

No. _____

IN THE

Supreme Court of the United States

FORT BEND INDEPENDENT SCHOOL DISTRICT.

Applicant,

v.

KEN PAXTON, ATTORNEY GENERAL OF THE STATE OF TEXAS.

Application for an Extension of Time to File a Petition for a Writ of Certiorari

To the Honorable Samuel A. Alito, Jr., Associate Justice of the Supreme Court of the United States and Circuit Justice for the United States Court of Appeals for the Fifth Circuit:

1. Pursuant to Supreme Court Rule 13.5, Applicant Fort Bend Independent School District (the District) respectfully requests a 45-day extension of time, to and including February 2, 2026, within which to file a petition for a writ of certiorari. The Supreme Court of Texas denied the District's petition for review on January 31, 2025 and denied rehearing on September 19, 2025. *Fort Bend Indep. Sch. Dist. v. Paxton*, 2025 WL

2678566, at *1 (Tex. Sept. 19, 2025). A copy of the opinion is attached.

This Court's jurisdiction would be invoked under 28 U.S.C. § 1257(a).

2. Absent an extension, a petition for a writ of certiorari would be due on December 18, 2025. This application is being filed at least 10 days in advance of that date, and no prior application has been made.

3. This case concerns an important question warranting review: May state law compel the government to release its employees' personal cell phone call logs to the public, even when the government does not know which logs relate to public or private business?

4. The answer is "no." Any other answer violates both the Fourth Amendment to the United States Constitution and the Telephone Records and Privacy Act of 2006. U.S. Const., amend. IV; 18 U.S.C. § 1039. The former recognizes a reasonable expectation of privacy from government intrusion, and the latter prohibits the transfer of call logs without the customer's authorization.

5. After receiving an order from the Texas Attorney General to release the call logs, the District resisted disclosure only to the extent it could not identify the public or private nature of the information. The

trial court ruled in favor of the Texas Attorney General, and the Austin Court of Appeals affirmed.

6. While the Texas Supreme Court denied review, Justice Young wrote separately and recognized the District’s arguments as “weighty,” “earnest,” “helpful,” and “valuable.” *Fort Bend Indep. Sch. Dist.*, 2025 WL 2678566, at *1, *3 (Young, J., concurring). “[F]orcing government employees to yield their own devices to invasive searches to uncover purportedly public information that is comingled with private data,” he said, “implicates important countervailing interests, which may be of constitutional dimension.” *Id.* at *3. These concerns “warrant serious consideration.” *Id.* at *1. Justice Young ultimately concurred in denying rehearing “[d]espite [his] concerns and hesitation.” *Id.* at *2–3.

7. The District can’t distinguish between the records relating to public and private business. *See, e.g., Bureau of Nat'l Affs. v. U.S. Dep’t of Just.*, 742 F.2d 1484, 1486 (D.C. Cir. 1984) (noting there may be “no way” of segregating official and personal calls based on message slips and telephone logs in an analogous case). Nor can its representatives. Nor can the Texas Attorney General. So the District doesn’t know how to withhold

the records that everyone agrees must be withheld, while at the same time it is subject to an order requiring disclosure.

8. The District's counsel have been unable to devote sufficient time to prepare the petition due to other obligations. Additionally, in the coming months, the District's counsel have other obligations that will interfere with the preparation of the petition. Those past and future obligations include the following:

- Preparing the appellees' brief in *Session v. Miles*, No. 01-25-00389-CV, in the First Court of Appeals of Texas, filed on October 22, 2025;
- Preparing the appellants' petition for rehearing in *Arnold v. Barbers Hill Indep. Sch. Dist.*, No. 23-20256, in the Circuit Court of Appeals for the Fifth Circuit, filed on November 17, 2025;
- Preparing an *amicus* brief in *Comprehensive Training Ctr., LLC v. Edcouch-Elsa Indep. Sch. Dist.*, No. 24-0772, in the Supreme Court of Texas, filed on December 4, 2025;
- Preparing the appellee's brief in *George v. Barbers Hill Indep. Sch. Dist.*, No. 25-40544, in the Circuit Court of Appeals for the Fifth Circuit, due on January 5, 2026;
- Preparing a brief for two appellees in *Hadnot v. Lufkin Indep. Sch. Dist.*, No. 25-40196, in the Circuit Court of Appeals for the Fifth Circuit, due on January 9, 2026; and
- Preparing a petition for a writ of certiorari in *Arnold v. Barbers Hill Indep. Sch. Dist.*, in this Court, due on March 3, 2026.

9. A 45-day extension would allow counsel sufficient time to prepare the petition for filing. Therefore, the District requests that an order be entered extending the time to file a petition for a writ of certiorari to and including Monday, February 2, 2026.

Dated: December 8, 2025

Respectfully submitted,

ROGERS, MORRIS & GROVER, L.L.P.

/s/ Jonathan Griffin Brush

JONATHAN GRIFFIN BRUSH
jbrush@rmgllp.com
RICHARD A. MORRIS
rmorris@rmgllp.com
KYLE STONE
kstone@rmgllp.com
5718 Westheimer, Suite 1200
Houston, Texas 77057
Telephone: (713) 960-6000
Facsimile: (713) 960-6025

Attorneys for Applicant