

No. 25-794

In the Supreme Court of the United States

JORDAN SPATZ,

Petitioner,

v.

REGENTS OF THE UNIVERSITY OF CALIFORNIA,

Respondent.

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

SUPPLEMENTAL BRIEF FOR PETITIONER

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**MOTION FOR LEAVE TO FILE A
SUPPLEMENTAL BRIEF IN SUPPORT OF
THE PENDING PETITION FOR REHEARING**

Pursuant to S. Ct. R. 21, 44.2, and 15.8, Petitioner respectfully moves for leave to file the accompanying Supplemental Brief in Support of the Pending Petition for Rehearing.

In support of this motion, Petitioner states that a significant intervening development occurred on May 18, 2026, when this Court granted a writ of certiorari in *Thomas Crowther v. Board of Regents of the University System of Georgia* (No. 25-183). That case involves critical questions concerning the relationship between federal statutory civil rights conditions and state university systems' application of employment-law concepts within federally funded educational and training programs.

Petitioner submits that the issues presented in Crowther directly bear on the statutory and structural framework underlying the present petition, which involves the application of the Age Discrimination Act of 1975 and related Spending Clause conditions to Graduate Medical Education (GME) programs. Because the Ninth Circuit rigidly treated GME residency rankings strictly as an employment practice to deny Age Act statutory protections, this Court's impending review of the institutional-funding boundary under the Spending Clause in Crowther directly implicates this exact legal framework.

Because the pending Petition for Rehearing has already been distributed for conference, a supplemental brief is the only procedural vehicle available to alert the Court to this newly arising development, which

directly impacts the statutory and constitutional architecture of this case.

Wherefore, Petitioner respectfully requests that this Motion be granted.

/s/ Jordan Spatz

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TABLE OF CONTENTS

Motion for Leave to File a Supplemental Brief In Support of the Pending Petition for Rehearing.....	i
Table of Authorities.....	iii
Supplemental Brief for Petitioner	1
I. The Methodological Overlap: The Spending Clause Contract.....	1
II. The Age Act's Distinctive Text Forcloses the Ninth Circuit's Interpretation	2
III. The Matrix of "Dual-Status" Litigants Requires a Cohesive Standard.....	4
Conclusion	6
Certification of Unrepresented Party	7

TABLE OF AUTHORITIES

SUPPLEMENTAL BRIEF FOR PETITIONER

Pursuant to Supreme Court Rule 15.8, Petitioner respectfully submits this Supplemental Brief to direct the Court's attention to a significant intervening development handed down by this Court today, May 18, 2026, which directly impacts the statutory and constitutional architecture of this case.

Today, this Court granted a writ of certiorari in *Crowther v. Board of Regents of the University System of Georgia*, No. 25-183, to resolve whether an educational institution's internal employment relationships can strip it of liability under broad federal Spending Clause civil rights mandates.

While *Crowther* analyzes Title IX and this petition addresses the Age Discrimination Act of 1975 (the "Age Act"), both cases present the identical structural question: Can a state university system utilize common-law labor concepts to defeat clear, textually mandated civil rights conditions attached to billions of dollars in federal educational outlays? Because the Court has stepped in to define the intersection of institutional employment and Spending Clause pipelines, this petition represents the vital, parallel vehicle necessary to resolve that intersection across the broader civil rights landscape.

I. The Methodological Overlap: The Spending Clause Contract

Both Title IX and the Age Discrimination Act of 1975—like Title VI, on which both acts were modeled—operate as exercises of Congress's Spending Clause power (U.S. Const., Art. I, § 8, cl. 1) to condition the receipt of federal financial assistance on

compliance with federal nondiscrimination mandates. Under this Court's settled jurisprudence, when a state entity chooses to accept federal financial assistance, it knowingly binds itself to the explicit conditions attached to those funds.

The text of the Age Act applies comprehensively to any "program or activity" receiving federal funds (42 U. S. C. § 6101). In the decision below, the Ninth Circuit judicially overrode this statutory contract. It held that because Graduate Medical Education (GME)—a massive, \$22 billion federally funded clinical education pipeline—exhibits certain common-law modalities of employment (such as W-2 forms and stipends), it is transformed into a "solely employment practice" entirely exempt from the Age Act under § 6103(c)(1).

Like the petitioners in *Crowther*, Petitioner here argues that a state university system cannot accept billions in public training funds to run an advanced educational pipeline and simultaneously claim total immunity from federal civil rights conditions by labeling its medical trainees solely as "employees."

II. The Age Act's Distinctive Text Forcloses the Ninth Circuit's Interpretation

Respondent will undoubtedly contend that *Crowther* is distinguishable because the Age Act possesses an explicit employment exclusion under § 6103(c)(1) that Title IX lacks. However, this textual variation reveals why the Ninth Circuit's decision, is at its core, fundamentally flawed. In Title IX, this Court's grant of certiorari will grapple with an employment boundary within an implied right of action. In the Age Act, by contrast, Congress explicitly provided a right of action and the boundaries of the

exemption, choosing to write an express *exception-to-the-exception* that preserves the Act's protections for federally funded "public service employment" pipelines. From a strict textualist standpoint, the multi-tiered architecture of § 6103(c)(1) requires a rigorous, literal parsing that the panel below entirely bypassed. By rushing to apply a generalized, common-law 'employment' shorthand, the Ninth Circuit failed to grapple with the dense, interconnected mechanics of the statute and its employment exemption. It completely excised Congress's explicit, textually integrated limitations regarding public service employment, effectively rewriting the Spending Clause contract by omission. Graduate Medical Education functions as one of the nation's largest modern structural variants of a federally funded public service training pipeline to promote "the general welfare of the United States" (U. S. Const., Art. I, § 8, cl. 1). As codified across government-wide civil rights regulations (*e. g.*, 45 CFR § 90.3(b)(2)), the executive branch has long recognized that the presence of standard employment modalities does not trigger an automatic exemption if the underlying framework is a taxpayer-funded public capability and training pipeline.

By interpreting § 6103(c)(1) as an absolute, all-consuming barrier that insulates the entire federally funded \$22 billion graduate medical education residency programs from oversight, the Ninth Circuit did exactly what this Court has granted *Crowther* to review: it permitted judicially inferred common-law labor concepts to completely swallow an explicit federal spending condition. This Court has consistently rebuked lower courts for grafting judicially manufactured standards onto explicit federal non-

discrimination statutes where the text provides no such basis. See, e. g., *A.J.T. v. Osseo Area Schools*, 605 U. S. 335 (2025) (Roberts, C.J.) (unanimously rejecting a judge-made, heightened standard of proof for educational disability claims because it lacked any textual foundation in the underlying civil rights acts); *Alexander v. Sandoval*, 532 U. S. 275, 287 (2001) (admonishing that creating extra-textual restrictions or remedies is a proper function for legislatures, not courts). The Ninth Circuit's reliance on common-law labor tests to craft an absolute immunity zone represents the exact type of judicial policymaking this Court's precedents firmly foreclose.

III. The Matrix of "Dual-Status" Litigants Requires a Cohesive Standard

Both *Crowther* and this petition ask the Court to address the same unresolved procedural reality plaguing federal appellate dockets: the treatment of individuals whose roles interface with both institutional employment frameworks and state university educational ecosystems. Whether an individual is an educator navigating institutional resources or a medical student applying to a postgraduate medical residency program, the appellate circuits remain significantly divided on how to balance the rights provided by Title VII/ADEA workplace frameworks against rights protected by the Age Act, a spending clause authority derived non-discrimination funding statute mandate.

As highlighted on April 9, 2026 by the Solicitor General at the petition stage in *Crowther*, the federal circuits are deeply fractured on whether and to what extent employment-related claims are completely

excluded from Spending Clause non-discrimination mandates. Reviewing these statutory questions in isolation risks generating discordant statutory and constitutional interpretation rules across parallel civil rights acts. Crucially, both Title IX and the Age Act were historically unified by Congress when it overrode a presidential veto to enact the Civil Rights Restoration Act of 1987 (Pub. L. No. 100-259, 102 Stat. 28 (1988)). By broad mandate, Congress ensured that these non-discrimination spending conditions apply to an institution in its fullest scope. Resolving the employer-employee boundary in *Crowther* while leaving the student-employee boundary fractured under the Age Act would defeat the uniform enforcement Congress explicitly intended across *all* of a state university's operations and programs, not just the specific program receiving the funding.

Review remains fully warranted here despite the lower court's alternative assertions regarding the underlying merits of Petitioner's claims. Because the Ninth Circuit's threshold statutory interpretation under § 6103(c)(1) erroneously shut down the case, its secondary, ancillary findings regarding the merits are inherently tainted by that flawed statutory framework. Consistent with this Court's settled practice, the Court can readily resolve the clean, overarching statutory question presented and leave case-specific, alternative merits evaluations for the lower courts to untangle under the proper legal standard in the first instance upon remand. See *Cutter v. Wilkinson*, 544 U. S. 709, 718 n. 7 (2005), and *McLaughlin Chiropractic Assocs., Inc. v. McKesson Corp.*, 606 U. S. 146, 169 (2025). (reaffirming that this Court is a "court of review, not of first view" and routinely leaves

unaddressed alternative arguments for consideration on remand).

CONCLUSION

This Court's subsequent grant of certiorari in *Crowther v. Board of Regents of the University System of Georgia*, No. 25-183 (May 18, 2026), further underscores the importance of the questions presented here concerning the interaction between institutional employment relationships and the Spending Clause non-discrimination mandates in federally funded educational settings. Petitioner therefore respectfully renews his request that the Court grant rehearing and either (1) GVR in light of the Court's intervening decisions and forthcoming consideration in *Crowther*, or (2) hold this petition and consider it in conjunction with *Crowther* as the Court deems appropriate.

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MAY 2026

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**CERTIFICATION OF
UNREPRESENTED PARTY**

Pursuant to Supreme Court Rules, I hereby certify that this Motion for Leave and accompanying Supplemental Brief in Support of the Pending Petition for Rehearing are presented in good faith and not for delay, and that their grounds are strictly restricted to the intervening circumstances specified in Rule 44.2.

/s/ Jordan Spatz

Jordan Spatz, Ph.D., M.D.

