

No. _____

**In the
Supreme Court of the United States**

----- ◆ -----

ARIELLA HELLMAN, ET AL.,

Applicants,

v.

MASSACHUSETTS DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION, ET AL.,

Respondents.

----- ◆ -----

**Application for an Extension of Time to File a Petition for a Writ of
Certiorari to the United States Court of Appeals for the First Circuit**

----- ◆ -----

JOHN C. LA LIBERTE
PAUL R. JOHNSON
PIONEER NEW ENGLAND LEGAL
FOUNDATION
185 Devonshire Street, 11th Floor
Boston, MA 02110
(617) 819-1010

Consulting Counsel

DAVID G. HODGES
Counsel of Record
RENÉE D. FLAHERTY
INSTITUTE FOR JUSTICE
901 N. Glebe Rd., Ste. 900
Arlington, VA 22203
(703) 682-9320
dhodges@ij.org

Counsel for Applicants

April 20, 2026

To the Honorable Ketanji Brown Jackson, as Circuit Justice for the United States Court of Appeals for the First Circuit:

Applicants respectfully request, under this Court’s Rules 13.5, 22, 30.2, and 30.3, that the time for them to file a Petition for a Writ of Certiorari in this matter be extended by 30 days, up to and including July 20, 2026.

The First Circuit issued its opinion on March 20, 2026 (Exhibit A). Without an extension of time, the Petition for a Writ of Certiorari would be due on June 18, 2026. Petitioner is filing this Application more than ten days before that date. S. Ct. R. 13.5. The basis for jurisdiction in this Court is 28 U.S.C. § 1254(1) (review of a case in the courts of appeals).

Judgment for Review

The Massachusetts legislature has guaranteed an individual right to special education services to all children who need them, regardless of whether they attend public or private schools. M.G.L. c. 71B, § 3. The entitlement provides that those services must be provided in the child’s “regular educational environment,” *id.*, alongside nondisabled children “to the maximum extent appropriate.” *Id.* § 1.

Like all Massachusetts children with special needs, Applicants’ children are entitled to those services. Yet despite the statutory guarantee providing the same individual entitlement to children in public *and* private schools, the Massachusetts Department of Elementary and Secondary Education promulgated a regulation prohibiting the provision of these services on-site at private schools. Private school students are instead forced to travel off-site, at great time, disruption, and personal

expense, to a location the state deems “neutral,” where they can receive special education services in isolation or alongside other disabled students—not alongside non-disabled students, as the legislature mandated. 603 CMR 28.03(1)(e)(3). The regulation originates from a state constitutional amendment that bars any public funds from “aiding” private schools. Mass. Const. amend. art. XVIII, § 2.

By contrast, public school students and students whom the state has placed in private schools receive the services as the legislature guaranteed—it is only children whose *parents* choose a private school who are denied the legislatively guaranteed services. In other words, the regulation only affects children whose parents have exercised the fundamental, federal constitutional right recognized in *Pierce v. Society of Sisters*. 268 U.S. 510, 534-35 (1925).

Applicants challenged this regulation under the Due Process, Equal Protection, and Privileges or Immunities Clauses of the Fourteenth Amendment. On March 31, 2025, the district court dismissed their case.

Nearly a year later, the First Circuit affirmed. In its opinion, the court acknowledged (1) that private school children have the same statutory entitlement to services alongside nondisabled children that public school children have; and (2) that the regulation nevertheless results in them—and only them—instead receiving services in isolation or alongside other disabled children. Moreover, the court did not dispute that this differential treatment occurs *because* these children’s parents have chosen to send them to a private school, which is their fundamental right to do under *Pierce*. Slip op. 5–6, 14, 23. The First Circuit also recognized the long line of cases

from this Court holding that a state may not deny an otherwise generally available benefit simply because the would-be recipient has exercised a fundamental right. But it then held that the principle underlying those cases—that states may not “impos[e] even indirect coercion or penalties” on the exercise of a fundamental right—is “a distinct, First Amendment principle” specific to “free exercise” and “does not apply to the parental right” recognized in *Pierce*. *Id.* at 23–24. That holding conflicts with the law of other circuits, the Michigan Supreme Court, and this Court’s repeated holdings.

Reasons to Grant an Extension of Time

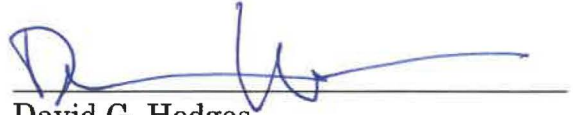
Applicants’ pro bono counsel has not previously sought an extension of time from this Court. Counsel requests a 30-day extension of time to permit the preparation of a Petition for a Writ of Certiorari that fully and fairly presents the issues to this Court. The extension is necessary to accommodate the press of other business, including briefing in other cases pending in other courts, as well as substantial work travel commitments over the coming months. Counsel therefore requests an extension of 30 days—until July 20, 2026—to ensure the Petition is prepared with sufficient care.

Conclusion

Applicants request that the time to file a petition for a writ of certiorari in this case be extended 30 days, to and including Monday, July 20, 2026.

Dated this 20th day of April, 2026.

Respectfully submitted,



David G. Hodges
Counsel of Record
Renée D. Flaherty
INSTITUTE FOR JUSTICE
901 N. Glebe Road, Suite 900
Arlington, VA 22203
(703) 682-9320
dhodges@ij.org

Counsel for Applicants

John C. La Liberte
Paul R. Johnson
PIONEER NEW ENGLAND LEGAL
FOUNDATION
185 Devonshire Street, 11th Floor
Boston, MA 02110
(617) 819-1010

Consulting Counsel