No. A-_____

In the Supreme Court of the United States

D.C., BY HIS PARENTS AND GUARDIANS, TREVOR CHAPLICK AND VIVIAN CHAPLICK; TREVOR CHAPLICK; VIVIAN CHAPLICK; HEAR OUR VOICES, INC., ON BEHALF OF THEMSELVES AND ALL OTHERS SIMILARLY SITUATED; JAMES BINGHAM; M.B., BY HIS PARENTS AND GUARDIANS, JAMES BINGHAM AND SHEILA BINGHAM; SHEILA BINGHAM,

Applicants,

v.

FAIRFAX COUNTY SCHOOL BOARD; VIRGINIA DEPARTMENT OF EDUCATION; DR. MICHELLE REID, SUPERINTENDENT OF FAIRFAX COUNTY PUBLIC SCHOOLS, IN HER OFFICIAL CAPACITY; JENNA CONWAY, VIRGINIA SUPERINTENDENT OF PUBLIC INSTRUCTION, IN HER OFFICIAL CAPACITY,

Respondents.

APPLICATION 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 FOURTH CIRCUIT

To the Honorable John G. Roberts, Jr., Chief Justice of the United States and Circuit Justice for the United States Court of Appeals for the Fourth Circuit:

Pursuant to 28 U.S.C. § 2101(d) and Rule 13.5 of the Rules of this Court, Applicants D.C., Trevor Chaplick, Vivian Chaplick, Hear Our Voices, Inc., James Bingham, M.B., and Sheila Bingham respectfully request a 60-day extension of time, to and including Tuesday, August 17, 2026, within which to file a petition for a writ of certiorari to review the judgment of the Fourth Circuit in this case.†

† Pursuant to Rule 29.6, Applicant Hear Our Voices ("HOV") certifies that it is a non-profit, tax-exempt organization incorporated in Delaware. HOV has no parent corporation, and no

A panel of the Fourth Circuit issued its opinion on March 19, 2026. Unless extended, the time to file a petition for writ of certiorari will expire on June 17, 2026, by operation of Rule 13.1 of the Rules of this Court. This application is being filed at least 10 days prior to that date. See S. Ct. R. 13.5. The jurisdiction of this Court will be invoked under 28 U.S.C. § 1254(1). A copy of the panel opinion and judgment is attached.

This case involves system-wide violations of the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.* (IDEA), affecting nearly 200,000 disabled students throughout the Commonwealth of Virginia. Many of these violations have persisted for decades because of a deeply flawed IDEA administrative process that state officials are both unwilling and unable to correct. The petition will argue in principal part that review is necessary to address the critically important question of whether a disabled student must engage in the empty formality of an administrative process when that process is itself the problem and incapable of granting the specific system-wide relief sought—ensuring that all students receive fair and impartial hearings.

Virginia's and the Fairfax County public schools' persistent and chronic violations of the IDEA have been documented repeatedly in findings by the U.S. Department of Education, the Joint Legislative Audit and Review Commission of the Virginia Legislature, and several nonprofit groups. Among other things, the Virginia Department of Education puts a thumb on the scale for school districts by routinely

---

publicly traded corporation has 10% or greater ownership in HOV. Applicants D.C., Trevor Chaplick, Vivian Chaplick, James Bingham, M.B., and Sheila Bingham are natural persons.

inserting "monitors" into IDEA mediations and due process hearings that improperly influence mediators and hearing officers, including through repeated *ex parte* communications. The Department has also manipulated the hearing officer appointment process—for instance, to ensure that a hearing officer who had never ruled in favor of a disabled student was appointed to handle a particular case. And the Department has removed or threatened to remove hearing officers that rule against the district, including one recent incident where it removed a hearing officer within two months after he ruled for the student for the first time in over two decades.

The predictable result of these sorts of machinations is an administrative process that virtually never rules in favor of disabled students and their families. As Applicants detail in their federal complaint, since detailed records were first maintained by Virginia in 2003, hearing officers in Virginia have only ruled 25 times fully in favor of disabled children out of 1,391 cases, representing just 1.8% of the total aggregate cases overseen by these hearing officers since 2003. From 2010 to 2021 students prevailed in only about 1.5% of due process cases filed in Virginia (13 rulings out of 847 cases filed) and approximately 0.76% of cases filed in Northern Virginia (two rulings out of 395 cases filed). These figures are dramatically lower than the national average of approximately 30%. Through FOIA requests and independent investigations, Applicants have uncovered that nearly two-thirds of Virginia's hearing officers statewide have *never once* ruled in favor of a disabled child over two decades of IDEA due process proceedings. It is even worse in the heavily populated

Northern Virginia region that includes Fairfax County, where 83% of hearing officers have never ruled in favor of a disabled child in more than a decade.

In *Luna Perez* v. *Sturgis*, this Court explained that even "a suit admittedly premised on the past denial of a free and appropriate education may nonetheless proceed without exhausting IDEA's administrative processes if the remedy a plaintiff seeks is not one IDEA provides." 598 U.S. 142, 150 (2023). Here, Applicants sought remedies far beyond securing any one child's free appropriate public education. They sought wide-ranging injunctive relief to resolve system-wide IDEA and constitutional violations, through claims of denials of constitutional due process and equal protection.

As in *Luna Perez*, Virginia's IDEA administrative processes cannot supply this relief. Those processes are designed solely to address disputes between individual students and local educational agencies with respect to individualized education programs. 20 U.S.C. § 1415(i). Congress never intended for one hearing officer to correct system-wide defects by reviewing an individualized administrative record in a single due process hearing. Due process hearing officers are powerless to address system-wide violations, because they lack the legal authority to order other hearing officers to correct their behavior. There is simply no realistic way to challenge or correct system-wide failures of due process hearings within the hearings themselves. The only way these injuries can be redressed is in federal court.

Nonetheless, the panel majority held that parents seeking system-wide changes must first go through lengthy and expensive individualized administrative

due process hearings anyway. A.7-A.12. As Judge Gregory pointed out in his dissent, the majority's decision to impose an exhaustion requirement in these circumstances conflicts with the holdings of other courts of appeals, including the Second and Third Circuits, where exhaustion would have been unnecessary. A.22-A.23 (discussing *D.M.* v. *N.J. Dep't of Educ.*, 801 F.3d 205, 209-10 (3d Cir. 2015), and *Heldman ex rel. T.H.* v. *Sobol*, 962 F.2d 148, 158-59 (2d Cir. 1992)). And that conflict is only deepening. See *Y.A. ex rel. Alzandani* v. *Hamtramck Pub. Schs.*, 2026 WL 1296044, at *8-9 (6th Cir. May 12, 2026) (imposing exhaustion requirement to seek system-wide relief and explicitly disagreeing with the Second Circuit's contrary holding).

The Court's review is needed to bring clarity to this issue across the courts of appeals. This issue is of vital importance. Without a fair and impartial hearing process, the estimated 7.5 million disabled students nationwide have no viable means to seek the rights they are guaranteed under the IDEA.

Good cause exists for this application. Applicants request this extension of time to file their petition for a writ of certiorari because counsel responsible for preparing the petition have had, and will continue to have, responsibility for a number of other matters, including in *Marrón* v. *Maduro*, No. 1:21-cv-23190 (S.D. Fla.) (opposition brief filed May 19, 2026); *Albán Osio* v. *Maduro*, No. 1:21-cv-20706 (S.D. Fla.) (opposition brief filed May 26, 2026); *In Re Baby Food Prods. Liab. Litig.*, No. 24-md-03101 (N.D. Cal.) (motion for summary judgment due May 29, 2026); *New York* v. *OneMain Holdings, Inc.*, No. 1:26-cv-2117 (S.D.N.Y.) (motion to dismiss due June 1, 2026); *TranS1, LLC* v. *Blue Cross Blue Shield Ass'n*, No. 2:25-cv-01422 (E.D. Pa.)

(hearing on June 2, 2026); *In re PVC Pipe Antitrust Litig.*, No. 1:24-cv-7639 (hearing on June 3, 2026); *PPG Indus., Inc.* v. *Westlake Corp.*, No. 2024-648 (Del. Ch. Ct.) (hearing on June 8, 2026); *Hollis* v. *Morgan State Univ.*, No. 1:19-cv-3555 (D. Md.) (response to motion for summary judgment due July 1, 2026); *Radtke* v. *U.S. Bureau of Customs & Border Protection*, No. 25-5403 (D.C. Cir.) (reply brief due July 15, 2026). Accordingly, an extension of time is warranted.

For the foregoing reasons, the application for a 60-day extension of time, to and including August 17, 2026, within which to file a petition for writ of certiorari in this case should be granted.

Respectfully submitted.

/s/ *Charles A. Rothfeld*
CHARLES A. ROTHFELD
Counsel of Record
ALAN M. GRIMALDI
ORAL D. POTTINGER
ERIC A. WHITE
Mayer Brown LLP
1999 K Street NW
Washington, DC 20006
(202) 263-3233
crothfeld@mayerbrown.com

WILLIAM R.H. MERRILL
MICHAEL ADAMSON
Susman Godfrey LLP
1000 Louisiana Street
Suite 5100
Houston, Texas 77002
(713) 653-7865

ADERSON FRANCOIS
Georgetown Law
Civil Rights Law Clinic
600 New Jersey Avenue NW
Washington, DC 20001
(202) 662-9000

R. BRAXTON HILL
Kaleo Legal PLLC
3400 West Leigh Street
Richmond, VA 23230
(804) 255-9571

May 26, 2026