

No. 25-794 IN THE SUPREME COURT OF THE UNITED STATES

IN THE SUPREME COURT OF THE UNITED STATES

JORDAN SPATZ, Petitioner,

v.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, Respondent.

On Petition for Rehearing of the Denial of the Petition for a Writ of Certiorari to
the United States Court of Appeals for the Ninth Circuit

PETITION FOR REHEARING

JORDAN SPATZ Petitioner, Pro Se

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March MMXXVI

PETITION FOR REHEARING

Pursuant to Rule 44.2, Petitioner respectfully petitions for rehearing of the Order entered February 23, 2026, denying the petition for a writ of certiorari.

QUESTIONS PRESENTED

1. Whether this Court's intervening 2026 "Clear Statement" trilogy—***Bowe, Barrett, and Learning Resources***—precludes the Ninth Circuit from judicially expanding a narrow "employment practice" exception to exempt an annual \$22 billion federally funded educational system from the Age Discrimination Act of 1975.
2. Whether the Ninth Circuit's "structural nullification" of the Age Act violates this Court's mandate in ***Brown v. Board of Education*** by creating an unreviewable "protection gap" for a class of citizens specifically identified by Congress as victims of age-based educational exclusion.

RELATED PROCEEDINGS

United States District Court (N.D. Cal.):
Jordan Spatz v. Regents of the University
of California, No. 3:21-cv-09605-LB (Apr.
11, 2024) (summary judgment for
respondent granted)

Jordan Spatz v. Regents of the University
of California, No. 3:21-cv-09605-LB (Apr.
12, 2024) (judgment issued)

United States Court of Appeals (CA9):
Jordan Spatz v. Regents of the University
of California, No. 24-2997 (Aug. 18,
2025) (opinion affirming summary
judgment)

Jordan Spatz v. Regents of the University
of California, No. 24-2997 (Sep. 25, 2025)
(rehearing denied)

Jordan Spatz v. Regents of the University
of California, No. 25-794 (Feb. 20, 2026)
(writ for certiorari denied)

PARTIES TO THE PROCEEDING AND CORPORATE DISCLOSURE STATEMENT

I. LIST OF PARTIES AND TICKER SYMBOLS

Pursuant to Supreme Court Rule 29.6, as amended March 16, 2026, the following are the parties to the proceeding:

1. Jordan Spatz, Petitioner.
 - *Ticker Symbol:* None.
2. The Regents of the University of California, Respondent.
 - *Ticker Symbol:* None.

II. CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, the undersigned Petitioner, Jordan Spatz, an individual, provides the following disclosure regarding the Respondent:

The Regents of the University of California is a public corporation established under the Constitution of the State of California. Upon information and belief, it is not a nongovernmental corporation, has no parent corporation, and no publicly held company owns 10% or more of its stock.

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- *Bowe v. United States*, No. 24-5438 (Jan. 9, 2026)i, 1, 4, 5, 8, 10
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- U.S. Commission of Civil Rights Hearings & Final Report, The Age
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GROUNDS FOR REHEARING

This petition is based on intervening circumstances of a substantial and controlling effect. Within the last 50 days, this Court has issued three landmark rulings—***Bowe v. United States*, No. 24-5438 (Jan. 9, 2026), *Barrett v. United States*, No. 24-5774 (January 14th 2026), and *Learning Resources, Inc. v. Trump*, No. 24-1287 (Feb. 20, 2026)**. These decisions redefine the "clear statement" required to remove a class of citizens from the substantive protections of a federal statute and prohibit courts from expanding statutory exceptions through "interpretive overreach" to exclude programs of vast economic significance.

ARGUMENT

- I. The Structural Nullification of the Age Act and Mandate of *Brown*: Rehearing is necessary because the Age Act is currently being rendered a "dead letter" by lower courts in stark contrast to this Court's foundational commitment to equal educational access. Beginning with ***Brown v. Board of Education*, 347 U.S. 483 (1954)**, and extending through the enactment of the Age Act, this Court has maintained that federal oversight is an essential safeguard against systemic exclusion from "academic gateways." The Medical Residency Match is the modern equivalent of such a gateway. By expanding a narrow "employment" exception to swallow the entire residency application process, the lower courts have effectively repealed the Age Act's protections for tens of thousands of medical trainees each and every academic year.

The Ninth Circuit's decision rests on the premise that the Match process is an "employment practice." However, on December 8, 2025, the National Residency Matching Program (NRMP) issued a formal Letter to the Community (and submitted testimony to the House Judiciary Subcommittee on the Administrative State) clarifying its role in the "Match Monopoly" inquiry. In that letter, and in the 2019 - 2025 Match Participation Agreements (Section 3.0) governing this case, the NRMP explicitly states: "The NRMP is not an employment service." The NRMP further characterizes the Match as a "transition to residency" and part of "graduate medical education," rather than a labor-market transaction. The Respondent cannot have it both ways: benefit from the NRMP's classification of the annual MATCH medical residency ranking process as a "non-employment" practice to avoid antitrust scrutiny while simultaneously claiming the Match is an "employment practice" to shield itself from the Age Act.

This Court's legacy of ensuring that "the opportunity of an education... is a right which must be made available to all on equal terms" (*Brown*, 347 U.S. at 493) is rendered hollow if an entire class of citizens is systematically barred from judicial review through interpretive overreach.

Prior to the 1978 amendment establishing the Private Right of Action, the U.S. Congress commissioned the U.S. Commission on Civil Rights (ADA '75, Section 6106. Study of discrimination based on age (a-g)) to

investigate systemic age discrimination in federally funded programs. That investigation, which included hearings in multiple cities (Denver, San Francisco, Miami) with numerous Deans of Medical Schools as witnesses, explicitly identified medical educational programs—specifically admissions practices—as a primary site of federally funded education programs in violation of the Age Act. *U.S. Commission of Civil Rights Hearings & Final Report, The Age Discrimination Study (1977)*¹. It is legally incongruous that Congress—acting upon an expert report of age discrimination and bias in medical education—enacted an amendment to add a private right of action to the Age Act, intending to protect a student at the gateway of medical school, only to abandon that same individual four years later at the gateway of residency: the final, mandatory requirement for medical licensure. Under the major questions doctrine, if Congress intended to exclude a multi-billion-dollar federally funded educational pipeline from the Age Act's protections, it would have done so explicitly. It is not the role of the judiciary to "read in" a labor-market exception that the people's elected representatives chose to omit from the private enforcement provision of a landmark civil rights statute.

While this Court custom generally awaits a clear circuit split, the Age Act faces a unique structural barrier: the uniform misapplication of the "employment practice" exception (42 U.S.C. § 6103(c)(1)) to graduate

¹ <https://www.usccr.gov/files/historical/1977/77-043.pdf>

medical education acts as a total bar to appellate development. If this Court does not intervene, this landmark civil rights statute will remain effectively nullified for tens of thousands of medical trainees every year the residency application process occurs. Rehearing is required to prevent the Age Act from being a "dead letter" in the very educational environments it was enacted and amended to encompass.

- II. The "Clear Statement" Mandate of *Bowe v. United States*, and *Barrett v. United States*: In *Bowe* (2026), this Court held that statutory bars to judicial review must be "unmistakably clear." The Ninth Circuit's application of the "employment practice" exception to the medical residency application process violates this mandate. When the Age Act was passed in 1975, medical residency was viewed as an educational extension of medical school, not a "sole employment practice." In 1975 and 1978, residents were not collectively bargaining, were not taxed as employees, and the National Resident Matching Program was an academic placement service, as it remains today. Because Congress—both in 1975 and in the 1978 amendment adding a private right of action—did not categorize residency as a standard 'employment practice,' it could not have 'unmistakably' intended to exempt such programs from the Age Act's protections.

In *New Prime Inc. v Oliveira*, Justice Gorsuch articulated an essential critical cannon of statutory interpretation:

“It’s a fundamental canon of statutory construction that words generally should be interpreted as taking their ordinary, contemporary, common meaning... *at the time Congress enacted the statute.*”

- *New Prime Inc. v. Oliveira*, 586 U.S. 105, 113 (2019).

Under *Bowe*, the court should not retroactively apply modern employment definitions to 1975 statutory exceptions.

In *Barrett v. United States* (decided Jan. 14, 2026), this Court held that when Congress structures a statute with multiple subsections, courts must not "gloss over" the specific placement of terms to achieve a broader policy goal. The Court (per Jackson, J.) emphasized that structural choices within the federal code must be respected and that courts, acting as faithful agents of the text, “must presume that Congress says in a statute what it means and means in a statute what it says there.” This is precisely the error the Ninth Circuit committed in its published opinion. The Age Discrimination Act contains two distinct enforcement paths: **Administrative Enforcement (§ 6103(c)(1))**, which expressly prohibits federal agencies from taking action regarding "employment practices," and **Private Enforcement (§ 6104(e))**, which grants a private right of action to “interested parties” but omits any such bar. Under the logic of *Barrett*, this structural choice must be given full effect; the Court cannot "read in" an agency-only restriction into a private right of action provision.

III. Strict Textualism and the \$22 Billion Annual Federal Investment: Graduate medical education is not a "quotidian" employment practice; it is a massive, federally-funded educational pipeline receiving over \$22 billion in Medicare support annually. In *Learning Resources, Inc. v. Trump*, this Court ruled that general terms cannot bear the weight of extraordinary Article I powers—specifically the power to tax—without explicit congressional authorization. The "flip side" of that constitutional coin is the **Power of the Purse (U.S. Const. art. I, § 8, cl. 1)**: the exclusive authority of Congress to spend funds and, crucially, to set the conditions for their distribution. While the Judiciary does not spend federal funds, it oversteps its Article III bounds when it carves out a judicial exemption for graduate medical education funding—permitting federal dollars to flow to programs while ignoring the non-discrimination conditions Congress mandated. The Ninth Circuit's creation of an "employment exemption" for graduate medical education funding effectively waives the non-discrimination conditions Congress mandated. In *Helvering v. Davis*, 301 U.S. 619, 644 (1937), Justice Cardozo articulated the boundary of judicial review over spending schemes:

“Whether wisdom or unwisdom resides in the scheme of benefits... it is not for us to say. The answer to such inquiries must come from Congress, not the courts. Our concern here, as often, is *with power, not with wisdom.*”

- *Helvering v. Davis*, 301 U.S. 619, 644 (1937).

Just as this Court's decision in *Learning Resources, Inc. v. Trump* (2026) prevents the Executive from stretching its power beyond explicit authorization, the principle in *Helvering v. Davis* prevents the Ninth Circuit from shrinking the Power of the Purse by carving out exceptions to clear Congressional spending conditions. In response to this Court's decision in *Grove City v. Bell*, Congress overrode a Presidential veto to enact these non-discrimination spending conditions in their fullest effect via the **Civil Rights Restoration Act of 1987, Pub. L. No. 100-259, 102 Stat. 28 (1988)**. That Act defines the phrase "program or activity" and the term "program" to mean "all of the operations" of covered entities, any part of which is extended Federal financial assistance under the Age Act. By overriding a Presidential veto with a supermajority to pass that Act, Congress signaled its clear statement that civil rights compliance is a non-negotiable condition for the receipt of federal funds in all operations of an institution. As this Court noted in *Rivers v. Roadway Express*, once Congress acts to correct a judicial narrowing of a statute, the courts must remain "faithful agents" of that correction, rather than carving out new exemptions that return the law to its rejected state. By using a narrow 'employment' gloss to exempt the residency application process—specifically the ranking of medical students by institutions into the NRMP Match system—from age discrimination protections, the Ninth Circuit has effectively nullified the CRRA's broad definition, severing federal funds

from the very statutory conditions Congress enacted for their distribution. The general term 'employment practice' cannot bear the weight of excluding an annual \$22 billion educational system and a medical student's entry point into those residency programs from the Age Act's broad protections, particularly where Congress has explicitly identified applicants to graduate medical education in clear, unambiguous statutory language as "**students**" (15 U.S. Code § 37b). The Ninth Circuit's 'employment' gloss effectively creates an unauthorized anti-textualist pocket of immunity, allowing federal funds to be distributed to a massive educational pipeline while stripping the very civil rights protections Congress enacted. To allow a lower court to sever these funds, via a published opinion, from their statutory conditions is an act of interpretive overreach inconsistent with this Court's clear statement mandate for major questions articulated in *Learning Resources, Inc. v. Trump*.

- IV. Reconciling Hybrid Status Under New Precedent: The Ninth Circuit relied on "common-law meanings" to categorize the Match application process and residency for context of age discrimination as solely employment. However, *Learning Resources* and *Bowe* collectively signal a return to strict textualism: courts may not use judicial "tests" to expand statutory exceptions. Because these cases were decided after the briefing in this matter was closed, rehearing is required to apply these new standards to

the unique, "hybrid" status of medical student applicants to residency in the civil rights context.

- V. The Ninth Circuit's Acknowledgment of Meritorious Facts: During oral arguments, the Ninth Circuit panel unanimously indicated that if the Age Act were found to apply to the residency selection process, this case easily met criteria and requirements to proceed to trial. The dismissal rests solely on a technical interpretive expansion of a statutory exception. Because the Ninth Circuit acknowledged at oral argument the significant factual strength of Petitioner's claim—specifically noting that Petitioner's age was explicitly documented in black-and-white evidence as an 'area of concern' on interview forms—this matter presents a clear triable issue of fact that otherwise survives summary judgement standards. As such, it represents the ideal vehicle for this Court to ensure that Congress's amendment of the Private Right of Action for the enforcement of the Age Act reflects the 'combined wisdom of the people's elected representatives,' *Learning Resources, Inc. v. Trump* (Gorsuch, J., concurring), affirming a deliberate policy choice to empower citizens to enforce these protections.
- VI. Closing the "Protection Gap": The Unique Mandate of the Age Act: The Ninth Circuit's over-extension of the "employment" exception does more than create a legal vacuum; it abandons a class of citizens Congress specifically sought to protect. Unlike the **ADEA**, which protects those over the age of 40, the Age Act is the only safeguard for the "hybrid" trainee who

is "young" enough to lack ADEA standing but "old" enough (e.g. as the petitioner was older by virtue of holding a PhD prior to entry to medical school or as also occurs every academic year, our nation's veterans applying for medical residency programs) to be the victim of institutional stereotypes. Data from the Association of American Medical Colleges (AAMC) confirms this bias, noting perceptions that older applicants are "unteachable" or "less worthy of institutional investment." Without the Age Act's oversight, residency programs are permitted to use age as a proxy for "teachability" in a \$22 billion annually federal funded education pipeline. As the Ninth Circuit noted the factual strength of this case, rehearing is the only way to ensure the Age Act continues to function as the vital safety net Congress intended—preventing a "protection gap" where age-based stereotypes are allowed to impede the careers of the nation's future physicians.

CONCLUSION

The petition for rehearing should be granted. In light of this Court's intervening decisions in *Bowe*, *Barrett*, and *Learning Resources*, the Court should grant the petition, vacate the judgment below, and remand this case (GVR) to the Ninth Circuit for further consideration. In the alternative, because this case involves the structural interpretation of a landmark federal civil rights statute and its application to a yearly multi-billion-dollar federal funding education pipeline, Petitioner respectfully requests that, upon granting rehearing, the Court Call for the Views of the Solicitor

General regarding the proper scope of the "employment practice" exception under 42 U.S.C. § 6103(c)(1) in this context.

A handwritten signature in cursive script, appearing to read "Jordan Spatz".

/s/ Jordan Spatz Petitioner, Pro Se

Appendix E

Order [denial of writ for certiorari]

Jordan Spatz v. Regents of the University
of California, No. 25-794 (Feb. 23, 2026)

(ORDER LIST: 607 U.S.)

MONDAY, FEBRUARY 23, 2026

ORDERS IN PENDING CASES

25M53 SAUD, YASIR Q. V. UNITED STATES

25M54 QIAN, HAOCHENG V. YOUTUBE, LLC, ET AL.

The motions to direct the Clerk to file petitions for writs of certiorari out of time are denied.

25M55 HUTCHINSON, GEORGE B. V. 81ST READINESS DIV., ET AL.

The motion for leave to proceed as a veteran is denied.

25M56 MARTINEZ, ARMANDO V. MARTINEZ, RICHARD, ET AL.

The motion to direct the Clerk to file a petition for a writ of certiorari out of time is denied.

25M57 SAN DIEGO FAMILY HOUSING, ET AL. V. CHILDS, LENA, ET AL.

The motion for leave to file a petition for a writ of certiorari with the supplemental appendix under seal is granted.

25M58 KIMES, LARRY W. V. UNITED STATES

25M59 STINSON, MARK T. V. MOODY, JUDGE, USDC AR

The motions for leave to proceed as a veteran are denied.

25M61 KELLY, HARLAN, L. V. UNITED STATES

The motion for leave to file a petition for a writ of certiorari with the supplemental appendix under seal is granted.

25-6 KEATHLEY, THOMAS V. BUDDY AYERS CONSTR., INC.

The motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument is granted.

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25-466 SRIPETCH, ONGKARUCK V. SEC

The motion of petitioner to dispense with printing the joint appendix is granted.

25-5473 RIAZ, SAMREEN V. COURT OF APPEAL OF CA, ET AL.

25-6024 OCHAR, WILSON V. RUBENFIELD, ROY S.

The motions of petitioners for reconsideration of orders denying leave to proceed *in forma pauperis* are denied.

25-6289 SMALLS, FREEMAN A. V. MEDLINE INDUS.

25-6291 PARISI, GEORGIANNA V. ESTATE OF JACKIE JONES, ET AL.

25-6372 BELOUS, ANDRE V. BATTLE CREEK, MI

25-6383 OCHAR, WILSON V. LENTTEGRITY, ET AL.

25-6492 FAYNE, ARTHUR V. UNITED STATES

25-6634 REAVES, JOSEPH D. V. PENNSYLVANIA

The motions of petitioners for leave to proceed *in forma pauperis* are denied. Petitioners are allowed until March 16, 2026, within which to pay the docketing fees required by Rule 38(a) and to submit petitions in compliance with Rule 33.1 of the Rules of this Court.

CERTIORARI GRANTED

25-170 SUNCOR ENERGY, INC., ET AL. V. COMM'RS BOULDER CTY., ET AL.

The petition for a writ of certiorari is granted. In addition to the question presented by the petition, the parties are directed to brief and argue the following question: Whether this Court has statutory and Article III jurisdiction to hear this case.

CERTIORARI DENIED

24-7489 MINOR, MARK T. V. FLORIDA

25-325 FOOKS, ROBERT L. V. MARYLAND

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25-337 HUNTINGTON BEACH, CA, ET AL. V. NEWSOM, GOV. OF CA, ET AL.
25-356 MANCUSO, STEVEN P. V. NEW YORK
25-378 OLSEN, DONALD V. SALTER, AARON
25-438 PG&E, ET AL. V. FERC
25-446 DOSTER, HUNTER, ET AL. V. MEINK, SEC. AIR FORCE, ET AL.
25-448 POFFENBARGER, MICHAEL V. MEINK, SEC. AIR FORCE, ET AL.
25-464 POTTER, PHILIP G. V. OCEAN BEACH, NY, ET AL.
25-479 NRA V. VULLO, MARIA T.
25-487 HATHON, LYNETTE, ET AL. V. MICHIGAN
25-492 EVERGLADES COLLEGE, INC. V. McMAHON, SEC. OF ED., ET AL.
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25-516 OVERTON, THOMAS M. V. DIXON, SEC., FL DOC
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25-636 CHATURVEDI, RAHUL V. SIDDHARTH, SIDDHARTH
25-643 UZOIGWE, ONWY V. CHARTER COMMUNICATIONS, LLC
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25-678 ANTONACCI, LOUIS B. V. BRENNAN, RENU, ET AL.
25-679 MORGAN, GLEN V. X CORP.
25-681 WU, ZHI, ET AL. V. SUPERIOR COURT OF CA, ET AL.
25-683 ROSHAN, PEYMAN V. McCAULEY, DOUGLAS R.
25-686 BROWN, GARY S. V. FBI
25-687 BRYANT, RICHARD E. V. BRAUNLICH, MARK, ET AL.
25-688 OGUNSULA, VERONICA W. V. WARRENFELTZ, MICHAEL
25-692 GIRLEY, BROOKE, L., ET AL. V. FLORIDA BAR, ET AL.
25-694 HILL, JEFFREY L. V. JOHNSON, LEANDRA G., ET AL.
25-697 LAS VEGAS SUN, INC. V. ADELSON, SHELDON, ET AL.
25-698 BABB, NORIS V. COLLINS, SEC. OF VA
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25-702 CO2 COMMITTEE, INC. V. MONTEZUMA CTY., CO, ET AL.
25-706 VINKOV, SERGEI V. BROTHERHOOD MUTUAL INS. CO.
25-707 GIRARD, MARISSA V. GIRARD, KENTON, ET AL.
25-708 BAPTISTE, RUPERT V. JALLOW, FATOU
25-710 UCIECHOWSKI, ERIN V. DEA PRODUCTS, INC.
25-711 COONEY, DEBORAH V. SAN DIEGO GAS & ELEC., ET AL.
25-713 HAWKINS, GEORGE B. V. SPANBERGER, GOV. OF VA, ET AL.
25-714 PAREDES, RAFAEL V. UNITED AIRLINES, INC., ET AL.
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25-721 LANDSMAN, JENNIE V. AVILES-RAMOS, MELISSA, ET AL.
25-722 PPSA, INC. V. DEPT. OF JUSTICE, ET AL.
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25-727 FOLTS, DOUGLAS M. V. UNITED STATES
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25-737 MORTER, JOHN S. V. HEGSETH, SEC. OF DEFENSE
25-740 HEATH, SUSAN I. V. ECOHEALTH ALLIANCE, INC.
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25-745 GREEN, BOBBY M. V. MAY, MICHAEL J., ET AL.
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25-762 FREEMAN, IAN V. UNITED STATES
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25-764 FLINTCO, LLC V. CHOCTAW NATION OF OK
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25-772 DERMEN, LEV A. V. UNITED STATES
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25-780 LEDA HEALTH CORP. V. FERGUSON, GOV. OF WA, ET AL.
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25-794 SPATZ, JORDAN V. REGENTS OF UNIV. OF CA
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25-800 ROCCO, MATTHEW S. V. UNITED STATES
25-801 SCHRAMM, THOMAS V. UNITED STEEL WKRS.
25-805 KRUSKAL, KERRY V. MAESTAS, ALAN, ET AL.
25-806 SINGH, TARLOCHAN V. BONDI, ATT'Y GEN.
25-807 McRANEY, WILL V. N. AM. MISSION BD., INC.
25-811 SEPULVEDA, MATTHEW L. V. UNITED STATES
25-812 GREINER, JAMES V. TESLA, INC.
25-814 HACKMAN, ASSATA A. V. INDUCTEV
25-816 SPIRITO, KENNETH R. V. UNITED STATES
25-817 CHRISTOPHER, CHARLES W. V. UNITED STATES
25-820 COMCAST CABLE COMMUNICATIONS V. WHEREVERTV, INC.
25-822 DeCOLA, THOMAS V. INDIANA
25-825 MEIER, KATHARINA K. I. V. ASPEN ACADEMY, ET AL.
25-829 MARTORELLO, MATT V. WILLIAMS, LULA, ET AL.
25-837 HOSSEINIPOUR, FARADAY V. UNITED STATES
25-839 FUGEDI, NICHOLAS V. INITRAM, INC., ET AL.
25-846 CHRISTENSEN, REED V. DEPT. OF JUSTICE, ET AL.
25-855 THE VISIONARY, BOOKS + CAFE, LLC V. BANK OZK
25-861 MN CH. ASSOC. BUILDERS, ET AL. V. ELLISON, ATT'Y GEN., MN, ET AL.
25-863 BUTLER, G'ANTE V. UNITED STATES

Appendix F

National Residency Matching Program (NRMP) issued a formal Letter to the Community and (and submitted testimony to the House Judiciary Subcommittee on the Administrative State), (Dec. 8, 2025)



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Toll Free: (866) 653-NRMP Phone: (202) 400-2233

December 8, 2025

Dear Medical Education Community,

On behalf of the National Resident Matching Program® (NRMP®), I write concerning Congressional inquiries regarding the transition to residency and physician pathway within the United States. This letter is intended to provide you with the NRMP's perspective on the issues, particularly as they relate to NRMP's administration of "The Match®," and to encourage you to make your own voices heard on the benefits of a fair, efficient, and transparent matching process to connect students and graduates with the clinical training they need to become independent, practicing physicians and ultimately, to ensure vital access to care through support of the future physician workforce.

A Brief History of the NRMP and the Matching Algorithm Exemption

The NRMP was incorporated in 1953 as an independent, non-profit organization at the request of medical students to remedy a chaotic, inefficient process that faced medical school graduates and other applicants seeking post-graduate training. Before The Match, residency recruitment was characterized by "exploding" offers, limited access to information, and binding commitments extracted from medical students long before graduation. As a result, applicants and programs faced significant pressure and coercion to finalize offers before they could sufficiently explore their options. The NRMP, by serving as an objective, independent party for both applicants and programs to rank their true preferences confidentially and simultaneously, eliminated these coercive practices. As demonstrated by decades of NRMP's transparent and objective data reports, The Match and its related processes produce stable, reliable, and preference-maximizing outcomes that match nearly all U.S. medical seniors (both DOs and MDs) and fill nearly all of the participating residency training positions available across the U.S. with U.S. seniors and international medical graduate physicians.

In 2004, after more than 50 years of successful Match outcomes and in response to the potentially disruptive effects of protracted litigation in the 2002 *Jung v. AAMC* case, Congress acted to

recognize the benefits of graduate medical education residency matching programs (including, but not limited to, The Match) and to clarify that participation in such programs was not an illegal contract, combination, or conspiracy under the antitrust laws. This law (the “**Matching Algorithm Exemption**”), reflected Congress’s finding that recruitment before The Match “was inefficient, chaotic, and unfair and it often led to placements that did not serve the interests of either medical students or residency programs.” In contrast, Congress found the use of a matching algorithm to be a pro-competitive process, “which has effectively served the interests of medical students, teaching hospitals, and patients for over half a century.” Based on that assessment, Congress determined that applicants, programs, institutions, and other medical education organizations should not face frivolous antitrust lawsuits that were premised on their participation in a graduate medical education residency matching program.

Recent Congressional Scrutiny of Post-Graduate Medical Education

On March 14, 2025, several graduate medical education organizations and training hospitals received a letter from the House Judiciary Committee’s Subcommittee on the Administrative State, Regulatory Reform, and Antitrust (the “Subcommittee”), which requested documents regarding the accreditation of residency training programs, the publication of resident salaries, and the use of graduate medical education residency matching programs.¹ Two months later, on May 14, 2025, the Subcommittee convened a public hearing entitled “The MATCH Monopoly: Evaluating the Medical Match Residency Antitrust Exemption.” The May 14 Hearing did not include testimony by NRMP or any other recipient of the Match 14 letter.

Both the March 14 Letter and the May 14 Hearing were premised on significant misunderstandings and mischaracterizations of the regulatory requirements that determine physician training requirements, NRMP’s role among medical education stakeholders, and the actual, limited purpose of the Matching Algorithm Exemption. For example, the following critiques were misdirected toward NRMP and/or The Match:

¹ The complete list of recipients is the Accreditation Council for Graduate Medical Education, the American Medical Association, the American Osteopathic Association, the Association of American Medical Colleges, the National Resident Matching Program, Duke University Health System Inc., MedStar-Georgetown, Hospital Medical Center Inc., Philadelphia College of Osteopathic Medicine, and Stanford University Medical Center.

- The March 14 Letter asserted that “The Match” assigns applicants to their residency positions; controls “every aspect of the hiring process;” and “limits the free choice of both applicants and programs.”²
- During opening remarks for the May 14 Hearing, a member of the Subcommittee claimed that the United States’ medical residency system “is controlled by a monopoly that reduces competition, suppresses wages, and worsens the doctor shortage to the detriment of both medical residents and American consumers.”³
- One witness to the hearing, a private attorney whose past efforts to sue medical education organizations prompted Congress to pass the Matching Algorithm Exemption, told the Subcommittee that the Matching Algorithm Exemption should be repealed because it prevents fourth- and fifth-year residents from transferring to other programs if they are terminated from their program “due to improper retaliation, or a minor infraction, or a personality conflict with an influential attending or program official.”⁴

Members of the medical education community – including anyone who has participated in The Match – should recognize that these statements do not reflect NRMP’s role. As noted above, the Matching Algorithm Exemption only concerns participation in a graduate medical education residency matching program. It does not create or protect any “monopoly” in the transition to residency. In fact, every phase of medical education and post-graduate training involves input and oversight from a diverse set of medical education stakeholders. Accreditation and residency requirements harmonize input from the Accreditation Council for Graduate Medical Education (ACGME) Review Committees and Board of Directors, as well as from other stakeholders including state licensing boards, specialty certifying boards, the medical education community, and the ACGME also solicits feedback from the public. The residency interview and application phase occurs through the Association of American Medical Colleges (AAMC) MyERAS or Liaison’s Residency Central Application Service (“ResidencyCAS”) platforms; although, other matching services may use other platforms. Even among applicants and programs that participate in a residency matching program, NRMP is one of four providers along with the San Francisco Match, the Urology Residency Matching Program, the match for military personnel, and others for Dentistry and Podiatry.

² A full copy of the March 14 Letter to NRMP is available at https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2025-03-14-sf-to-national-resident-matching-program-lamb_0.pdf.

³ A video recording of the May 14 Hearing and copies of witness’s’ prepared statements are available at <https://www.congress.gov/event/119th-congress/house-event/118236>.

⁴ *Id.* at <https://www.congress.gov/119/meeting/house/118236/witnesses/HHRG-119-JU05-Wstate-MarekS-20250514-U4.pdf>.

The March 14 Letter and May 14 Hearing did not acknowledge this multi-stakeholder approach to medical education and the transition to residency and, accordingly, mischaracterized the actual role of NRMP and The Match. In particular, The Match and, by extension, the Matching Algorithm Exemption do not:

- Establish accreditation requirements or assess a program's compliance with applicable accreditation standards;
- Determine the number or type of residency positions that are sponsored by institutions, including whether such positions are placed in The Match or another matching service;
- Dictate the number of applicants that compete for residency positions in any given year (a number that, in recent years, has materially exceeded the number of available first-year residency positions);
- Set the amount or distribution of federal funds that subsidized the costs of residency training, including the portion of costs that are intended to reflect a resident's stipend;
- Control the application or interview phase of residency recruitment, including the number of programs that a resident applies for or receives interviews for through the MyERAS or Residency CAS platforms;
- Restrain the employment terms offered by any given program, including the compensation and other benefits offered to applicants, nor limit applicants' ability to negotiate regarding those terms; or
- Limit the ability of residents who have successfully started training in a matched position to subsequently transfer to a different program, institution, or specialty.

Rather, The Match focuses on aligning the mutual preferences of applicants and programs to best-position future physicians for success in their chosen training program(s). In particular, NRMP's processes ensure that all positions and all applicants are available at the same time so that no single applicant or residency program has a non-merit-based advantage over the other. This approach facilitates competition by enabling all programs to evaluate a national applicant pool and providing all applicants the opportunity to be considered by programs nationwide. In each Match cycle, applicants compete with each other to obtain a high ranking from their preferred residency program. Simultaneously, residency programs compete against other residency programs to attract favorable applicants.

The results from this merit-based competition speak for themselves. In 2025, The Match filled 99.4% of the 43,237 participating positions. The placement rates for participating U.S. MD and DO seniors were 97.8% and 98.4%, respectively.⁵ Contrary to concerns regarding physician shortages and lack of free will, more than seven decades of Match outcomes confirm that NRMP's role in graduate medical education empowers applicants and maximizes the physician pipeline for the nation's healthcare system.

NRMP's Position on Calls to Repeal the Matching Algorithm Exemption

NRMP does not believe the Subcommittee staff's view reflects the consensus of the medical education community and practicing physicians in the United States. Moreover, all available evidence indicates that repeal of the Matching Algorithm Exemption will not raise resident salaries or increase the number of practicing physicians. Rather, it would risk the return of higher recruiting costs and uncertainty, decreased resident class sizes across the country, fewer future physicians entering the workforce, and other inefficiencies and inequities that The Match successfully eradicated.

To aid the medical education community in considering and responding to this threat, NRMP offers the following key points:

- **Eliminating the Matching Algorithm Exemption will not change the fundamental market factors that drive how resident salaries are funded or determined.** The core drivers of resident salaries are the government programs that view residency programs as part of a physician's graduate medical education and who determine the number and reimbursement of federally funded residency positions. Moreover, with a relatively fixed supply of residency positions and more applicants than available residency positions, the outcome is downward pressure on salaries for residents. Eliminating the exemption will not eliminate these government and market characteristics.
- **The Matching Algorithm Exemption is narrow and tailored to ensure the recognized benefits of The Match.** The exemption immunizes the act of sponsoring, conducting, or participating in a matching program that uses an algorithm to pair preferences. Courts are instructed to construe the exemption narrowly, and nothing in its text encourages price-fixing of resident stipends or unlawful agreements on resident working conditions.
- **The Match promotes—rather than reduces—competition and consistently high Match outcomes in a highly regulated labor market.** Through the processes and policies developed by NRMP, The Match fuels competition by affording applicants and programs the ability to discover and express their true preferences. By ensuring

⁵ Full outcome data for the 2025 Match and prior years is available at <https://www.nrmp.org/match-data/>.

that more than 9 out of 10 participating positions are filled, NRMP reduces the risks of private and public investments in residency training and enables the consistent growth in residency positions over time. At the same time, The Match's processes protect applicants from having their careers derailed by unexpected hardships or delays.

- **The Match serves Congressional investments and interests in graduate medical education.** The United States faces an aging population and a projected physician shortfall. Graduate medical education residency matching programs provide an efficient, nationwide mechanism that maximizes the fill rate of federally funded residency positions, which directly advances Congress's interest in safeguarding public health.

When Congress enacted the Matching Algorithm Exemption, it observed that "the costs of defending [antitrust lawsuits challenging the matching process] would divert the scarce resources of our country's teaching hospitals and medical schools from their crucial missions of patient care, physician training, and medical research. In addition, such costs may lead to abandonment of the matching process, which has effectively served the interests of medical students, teaching hospitals, and patients for over 70 years."⁶ Twenty years later, the record provides no reason to question this assessment and return to inefficient, chaotic, and unfair conditions that led to the creation of The Match.

In closing, please know that it is vital for all members of the medical education community to make their voices heard. I urge you or your organization's government relations personnel to engage your Congressional representatives, and particularly the members of the Subcommittee, to emphasize the essential role that graduate medical education residency matching programs play in our national healthcare infrastructure. The Subcommittee may be reached by phone at (202) 225-6906 or via the webform available at <https://judiciary.house.gov/contact>. Together, we must preserve a system that has demonstrably served students, residency programs, medical schools, and patients for over 70 years. Thank you for your continued support and advocacy for The Match.



Regards,

Donna L. Lamb, DHSc, MBA, BSN
President and Chief Executive Officer
National Resident Matching Program

⁶ See 15 U.S.C. § 37b.

CERTIFICATE OF PETITIONER

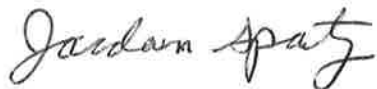
I, Jordan Spatz, Petitioner, hereby certify that this petition is presented in good faith and not for delay, and that the grounds stated are limited to intervening circumstances of a substantial or controlling effect, including the intervening decisions of this Court in *Bowe v. United States* (Jan. 9, 2026),), *Barrett v. United States*, No. 24-5774 (January 14th 2026), and *Learning Resources, Inc. v. Trump* (Feb. 20, 2026).

A handwritten signature in cursive script that reads "Jordan Spatz".

/s/ Jordan Spatz Petitioner, Pro Se

PROOF OF SERVICE

I, Jordan Spatz, certify that on March 3rd, 2026, I served a copy of this Motion and Petition for Rehearing on the Respondent by mailing it via first-class mail to: Don Willenburg, Gordon Rees Scully Mansukhani, LLP, 315 Pacific Avenue, San Francisco, CA 94111.



/s/ Jordan Spatz Petitioner, Pro Se

Sanya Nunez
Commissioner of Deeds, City of New York
No. 2-14629
Cert. Filed in New York & Kings County
Commission Expires February 1, 2028
The Ups Store, 82 Nassau St, NY, NY 10038
Tel. 212-406-9010

STATE OF NEW YORK
COUNTY OF NEW YORK
SWORN TO BEFORE ME THIS

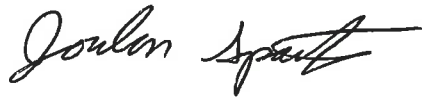
MAR 03 2026



State of New York
County of New York

PROOF OF SERVICE

I, Jordan Spatz, certify that on March 24th, 2026, I served a copy of this Motion and Petition for Rehearing on the Respondent by mailing it via first-class mail to: Don Willenburg, Gordon Rees Scully Mansukhani, LLP, 315 Pacific Avenue, San Francisco, CA 94111.

A handwritten signature in black ink, appearing to read "Jordan Spatz", with a stylized flourish at the end.

/s/ Jordan Spatz Petitioner, Pro Se