No. _____

IN THE SUPREME COURT OF THE UNITED STATES

CAMBRIDGE CHRISTIAN SCHOOLS, INC.,

Applicant,

v.

FLORIA HIGH SCHOOL ATHLETIC ASSOCIATION, INC.,

Respondent

APPLICATION TO THE HON. CLARENCE THOMAS FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

Pursuant to Supreme Court Rule 13(5), Cambridge Christian Schools, Inc. ("Applicant") hereby moves for an extension of time of 30 days, to and including June 6, 2025, for the filing of a petition for a writ of certiorari. Unless an extension is granted, the deadline for filing the petition for certiorari will be May 7, 2024.

In support of this request, Applicant states as follows:

1. The United States Court of Appeals for the Eleventh Circuit rendered its decision on September 3, 2024 (Exhibit A) and denied a timely petition for rehearing on February 6, 2025 (Exhibit B). This Court has jurisdiction under 28 U.S.C. §1254(1).

2. In 2015, two Christian schools qualified for the state championship football game organized by the Florida High School Athletic Association ("FHSAA"), a state actor. Consistent with their sincere belief in, and past practice of, corporate prayer, the schools requested use of the stadium loudspeaker so they could communally participate in a brief, pregame prayer. Despite having granted the same request at the same game three years earlier, FHSAA rejected the request this time around. The sole reason FHSAA provided was that permitting loudspeaker prayer at a game between two Christian schools would constitute the state "establishing a religion."

3. Applicant filed suit, alleging FHSAA violated the school's free-speech and free-exercise rights. In the litigation, FHSAA abandoned its establishment rationale and pivoted to a government-speech defense. The district court granted FHSAA's motion to dismiss. The Eleventh Circuit reversed and remanded, holding that Applicant had "plausibly allege[d] violations of the Free Speech and Free Exercise Clauses." *Cambridge Christian Sch., Inc. v. Fla. High Sch. Athletic Ass'n, Inc.*, 942 F.3d 1215, 1252 (11th Cir. 2019). Post-remand discovery revealed that far from being a platform solely for government speech, the FHSAA loudspeaker was awash in private speech. In addition to allowing the prayer in 2012, FHSAA admitted that, at championship events, it: (1) "periodically often" allowed schools to use the loudspeaker for unscripted, secular pregame welcoming remarks; (2) allowed schools to use the loudspeaker at halftime for unscripted remarks and music, including religious messages; and (3) allowed the loudspeaker to be used throughout the

pregame and game for private advertisements. Moreover, FHSAA permitted prayer over the loudspeaker at playoff games, which were governed by the same loudspeaker policies and scripts as the championships. Despite all this private speech over the loudspeaker, the district court granted FHSAA's motion for summary judgment and Eleventh Circuit affirmed, holding that *all* loudspeaker speech is government speech. *See* Ex. A.

4. It was only three years ago that this Court forcefully reaffirmed that "[r]espect for religious expressions is indispensable to life in a free and diverse Republic—whether those expressions take place in a sanctuary or on a field," and the government may not "ferret out and suppress religious observances even as it allows comparable secular speech." *Kennedy v. Bremerton School Dist.*, 597 U.S. 507, 543-44 (2022). One way state actors suppress religious speech is by claiming all speech is government speech. As this Court has warned, the government-speech defense is "susceptible to dangerous misuse" and courts "must exercise great caution before extending … government-speech precedents." *Matal v. Tam*, 582 U.S. 218, 235 (2017). Thus, to avoid unconstitutional religious discrimination, courts must closely scrutinize "the details" of the platform at issue when a government claims all speech as its own. *Shurtleff v. City of Boston*, 596 U.S. 243, 253-55 (2022).

5. The Eleventh Circuit eschewed that "great caution," significantly reshaping the government-speech inquiry in ways that contravene controlling precedent. If the Eleventh Circuit's opinion stands, it will be virtually impossible to overcome government-speech defenses in that Circuit, and "religious speech" will

again be "confine[d] … to whispers or banish[ed] … to broom closets." *Chandler v. Siegelman*, 230 F.3d 1313, 1316 (11th Cir. 2000). The Eleventh Circuit ignored this Court's recent free-exercise decisions, which reject the notion that "government may discriminate against religion when acting in its managerial role," *Fulton v. City of Philadelphia*, 593 U.S. 522, 536 (2021), and hold that a state "violates the Free Exercise Clause when it excludes religious observers from otherwise available public benefits," *Carson v. Makin*, 596 U.S. 767, 778 (2022*). See also Shurtleff*, 596 U.S. at 262, 268 (Alito, J., concurring) ("not all governmental activity that qualifies as 'government speech' in this literal and factual sense is exempt from First Amendment scrutiny").

6. Applicant's counsel requires additional time to prepare a petition that fully addresses the important and far-reaching issues raised by the decision below in a manner that will be most helpful to the Court. Applicant's lead counsel, Mr. Panuccio, has substantial litigation obligations between now and the current due date of the petition, including an appellate brief due on April 9, 2025, in *Alsaloussi v. Drummond*, No. 3D2024-2333 (Fla. 3d DCA); an appellate brief due on April 9, 2025 in *Doe, et al. v. Github Inc., et al.*, No. 24-7700 (9th Cir.); and a dispositive motion hearing on April 30, 2025 in *Vetnos, LLC v. SidePrize LLC*, No. 23-cv-2746 (N.D. Ga.). Co-counsel Jeremy Dys, David Hacker, Hiram Sasser, and Becky Dummermuth of First Liberty Institute also have substantial litigation obligations, including: oral argument on April 23, 2025, in *Dianne Hensley v. State Commission on Judicial Conduct, et al.*, No. 03-21-00305-CV (Court of Appeals for the Third Appellate District

at Austin, Texas); briefing due on April 28, 2025 in *Grace New England, et al. v Town of Weare, NH et al.*, No. 24-cv-41 (D.N.H.); an appellate brief due on April 30, 2025 in *State of Ohio v. Avell*, No. {86}WM-25-0003 (Sixth District Court of Appeals, Williams County, Ohio); an oral argument on April 30, 2025 in *Fire Chief Douglas Pool v. Dad's Place of Bryan, OH*, No. 24CI000100 (Sixth District Court of Appeals, Williams County, OH); a reply brief due on May 2, 2025 in *Marisol Arroyo-Castro v. Anthony Gasper, et al.*, No. 25-cv-153 (D. Conn.); and oral argument on June 2, 2025 in *John Woolard, et al. v Tony Thurmond, et al.*, No. 24-4291 (9th Cir.).

7. The current deadline also overlaps with the Easter and Passover religious holidays, which will make coordination among co-counsel and client more difficult.

WHEREFORE, for the foregoing reasons, Applicant respectfully requests that an extension of time to and including June 6, 2024, be granted within which it may file a petition for a writ of certiorari.

Date: April 8, 2025

Respectfully submitted,

/s/ Jesse Panuccio

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