.'" *Fry*, 580 U.S. at 161 (quoting H.R. Rep. No. 99-296, at 4, 6 (1985)); *see also* S. Rep. No. 99-112, at 2 (1985). Now codified at 20 U.S.C. § 1415(*l*), this IDEA amendment provides in relevant part:

> Nothing in [the IDEA] shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, the [ADA], [Rehabilitation Act], or other Federal laws protecting the rights of children with disabilities . . . .

20 U.S.C. § 1415(*l*); *see also* Handicapped Children's Protection Act of 1986, Pub. L. No. 99-372, § 3, 100 Stat. 796, 797 (HCPA).

Congress thus expressly established a rule of construction under which the IDEA cannot be interpreted to "restrict or limit" the ability of children with disabilities to obtain relief under the ADA or Rehabilitation Act. *Id.* In doing so, Congress made clear that while these various statutes "overlap" in some respects, they are different in important ways and retain full independent force. *Fry*, 580 U.S. at 171. "The IDEA offers federal funds to States in exchange for a commitment: to furnish a 'free appropriate public education'" to "all children with

certain physical or intellectual disabilities." *Id.* at 158. By contrast, the ADA and Rehabilitation Act each guarantee "non-discriminatory access to" educational services for children with disabilities, as compared to their non-disabled peers. *Id.* at 170-71. Section 1415(*l*) establishes that the latter guarantee coexists with, and cannot be subordinated to, the former.

Section 1415(*l*)'s drafters repeatedly emphasized what the text makes clear. One HCPA co-sponsor, for example, declared that the IDEA was never "intended to *in any way* limit handicapped children's educational rights or the remedies for protecting those rights." 131 Cong. Rec. 21391 (July 30, 1985) (statement of Sen. Ted Kennedy) (emphasis added). Another explained that Section 1415(*l*) commands that the IDEA must be interpreted to "enhance" the remedies available to children with disabilities "under other laws"—not to "limit[]" or "replace" them. *Id.* at 21392 (statement of Sen. Paul Simon). And the report from the House Committee on Education and Labor reiterated that the IDEA may not "be construed to modify traditional standards used by the courts for determining" when relief "is appropriate" under the Rehabilitation Act and other federal laws (such as the later-enacted ADA). H.R. Rep. No. 99-296, at 7. These sources confirm the statutory text's plain meaning.

2. *Monahan* violates Section 1415(*l*)'s directive. *Monahan* held that the IDEA (formerly the EHA) requires interpreting the ADA and Rehabilitation Act to require children with disabilities to show bad faith or gross misjudgment to prevail on education-related discrimination claims. 687 F.2d at 1170-71. That is, *Monahan* interpreted the IDEA to "restrict" and

"limit" the "rights" and "remedies" available to children like Ava under the ADA and Rehabilitation Act by requiring them to satisfy a more stringent standard than anyone else suing under these statutes. 20 U.S.C. § 1415(*l*). That is precisely what Section 1415(*l*) forbids. *See Howell ex rel. Howell v. Waterford Pub. Schs.*, 731 F. Supp. 1314, 1318 (E.D. Mich. 1990) (criticizing *Monahan* for violating Section 1415(*l*)).

The District resisted this straightforward conclusion in its brief opposing certiorari. There, the District asserted that Section 1415(*l*) "overruled *Smith*"—"not *Monahan*"—and did not "opine on the standard governing" ADA and Rehabilitation Act claims. BIO31. That misses the point. Congress undoubtedly sought to reject *Smith*, but *Smith* and *Monahan* both adopted the same flawed view that the IDEA implicitly restricts the scope of other federal anti-discrimination statutes, as applied to children with disabilities suffering from discrimination in the educational context.

Whatever particular precedent Congress had in mind, Section 1415(*l*)'s *text* flatly prohibits *Monahan*'s construction of the IDEA to limit relief available under the ADA and Rehabilitation Act. So even though Section 1415(*l*) does not set forth legal standards governing ADA and Rehabilitation Act claims, it still squarely "reject[s] *Monahan*'s premise" that the IDEA requires a uniquely stringent standard for ADA and Rehabilitation Act claims, as the Eighth Circuit recognized in its decision below. Pet.App.5a n.2. Section 1415(*l*) leaves no doubt that *Monahan*'s atextual and asymmetric rule is wrong.

### C. *Monahan* Undermines The Core Goals Of The ADA And Rehabilitation Act

*Monahan*'s judicially invented rule requiring only school-age children with disabilities to prove bad faith or gross misjudgment violates the central purpose of both the ADA and Rehabilitation Act. Congress enacted those statutes to protect all Americans living with disabilities from discrimination. Nothing suggests that Congress wanted to diminish the extent of that protection for anyone with a disability—let alone for school-age children, who are perhaps the most vulnerable subset of such people. And because both statutes were designed to remedy passive neglect, it is clear Congress did not intend to limit relief solely to cases involving outright animus or egregious misconduct for any class of plaintiffs.

1. The goal of the ADA and Rehabilitation Act was, as Senator Ted Kennedy explained, "nothing less than to give *every* disabled American a fair share of the American Dream." *Americans With Disabilities Act of 1989: Hearing on S. 933 Before the Subcomm. on the Handicapped of the S. Comm. On Labor & Hum. Res.*, 101st Cong. 223 (1989) (emphasis added) (discussing ADA). The legislative history of both statutes confirms Congress's desire to promote equal treatment of all Americans with disabilities, across the board.

For example, in enacting the Rehabilitation Act, Senator Alan Cranston described Congress's goal as protecting all of the "9.8 million handicapped persons" then living in the United States. 119 Cong. Rec. at 29631-32; *see also* S. Rep. No. 93-391, at 45 (1973) (observing that the statute prohibits the denial of services to "any handicapped individual" based on the individual's disability). And later, when Congress

amended the Act to codify a private right of action, Senator Cranston emphasized that the statute was meant to "to remedy violations of [S]ection 504—*with no exception*." 132 Cong. Rec. S15104 (Oct. 3, 1986) (emphasis added). Other legislators reiterated that, "[s]ince initial passage of this law, Congress has" sought to protect "the quality of life for *all* handicapped persons." 132 Cong. Rec. 28090 (Oct. 2, 1986) (statement of Representative Mario Biaggi, co-sponsor of 1986 amendments) (emphasis added); *see also* 131 Cong. Rec. at 21391 (statement of Sen. John Kerry, another co-sponsor) (similar).

So too for the ADA. Representative Tony Coelho—who sponsored the legislation and, like Ava, suffers from epilepsy—observed that the statute would also protect "[e]very American," without exception. *Americans With Disabilities Act of 1988: Joint Hearing on S. 2345 Before the Subcomm. on the Handicapped of the S. Comm. on Labor & Hum. Resources & the Subcomm. on Select Educ. of the H. Comm. on Educ. & Labor*, 100th Cong. 938 (1988). His colleagues agreed that the ADA was meant to "bring equality to the lives of *all* Americans with disabilities." 136 Cong. Rec. 17376 (July 13, 1990) (statement of Senator Bob Dole, an ADA sponsor) (emphasis added); *see, e.g.*, 135 Cong. Rec. 19895 (Sept. 7, 1989) (statement of Senator Warren Rudman, another ADA sponsor, observing that the ADA's protections "extend to all disabled individuals").

Given these statements, it boggles the mind to think that Congress wanted these important anti-discrimination statutes to disfavor certain classes of plaintiffs with disabilities by requiring them to satisfy a more stringent test than anyone

else. Children with disabilities are among the most vulnerable members of our society. Too often, they are "shunted aside, hidden, and ignored" while at school. *Choate*, 469 U.S. at 295-96 (quoting 117 Cong. Rec. 45974 (Dec. 9, 1971)). Such discrimination in the educational context can inflict severe, life-altering harm. *See, e.g.*, *Perez v. Sturgis Pub. Schs.*, 598 U.S. 142, 145 (2023) (school district denied deaf student a qualified aide for twelve years, drastically diminishing his ability to communicate with others and earn a living).

When such discrimination happens, the ADA and Rehabilitation Act provide crucial means of "protecting [victims'] interests," just as those statutes assist other plaintiffs facing disability discrimination in other contexts. *Fry*, 580 U.S. at 159. There is no reason to think that the ADA and Rehabilitation Act saddle children with disabilities—and nobody else—with "an impossibly high bar" for proving a statutory violation. *Knox County v. M.Q.*, 62 F.4th 978, 1002 (6th Cir. 2023); *see also* Pet.App.5a n.2. The ADA and Rehabilitation Act were meant to ensure equality, and their guarantees apply equally.

2. Even clearer is that Congress never wanted courts to impose an intent requirement for liability on *anyone* suing under the ADA and Rehabilitation Act, especially for failure to accommodate a disability.

"Discrimination against the handicapped was perceived by Congress to be most often the product, not of invidious animus, but rather of thoughtlessness and indifference—of benign neglect." *Choate*, 469 U.S. at 295. Congress thus enacted the Rehabilitation Act to remedy "shameful oversights" and "the invisibility of the handicapped in America." *Id.* at 295-96 (first quoting 117 Cong. Rec. 45974

(Dec. 9, 1971); and then quoting, 118 Cong. Rec. 525-26 (Jan. 20, 1972)). The ADA was likewise enacted to address how "society has been *inadvertently* structured in a way that unnecessarily denies innumerable opportunities, great and small, to people with disabilities." *Joint Hearing on S. 2345*, 100th Cong. at 941 (emphasis added). The central goal of these statutes, in other words, was to guard against "apathetic attitudes" toward people with disabilities. *Choate*, 469 U.S. at 296.

*Monahan*'s directive that a Rehabilitation Act "violation can be made out" in the educational context only by showing bad faith or gross misjudgment, 687 F.2d at 1171—rather than mere "benign neglect," as required from all other plaintiffs, *Choate*, 469 U.S. at 295—defies that objective. With Congress so unmistakably focused on the widespread passive neglect of people with disabilities, it is inconceivable that the ADA and Rehabilitation Act excuse liability in any category of cases, just because the alleged disability discrimination falls short of outright animus or especially severe mistreatment. So by giving a free pass to actions driven by educational officials' "apathetic attitudes," *Monahan* immunized "much of the conduct that Congress sought to alter in passing the Rehabilitation Act," as well as the ADA. *Id.* at 296-97. *Monahan* is at odds with the core purpose of both statutes.

### D. *Monahan* Is Unfair And Leads To Arbitrary Results

*Monahan* singles out school-age children with disabilities for disfavored treatment under the ADA and Rehabilitation Act. Beside openly defying the statutory text and purpose, this asymmetric

treatment is fundamentally unfair and leads to bizarre results.

1. Whereas *Monahan* establishes an exceedingly "high bar for claims based on educational services" brought by children with disabilities, courts "require much less in other disability-discrimination contexts." Pet.App.5a n.2. That disparity matters, as this case illustrates.

It is hard enough for parents to muster the resources needed to fight for their child's federally protected rights while simultaneously trying to remediate life-altering educational gaps in the meantime. Yet *Monahan*'s heightened standard lets school districts off the hook even when they act with deliberate indifference to students' federally protected rights. That additional barrier makes it exceedingly difficult for children with disabilities to obtain much-needed relief under the ADA and Rehabilitation Act. It also blunts incentives for schools to fulfill their statutory responsibilities in the first place.

Here, for example, Ava's parents spent years fighting for the District to give her the same reasonable accommodations that her prior school district in Kentucky had provided without issue. Pet.App.50a-51a. But over and over again, the District refused, offering a series of "shifting," "pretextual," and "not credible" explanations that had nothing to do with Ava's "individual needs." *Id.* at 50a, 57a; JA468, 471, 544; *supra* at 14-16. Indeed, the District's own Director of Student Services appeared unaware of the District's obligations under the ADA and Rehabilitation Act: She repeatedly insisted—incorrectly—that providing a FAPE under the IDEA satisfied the District's non-discrimination obligations

under these other statutes. JA190 (rejecting notion that "a school district [can] provide a FAPE under IDEA and still discriminate on the basis of disability"); *see also* JA191-96, 208-09, 216-18, 240.

Below, the Eighth Circuit acknowledged the considerable evidence showing that the District had been "negligent or even deliberately indifferent" in denying the reasonable accommodations she desperately needed. Pet.App.3a. The court also pointedly criticized the District's deliberate "choice to prioritize its administrative concerns" over Ava's "individual needs," while giving "a series of shifting explanations" for failing to meet them. *Id.* at 57a; *see* CA8 Appellant's Br.4-17, 50-55. All this should have been more than sufficient for Ava to survive summary judgment and obtain both injunctive relief and damages. Pet.App.5a n.2. "[B]ut under *Monahan*, [i]t's just not enough." *Id.* at 3a.

2. Ava's experience is all too common. A Westlaw search reveals hundreds of district court decisions applying *Monahan*'s bad-faith-or-gross-misjudgment standard in ADA and Rehabilitation Act cases, with the overwhelming majority denying relief.[8] Many

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[8] *See, e.g.*, *Parnes v. Orange Cnty. Sch. Bd.*, 2024 WL 4290383, at *4-6 (M.D. Fla. Sept. 25, 2024); *S.F. v. Union Cnty. Bd. of Educ.*, 2024 WL 1316229, at *3-4 (W.D.N.C. Mar. 27, 2024); *Torres v. Stewart Cnty. Sch. Sys.*, 2023 WL 6368186, at *5-6 (M.D. Tenn. Sept. 28, 2023); *N.P. v. Kenton Cnty. Pub. Schs.*, 2023 WL 1822833, at *5-6 (E.D. Ky. Feb. 8, 2023); *Baker v. Bentonville Sch. Dist.*, 610 F. Supp. 3d 1157, 1166 (W.D. Ark. 2022), *aff'd*, 75 F.4th 810 (8th Cir. 2023); *P.W. v. Leander Indep. Sch. Dist.,* 2022 WL 19003381, at *5-7 (W.D. Tex. Nov. 10, 2022); *Jacksonville N. Pulaski Sch. Dist. v. D.M.*, 2021 WL 2043469, at *5 (E.D. Ark. May 21, 2021); *Richardson v. Omaha Sch. Dist.*, 2019 WL 1930129, at *7-9

involved alleged discrimination that would have been actionable under the baseline standards applied in other ADA and Rehabilitation Act cases.

Consider a few examples. In *Reid-Witt ex rel. C.W. v. District of Columbia*, 486 F. Supp. 3d 1 (D.D.C. 2020), school officials refused to provide urgently needed at-home instruction, even after a child suffering from severe anxiety and depression experienced "suicidal ideation that required hospitalization." *Id.* at 3-4. The school baselessly insisted that the child was "ineligible for special-education services." *Id.* at 4. Yet the district court denied relief, finding that the plaintiff could not satisfy the "tougher" and "more stringent" bad-faith-or-gross-misjudgment standard, which can be satisfied "'[o]nly in the rarest of cases.'" *Id.* at 8-9 (quoting *Walker v. District of Columbia*, 157 F. Supp. 2d 11, 36 (D.D.C. 2001)). Because school officials were not "*completely* indifferent" to the child's disability, the court concluded, her ADA and Rehabilitation Act claims failed as a matter of law. *Id.* at 9; *see also N.G. v. District of Columbia*, 556 F. Supp. 2d 11, 18-21, 36 (D.D.C. 2008) (similar).

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(W.D. Ark. Apr. 30, 2019), *aff'd*, 957 F.3d 869 (8th Cir. 2020); *Lawrence Cnty. Sch. Dist. v. McDaniel*, 2018 WL 1569484, at *5-6 (E.D. Ark. Mar. 30, 2018); *McMinn v. Sloan-Hendrix Sch. Dist.*, 2018 WL 1277719, at *2 (E.D. Ark. Mar. 12, 2018); *Doe v. Pleasant Valley Sch. Dist.*, 2017 WL 8792704, at *3-5 (S.D. Iowa Dec. 5, 2017), *aff'd*, 745 F. App'x 658 (8th Cir. 2018); *Doe v. Osseo Area Sch. Dist., ISD No. 279*, 296 F. Supp. 3d 1090, 1098 n.7 (D. Minn. 2017); *Parrish v. Bentonville Sch. Dist.*, 2017 WL 1086198, at *17-18 (W.D. Ark. Mar. 22, 2017), *aff'd*, 896 F.3d 889 (8th Cir. 2018); *Est. of Barnwell ex rel. Barnwell v. Watson*, 2016 WL 11527708, at *4-5 (E.D. Ark. June 2, 2016).

Another example is *D.A. v. Houston Independent School District*, 716 F. Supp. 2d 603 (S.D. Tex. 2009), which involved school officials' years-long "failure to test" a young child for learning disabilities—even though he "was the lowest performing child" in the first grade and had exhibited "'extreme behavior," such as "fighting" and "hav[ing] outbursts." *Id.* at 606-07. School officials also ignored an independent expert who warned—in writing—that the child was "in desperate need of intervention." *Id.* at 608. And the child reported "being dragged around," "put in a closet," and called "a lazy monkey" by school staff. *Id.* Nevertheless, the district court denied relief under *Monahan*, *id.* at 620, in a decision that the Fifth Circuit unanimously affirmed, *D.A. ex rel. Latasha A. v. Houston Indep. Sch. Dist.*, 629 F.3d 450, 454-55 (5th Cir. 2010).

Or take *I.A. v. Seguin Independent School District*, 881 F. Supp. 2d 770 (W.D. Tex. 2012), where a school repeatedly excluded a paralyzed student from extracurricular activities—including field trips, swimming classes, and band concerts—despite obvious and readily available accommodations for his disability. *See id.* at 774-75. The school also failed to provide suitable "desks" and "an accessible bathroom," while failing to fix "dangerous" walkways to various facilities, despite the child falling multiple times. *Id.* at 778. There too, the court rejected the student's ADA and Rehabilitation Act claims under *Monahan*, reasoning that "[a]lthough mistakes may have been made, they d[id] not rise to the level of bad faith or gross misjudgment." *Id.* at 784.

These cases confirm that the "additional element" imposed by *Monahan* is "impossibl[e]" to satisfy "for many plaintiffs." *Knox*, 62 F.4th at 1002. Congress

did not enact that unduly harsh regime, which senselessly disadvantages some of society's most vulnerable members.

3. *Monahan*'s asymmetric rule also leads to arbitrary and anomalous results. It requires pre-K, elementary, middle, and high school students suing under the ADA and Rehabilitation Act to prove bad faith or gross misjudgment. *See, e.g.*, *I.Z.M. v. Rosemount- Apple Valley-Eagan Pub. Schs.*, 863 F.3d 966, 968, 972-73 (8th Cir. 2017). But college students bringing the exact same claims do not have to clear that hurdle, even in circuits that apply *Monahan*'s heightened standard. *See, e.g.*, *Halpern v. Wake Forest Univ. Health Scis.*, 669 F.3d 454, 461-62 (4th Cir. 2012); *Mershon v. St. Louis Univ.*, 442 F.3d 1069, 1076-77 (8th Cir. 2006); *Gati v. W. Kentucky Univ.*, 762 F. App'x 246, 250 (6th Cir. 2019). Why should a graduation ceremony drastically alter the standard for demonstrating disability discrimination in the educational context? *Monahan* doesn't say.

The District asserts that this head-scratching regime was actually part of Congress's design because "college students," unlike "elementary and secondary students, "are not covered by the IDEA." BIO31 n.3. But again, Congress has made clear—in unequivocal statutory text—that potential overlap with the IDEA does not "restrict" or "limit" the ADA and Rehabilitation Act's protections. 20 U.S.C. § 1415(*l*); *see supra* at 30-34. Plus, courts apply *Monahan*'s bad-faith-or-gross-misjudgment standard even in cases where school-age children with disabilities are bringing claims that do not involve the denial of a FAPE—and thus lack any nexus with the IDEA. *See, e.g.*, *Baker v. Bentonville Sch. Dist.*, 75 F.4th 810, 815-16 (8th Cir. 2023) (safety hazards at school for

visually impaired child); *Hoekstra ex rel. Hoekstra v. Indep. Sch. Dist. No. 283*, 103 F.3d 624, 626-27 (8th Cir. 1996) (elevator access at school for physically impaired child).

Requiring school-age children with disabilities who suffer education-related discrimination to satisfy a more stringent standard than college students who endured the same mistreatment makes no sense. Yet that unsound result flows directly from *Monahan*.

### E. *Monahan* Rested On Flawed Policy Analysis, Not Law

At its core, *Monahan* is a textbook example of legislating from the bench. The Eighth Circuit admitted that it sought to achieve "what *we*"—judges, not legislators—"believe to be a proper balance between the rights of handicapped children, the responsibilities of state educational officials, and the competence of courts to make judgments in technical fields." *Monahan*, 687 F.2d at 1171 (emphasis added).

*Monahan* was wrong to "replace the actual text" of the ADA and Rehabilitation Act with judicial "speculation as to Congress' intent" on matters of policy. *Perez*, 598 U.S. at 150. It was especially wrong to do so in a case where the parties' briefs did not address the proper standard for Rehabilitation Act claims in the school setting—let alone propose a brand new "bad faith or gross misjudgment" test.[9] And even on its own terms, *Monahan*'s speculation about Congress's intent makes little sense.

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[9] The *Monahan* briefs are available at the National Archives in Kansas City, and can be provided to the Court by Ava's counsel upon request.

1. Judges ordinarily do not claim broad authority to invent bespoke legal standards for federal statutes based on pure policy grounds. In *Monahan*, the Eighth Circuit offered no persuasive basis for claiming that policymaking authority.

The District has now tried to fill in the gap. In its brief opposing certiorari, the District argued that because the ADA and Rehabilitation Act's private rights of action are "judicially implied," courts have "a measure of latitude to shape a sensible remedial scheme." BIO26 (quoting *Gebser*, 524 U.S. at 284). This post hoc defense of *Monahan*'s self-described policymaking does not withstand scrutiny.

For starters, the ADA and Rehabilitation Act's private rights of action are *not* implied. Rather, the statutes "expressly incorporate[]" the preexisting right of action under Title VI, which was originally judicially implied and later congressionally ratified. *Cummings v. Premier Rehab Keller, P.L.L.C.*, 596 U.S. 212, 218 (2022); *see* 29 U.S.C. § 794a(a)(2); 42 U.S.C § 12133. So whatever "measure of latitude" courts might have to tinker with an implied private right of action is irrelevant. *Gebser*, 524 U.S. at 284.

Regardless, any such latitude is sharply limited. Courts can only shape an implied right of action in the way that "best comports with the statute." *Id.* But here, as explained, the ADA and Rehabilitation Act's "general language" served to "produce general coverage" for *all* people with disabilities—and does not "leave room for courts to recognize ad hoc exceptions" for school-age children or anyone else. Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 101 (2012); *see supra* at 24-30. Indeed, the District has not mustered a single decision from this Court authorizing disfavored

treatment of different classes of plaintiffs asserting the same private right of action, implied or otherwise. *Monahan*'s "judicial overreaching" is clear as day. Drew Millar, *Judicially Reducing the Standard of Care: An Analysis of the Bad Faith/Gross Misjudgment Standard in Special Education Discrimination*, 96 Ky. L.J. 711, 728-29 (2008).

2. Even on its own terms, *Monahan*'s atextual appeal to policy does not hold up. *Monahan* doubted "the competence of courts to make judgments" about decisions by "educational officials" in this "technical field[]." 687 F.2d at 1171. But the IDEA *demands* inquiry into the "adequacy of a given" child's education—and thus judicial examination of the "decisions" made by educational officials, with appropriate respect for the "expertise and the exercise of judgment by school authorities." *Endrew F. ex rel. Joseph F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. 386, 404 (2017). Such respectful consideration of schools' decisionmaking is equally proper under the ADA and Rehabilitation Act.

More fundamentally, just last Term this Court resoundingly rejected the notion, echoed in *Monahan*, that some matters are simply too "technical" for courts to review independently. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 402 (2024). Federal courts are surely capable of showing due respect for educational officials' experience and expertise while adjudicating discrimination claims in the school setting—just as they do in any other context. It is a mistake to distort statutory text out of a misplaced fear that courts cannot responsibly decide cases

implicating sensitive or technical matters. The ADA and Rehabilitation Act are no exception.[10]

3. Rather than focus on policy, this Court should apply the law. In recent years, the Court has repeatedly enforced the plain text of federal civil-rights statutes protecting vulnerable populations—including children with disabilities—from discrimination. *See, e.g.*, *Perez*, 598 U.S. at 146-47; *Fry*, 580 U.S. at 158; *Endrew F.*, 580 U.S. at 399; *see also Muldrow v. City of St. Louis*, 601 U.S. 346, 355 (2024); *Groff v. DeJoy*, 600 U.S. 447, 468-70 (2023); *Babb v. Wilkie*, 589 U.S. 399, 402 (2020); *Mount Lemmon Fire Dist. v. Guido*, 586 U.S. 1, 6-8 (2018). These decisions vindicate textualism as a method of statutory interpretation that is "neutral as a matter of politics and policy." Brett M. Kavanaugh, *Fixing Statutory Interpretation*, 129 Harv. L. Rev. 2118, 2135 (2016).

This Court should embrace that same textualist approach here. *Monahan*'s "bad faith or gross misjudgment" standard flunks every test of text, history, purpose, and policy. This Court should now fix *Monahan*'s error. It should enforce the plain meaning of the Nation's anti-discrimination laws and restore the full protections Congress granted children with disabilities.

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[10] It would likewise be mistaken to distort the statutory text out of fear that plaintiffs might try to "end-run the statutorily prescribed IEP process and preempt school districts' facilitation of the IDEA." BIO28. The IDEA *already* addresses potential evasion: It "demand[s]" exhaustion of the IEP process "when a plaintiff seeks a remedy IDEA can supply," like a FAPE-related injunction—while "excusing exhaustion when a plaintiff seeks a remedy IDEA cannot provide," like damages. *Perez*, 598 U.S. at 150.

## CONCLUSION

The Eighth Circuit's judgment should be vacated and the case remanded for further proceedings.

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February 27, 2025

# ADDENDUM

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## 20 U.S.C. § 1415

### § 1415. Procedural safeguards

* * *

### (*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.

* * *

## 29 U.S.C. § 794

### § 794. Nondiscrimination under Federal grants and programs

### (a) Promulgation of rules and regulations

No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.

* * *

## 29 U.S.C. § 794a

### § 794a. Remedies and attorney fees

**(a)**

* * *

**(2)**

The remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) (and in subsection (e)(3) of section 706 of such Act (42 U.S.C. 2000e–5), applied to claims of discrimination in compensation) shall be available to any person aggrieved by any act or failure to act by any recipient of Federal assistance or Federal provider of such assistance under section 794 of this title.

* * *

## 42 U.S.C. § 12132

### § 12132. Discrimination

Subject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

## 42 U.S.C. § 12133

### § 12133. Enforcement

The remedies, procedures, and rights set forth in section 794a of title 29 shall be the remedies, procedures, and rights this subchapter provides to any person alleging discrimination on the basis of disability in violation of section 12132 of this title.